

FLORIDA PUBLIC SERVICE COMMISSION

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Tallahassee, Florida 32399-0850

M E M O R A N D U M

September 12, 1991

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING  
FROM : DIVISION OF WATER AND WASTEWATER (MEADOR, DAVIS) *Sam Meador*  
DIVISION OF LEGAL SERVICES (BEDELL) *Bevell*  
RE : UTILITY: KINGS POINT UTILITIES (CITY OF KISSIMMEE)  
DOCKET NO.: 910923-WS  
COUNTY: OSCEOLA  
CASE: APPLICATION FOR A 1991 PRICE INDEX RATE ADJUSTMENT

AGENDA : 09/24/91 - CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES: 10/22/91 - 60-DAY STATUTORY DEADLINE

SPECIAL INSTRUCTIONS: PLEASE PLACE THIS ITEM IMMEDIATELY AFTER THE  
RECOMMENDATION FOR DOCKET NO. 910813-WS

CASE BACKGROUND

By Order dated April 1, 1991, the Circuit Court of the Ninth Judicial Circuit in and for Osceola County, Florida appointed the City of Kissimmee receiver of the Kings Point Utilities, Inc. water and wastewater systems. The question of whether the City as Receiver is subject to Commission jurisdiction is being heard on the September 24, 1991, Agenda Conference, as well. If the Commission determines that the City as Receiver is exempt from our jurisdiction this recommendation is moot. The only issue which would need to be voted on is whether to close the docket.

On July 30, 1991, the City filed its Notice of Intention to implement the 1991 Price Index for water and wastewater utilities. Included in the Notice the utility stated that it intends to implement all allowable pass through rate adjustments. The application as filed did not meet the filing requirements of Rules 25-30.420 and 25-30.425, Florida Administrative Code. The utility was notified of the deficiencies by letter dated August 5, 1991. On August 23, 1991, the utility filed a supplement to its Notice of Intention. As a part of the supplement the utility withdrew the request to pass through all allowable pass through adjustments. Additionally, the utility clarified that the inclusion of the 1988,

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1989, and 1990 price index calculations were for the sole purpose of establishing and reconstructing the missing applicable operation and maintenance expenses for those years.

Kings Point Utilities is a Class C utility which provides water and wastewater service to the public in Osceola County. The utility has not filed an annual report with the Commission since 1987. A docket was opened to initiate show cause proceedings for failure to file the annual reports. The docket was subsequently closed pending a determination or completion of the transfer of majority of organizational control, to be processed in Docket No. 891323-WS. This Docket addressed the application for transfer from Charles E. and Martha D. Barkley and Sidney D. and Marcia Bronson to Walter D. Medlin. According to the 1987 annual report the utility had 123 water and 123 wastewater customers. Gross operating revenue was \$21,159 for water and \$21,743 for wastewater. Net operating income was \$2,382 for the water system and a loss of \$4,327 for the sewer system.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the price index rate adjustment application by the City of Kissimmee on behalf of Kings Point Utilities be acknowledged?

**RECOMMENDATION:** No, the application does not meet the filing requirements set out in Rule 25-30.420, Florida Administrative Code, as currently filed. Due to the unique circumstances in this case only, staff would accept an annual report which contained at a minimum an operating statement (page F-3), water operation and maintenance expense and water customers (page W-3), sewer operation and maintenance expense and sewer customers (Page S-3), and certification of annual report (Page V-1). Once an annual report has been filed which contains at a minimum this information, the index application could be processed administratively. (MEADOR)

**STAFF ANALYSIS:** Rule 25-30.420(7), Florida Administrative Code requires that no utility shall implement a rate increase pursuant to this rule unless the utility has on file with the Commission a current annual report as required by Rule 25-30.110, Florida Administrative Code. As previously stated, the last annual report filed for this utility was for 1987.

As a part of the application, the utility states that the data

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and records received by the City of Kissimmee in its capacity as receiver for Kings Point were poorly maintained and inadequate. The data and records could not be used to effectively reconstruct the financial statements of the utility, including the appropriate operations and maintenance expenses. Therefore, the City had to utilize a surrogate to reconstruct the utility's operations and maintenance expenses for purposes of the price index application. The City as receiver reconstructed the missing applicable operation and maintenance expenses by using the 1987 expenses reported in the 1987 annual report and applied the 1988, 1989, and 1990 Gross National Product (GNP) Implicit Price Deflator Indices to arrive at "1990" operation and maintenance expenses. In order to arrive at 1990 revenue, the utility applied the same type of calculation to revenue. The 1987 reported revenue levels were increased by the calculated increase in revenue for each year (1988, 1989, and 1990). The City requests that the surrogate method be used to calculate the 1991 price index in lieu of filing a 1990 annual report.

