

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a Limited) DOCKET NO. 910963-WU
Proceeding to Adjust Water Rates) ORDER NO. PSC-93-0525-FOF-WU
in Pasco County by BETMAR) ISSUED: 04/07/93
UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON

ORDER GRANTING EMERGENCY, TEMPORARY RATES

BY THE COMMISSION:

Betmar Utilities, Inc. (Betmar or Utility) is a class C utility that provides water and wastewater service to 1548 water customers and 945 wastewater customers in Pasco County.

Betmar installed backflow prevention devices on the customers' side of the meter in order to prevent prohibited cross connections. The utility filed a staff-assisted rate case in which it requested that the cost of these devices be treated as a utility investment and be included in rate base. In Order No. 20787, issued February 21, 1989, we held that the cost of these devices should be included in the utility's rate base calculation. The devices were depreciated over a 17-year life. No provision was made for the cost of annual testing and maintaining these devices in that Order No. 20787.

On September 17, 1991, Betmar filed a limited proceeding pursuant to Section 367.0822, Florida Statutes, to increase its rates to recover the cost of maintaining and testing the backflow prevention devices previously installed. In proposed agency action (PAA) Order No. PSC-92-0408-FOF-WU, issued June 9, 1992, we found that the utility should be authorized to recover \$23,496 on an annual basis for the cost of refurbishing 50 percent of the dual check assemblies. On June 30, 1992, the utility filed a timely protest to that Order. Pursuant to Betmar's protest, an administrative hearing was scheduled.

DOCUMENT NO. 93-0408

03765 APR-78

PSC-REGULATORY REPORTING

The utility subsequently filed an offer of settlement on November 16, 1992, which was approved by PAA Order No. PSC-92-1467-AS-WU. A customer of the utility, Betmar Acres Club, Inc., timely filed a protest to that Order. As a result of the protest, this matter is set for an administrative hearing on August 4 and 5, 1993.

Betmar's Request for "Interim" Rates

On January 27, 1993, Betmar filed a motion requesting that this Commission issue an order authorizing it to implement as interim rates, subject to refund, those rates which were approved in Order No. PSC-92-1467-AS-WU. The utility in its motion asserts that it intends to commence with an inspection/testing program of backflow prevention devices at its own cost pending the outcome of the protest. The utility further contends that the manufacturer of the dual check valve indicates that it is reasonable and prudent for the utility to conduct annual testing and maintenance of those devices due to the corrosive quality of the water. The utility adds that it will establish an escrow account with a financial institution in which it will deposit any emergency, temporary rates and will thereby secure the refund of any or all of these escrowed rates.

A utility may receive "interim" rates pursuant to the interim statute set forth in Section 367.082, Florida Statutes, which provides for interim rates in full rate proceedings filed under Section 367.081, Florida Statutes. Betmar's petition was filed under the provisions of the limited proceeding statute, Section 367.0822, Florida Statutes, which does not include any provision for "interim" rates. Therefore, we find "interim" rates are not appropriate here. However, Betmar's request is, in actuality, a request for emergency, temporary rates.

The determination whether emergency, temporary rates are appropriate is made on a case-by-case basis. Here, the Department of Environmental Regulation (DER) has indicated that testing these devices on an annual basis is a prudent and effective measure in a utility's backflow prevention program. Further, we believe that the utility has demonstrated that the devices should be tested in this instance due to the corrosive quality of the water in Betmar's service area. The ratepayers in this proceeding will be protected since we will order the utility to guarantee the potential refund of these emergency rates by establishing an escrow account.

Therefore, we believe that the utility has demonstrated that an emergency exists, and we believe that it is appropriate to authorize the utility to implement those rates approved in Order No. PSC-92-1467-AS-WU. Based on the above, we hereby grant Betmar's request for emergency, temporary rates. The emergency, temporary rates are set forth below and shall be placed in escrow, subject to refund, for the ratepayers' protection pending the outcome of this proceeding.

Emergency Temporary Rates

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As previously discussed, no provision was made for the costs associated with maintenance of the dual check valve devices in the two previous staff-assisted rate cases. In the instant case, the emergency, temporary rates approved herein shall be recovered through the water base facility charge, since the costs for the backflow prevention testing program are not related to water consumption. We believe that including the cost in the base facility charge will ensure that each customer pays for only his or her fair share of the cost of maintenance, as the base facility charge is a fixed rate which is paid by all the customers. The utility's emergency temporary rates are set forth below.

SCHEDULE OF EMERGENCY TEMPORARY RATES

<u>METER SIZE</u>	<u>EXISTING RATES</u>	<u>APPROVED EMERGENCY RATES</u>
5/8" x 3/4"	\$ 4.23	\$ 6.32
3/4"	6.35	8.44
1"	10.58	12.67
1-1/2"	21.16	23.25
2"	33.86	35.95
3"	67.71	69.80
4"	105.79	107.88
GALLONAGE CHARGE	1.83	1.83

These emergency, temporary rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets. The revised tariff sheets will be approved upon our staff's verification that the tariffs are consistent with our decision herein and that the proposed customer notice is adequate.

Proper Security

The utility has asserted in its petition that it proposes to establish an escrow account with a financial institution as a guarantee of any potential refund. Therefore, this account shall be established containing the following conditions as part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission.
- 2) The escrow account shall be an interest bearing account.
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Consentino v. Elson, 263 So.2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
- 8) The Director of Records and Reporting must be a signatory to the escrow agreement.

ORDER NO. PSC-93-0525-FOF-WU
DOCKET NO. 910963-WU
PAGE 5

This account shall specify by whom and on whose behalf such monies were paid. Also, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund.

This docket should remain open pending the completion of this proceeding.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Betmar Utilities, Inc.'s petition for authorization to implement emergency, temporary rates, subject to refund, is approved as set forth in the body of this Order. It is further

ORDERED that prior to its implementation of the rates approved herein, Betmar Utilities, Inc. shall submit and have approved a proposed notice to its customers of the emergency rates and the reasons therefor. The notice will be approved upon our Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the emergency rates approved herein, Betmar Utilities, Inc. shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein. It is further


ORDERED that the rates approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that Betmar Utilities, Inc. shall escrow the rates approved herein as guarantee of any potential refund of these temporary emergency rates, subject to refund. Also, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. It is further

ORDER NO. PSC-93-0525-FOF-WU
DOCKET NO. 910963-WU
PAGE 6

ORDERED that this Docket shall remain open pending the outcome of this proceeding.

By ORDER of the Florida Public Service Commission this 7th day of April, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.