

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for 1992 ) DOCKET NO. 930064-WS  
price index and pass-through ) ORDER NO. PSC-93-0716-FOF-WS  
rate adjustment in St. Lucie ) ISSUED: May 11, 1993  
County by Holiday Pines Service )  
Corp. )  
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON

ORDER DENYING OPC'S MOTION FOR RECONSIDERATION

BY THE COMMISSION:

Holiday Pines Service Corporation (Holiday Pines or utility) is a class B water and wastewater utility located in St. Lucie County, Florida. On December 31, 1992, Holiday Pines filed applications for grandfather certificates to provide water and wastewater service in St. Lucie County, and price index and pass-through rate increases. By Order No. PSC-93-0371-FOF-WS, issued March 9, 1993, we granted the utility's request for price index and pass-through increases based on the rates and charges in effect on the date we took jurisdiction of St. Lucie County, October 1, 1992. The rates and charges in effect were established by the St. Lucie County Water and Sewer Authority (SLCWASA), in December 1991 and have been in effect since then.

As a result of the price index and pass-through increases, the utility's monthly customer service rates (residential, general, and multi-family) were increased by 4.02 percent for water and 5.63 percent for wastewater. In addition, a regulatory assessment fee pass-through rate increase of 2.00 percent was approved which resulted in an increase of 2.09 percent to the existing guaranteed revenues and reserve standby rates. The utility will, as a result, generate \$15,754 in additional water revenues and \$12,175 in additional wastewater revenues.

On March 9, 1993, the Office of Public Counsel (OPC) filed a Motion for Reconsideration of Order No. PSC-93-0371-FOF-WS requesting that the Commission reconsider its approval of the price

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index and pass-through rate adjustments for Holiday Pines. On April 6, 1993, Holiday Pines filed its response to OPC's motion.

In its motion, OPC argues that the price index and pass-through increases are not appropriate because the rates that these adjustments are based upon are not lawfully authorized rates and charges. OPC takes this view because it believes that the customers of the utility were not afforded due process during the rate case proceeding establishing these rates which was held in December 1991 before SLCWASA. As a result of the customers' complaints regarding the December 1991 rate proceeding, in February 1992 the St. Lucie County Commission voted to remand the case for rehearing by SLCWASA. However, prior to the rehearing, Holiday Pines filed an appeal of the remand order to the circuit court. Also prior to the rehearing, the St. Lucie County Commission adopted a resolution dissolving SLCWASA and transferring jurisdiction over its privately-owned water and wastewater utilities to this Commission.

The utility response to OPC's motion states that the rates and charges in effect on the date jurisdiction was transferred to this Commission were the lawfully authorized rates and charges which the utility had been collecting legally since they were established in December 1991. The St. Lucie County Commission never placed the rates or charges subject to refund and did not suspend the rates and charges. In addition, the utility provided a copy of the circuit court order finding that the court had no jurisdiction over the case as the St. Lucie County Commission had dissolved the SLCWASA which it had previously ordered to rehear the matter, thereby making the issue moot. Therefore, the utility believes that the question concerning the validity of the existing rates and charges is no longer within the County's jurisdiction and is no longer a viable issue as determined by the circuit court in its order issued March 10, 1993.

We are not persuaded by OPC's motion for reconsideration. OPC has shown no error in fact or law which we have made in Order No. PSC-93-0371-FOF-WS. As the utility was permitted to continue collecting the established rates and charges awarded it by SLCWASA in December 1991, we find that it is appropriate to accept those rates and charges as being lawfully authorized, and we shall allow the utility to continue collecting those rates and charges until they are changed by this Commission. Accordingly, we also find that the price index and pass-through rate adjustment increases are valid and are based upon the lawfully authorized rates and charges.

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However, in order to address the concerns raised in OPC's motion and obtain more information regarding the reasonableness of the utility's rates and charges, we have initiated an audit of this utility which is to be completed in July 1993. If the audit results indicate that the utility is overearning we will initiate an overearnings investigation. However, at this time, we find that the price index and pass-through rate adjustment increases are appropriate and OPC's Motion for Reconsideration is hereby denied.

Therefore, since no further action is necessary in this docket, it is hereby closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Office of Public Counsel's Motion for Reconsideration is denied. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 11th day of May, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.