Staff has several problems with the surrogate method suggested by the utility. The annual report is the major financial resource used in index applications. It is the means by which the financial information contained in the application is verified. All amounts are traced and verified with the annual report. As a part of the annual report, the chief executive or financial officer certifies that the annual report fairly represents the financial condition and results of operations of the respondent for the period presented. In addition, the annual report is used to determine a utility's earnings level. If a utility is overearning according to the annual report, a determination as to whether the index should be implemented under bond or corporate undertaking is made. Without the annual report, it is impossible for staff to verify earnings, level of expenses, and type of expenses.

The method of indexing the expenses for each year 1988 through 1990 also causes staff some concern. Section 367.081(4)(a), Florida Statute states that the utility may increase or decrease its rates based upon the application of the indices to the amount of the major categories of operating costs incurred by the utility during the immediately preceding calendar year. By merely indexing the 1987 level of expenses for each year's GNP Price Deflator, the derived 1991 expenses may not bear any resemblance to the actual expenses incurred. Since 1987, the type of expenses incurred as well as the level of expenses could have drastically changed. Additionally, this type of change would only account for increases in the level of expenses due to inflation. It would not reflect any increases or decreases in the level of expenses due to customer

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growth or reduction in the level of customers. Staff does not believe this method accurately reflects the level of operation and maintenance expenses. The City does have at a minimum, five months of actual data (expenses and revenues) since taking over as receiver. While this information is not from the appropriate time period (1990) to calculate the index and would not be the appropriate level of expenses to use in the calculation, an annualized amount could have been used in comparison. The utility did not submit any actual customer or expense data in its filing.

The method used by the City to calculate revenue for 1990 was inaccurate. As previously explained, the utility used the 1987 annual report revenue levels and increased them by the calculated increase in revenue for each year's calculated index increase for 1988, 1989, and 1990. First and foremost, theoretically this is incorrect in view of the fact that the utility has not adjusted its rates. The rates employed in 1987 are the same rates employed now. It is incorrect to increase revenue for the "calculated" index increases. In addition, staff is concerned with this method of calculating revenue because it does not address the matter of customer growth. Current revenue amounts would reflect customer growth because the rates have not changed. Actual revenue for the last five months annualized, would have been a better determination of revenue. Actual revenue since the City was appointed receiver of the utility was not provided in the application.

A final concern of staff's deals with possible precedence being set with regard to acknowledging an index without the filing of an annual report. The Commission, in the past has not authorized or acknowledged an index without a utility having filed the appropriate annual report. This is partly due to the fact that the annual report is the sole financial resource to verify the financial information contained in the application. Staff does not want to appear to indicate or encourage poor recordkeeping, or the availability of index increases without annual reports. It should be noted that on approximately April 30, 1991, Division of Water and Wastewater staff discussed alternatives to completing an annual report with the utility (ex. how to derive expense amounts, depreciation, carryforward of plant numbers, etc.). In addition, staff offered to assist the utility in completing the annual report form at that time. Unless an annual report has been filed, staff does not believe the index should be acknowledged. However, due to the unique circumstances in this case, staff would accept an annual report which contained at a minimum an operating statement, water and sewer operation and maintenance expenses, water and sewer customers and a signed certification of annual report page. An abbreviated annual report has been accepted in the past by the

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Commission. In Docket No. 900812-SU, Order No. 24189, issued March 4, 1991, the Commission found that the receiver is responsible for filing the annual report pursuant to Rule 25-30.110, Florida Administrative Code (Sections 367.021(12) and 367.165(3), Florida Statutes). However, because the receiver was appointed with only a few weeks remaining in 1990, and because the utility's records were apparently in unsatisfactory condition, staff was directed to work together with the Receiver to compile an abbreviated report containing essential information using estimated figures if necessary.

Based on the foregoing, staff recommends that the surrogate method used to calculate the index should be denied and the index application should not be acknowledged because the filing requirements have not been met. It should be noted that if the rates are deficient to meet operating obligations, in light of the records, a staff assisted rate case (SARC) would be more appropriate to address all the concerns. Projections can be made with regards to the expenses in a SARC, where the index must be based upon historical amounts.

**ISSUE 2:** Should the docket be closed?

**RECOMMENDATION:** Yes. (MEADOR)

**STAFF ANALYSIS:** Should the utility decide to construct records from check books, invoices, etc. which can be used to complete an annual report, the index should be processed administratively. Additionally, if the utility files for a SARC, as recommended in the exemption docket (Docket No. 910813-WS), that application would be processed under a separate docket. The processing of this docket is complete and the docket may be closed.

(kpoint.ssm)