

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for ) DOCKET NO. 920210-WU  
Acknowledgement and Approval of ) ORDER NO. PSC-93-0702-FOF-WU  
a New Class of Service to ) ISSUED: May 24, 1993  
Provide Emergency Water Service )  
to the City of Marineland by )  
PALM COAST UTILITY CORPORATION )  
in Flagler County. )

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING EXTENSION OF NEW CLASS OF SERVICE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

Palm Coast Utility Corporation (Palm Coast or utility) is a Class A utility which provides service to 11,259 water and 7,529 wastewater customers in Flagler County. According to its December 31, 1991, annual report, its annual revenues were \$4,523,942 for water and \$2,004,804 for wastewater. Annual operating income was \$833,571 for water and \$85,373 for wastewater.

On March 4, 1992, Palm Coast filed a request for approval to provide emergency water service to the City of Marineland (Marineland) because Marineland was experiencing periods of inoperability in providing water service. By Order No. PSC-92-0328-FOF-WU, issued May 11, 1992, the Commission granted approval of a new class of service allowing Palm Coast to provide emergency water for one year to Marineland.

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Order No. PSC-92-0328-FOF-WU also ordered Palm Coast to file a request either to cancel the tariff or to continue to provide service to Marineland at least 60 days prior to the end of the contract period, which was February 6, 1993. Hence, a request should have been made by December 7, 1992. However, service to Marineland did not commence until November 1992, due to the construction of facilities and the process time necessary to the permits from the Florida Department of Environmental Regulation. Due to these delays, Marineland did not write to the utility to request an extension of its emergency water agreement until January 29, 1993. On March 19, 1993, Palm Coast filed for approval of a one year extension of an emergency water agreement that it has with Marineland. In consideration of the reasons stated above, show cause proceedings will not be initiated against Palm Coast for its technical violation of the deadline in Order No. PSC-92-0328-FOF-WU.

#### Extension of Agreement

The agreement between Palm Coast and Marineland for emergency water service is based on the utility's excess capacity and is a temporary agreement until Marineland can correct its problems. Palm Coast's peak total capacity is presently 7.2 million gallons per day (mgd) and its peak usage in 1992 was 4.7 mgd. Marineland's monthly usage for November, December and January 1992, was 59,000 gallons, 191,800 gallons and 299,200 gallons, respectively. This equates to an average monthly usage of 183,333 or 6,111 gallons per day (gpd). This is well below the 72,000 gpd initially requested in the contract for emergency water service. Based on the average usage of Marineland, Palm Coast appears to be well able to provide the needed water for this temporary customer.

Marineland has made repairs to its water system during the time of the agreement. Specifically, Marineland has replaced all remaining permeators (membranes) in its reverse osmosis system and patched its storage capacity tank. Marineland is currently attempting to correct a problem involving loss of fresh water during a power failure. Marineland has entered into a contract with Florida Power and Light Company and Ring Power to provide an emergency back up generator.

As stated earlier, Order No. PSC-92-0328-FOF-WU provided that Palm Coast should file a request to either cancel the tariff or to continue to provide service to Marineland at least 60 days prior to the end of the contract period, which was February 1993.

Marineland sent a letter to the utility dated January 29, 1993, requesting an extension on the emergency water agreement, but the utility did not make the request to continue to provide temporary service until March 19, 1993. The utility explained that water service did not begin for Marineland until November 1992. So even though the agreement was made in February 1992, service was not started until November 1992, nine months later. Marineland would only have had actual service for three months before it needed to make a request for an extension of emergency water service. Although the utility was late in filing the request for extension of the agreement, it has supplied us with sufficient reasons for the delay and the need for emergency water service to Marineland still exists. Therefore, we hereby approve the request for the extension of this emergency water agreement.

Palm Coast shall submit and have approved revised tariff sheets which reflect the new emergency water agreement period. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein and that the protest period has expired.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the request for approval of a one year extension of emergency water agreement between the Palm Coast Utility Corporation and the City of Marineland is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that the Palm Coast Utility Corporation shall file and have approved by Commission Staff revised tariff sheets which shall reflect the new emergency water agreement period. The revised tariff pages shall be approved upon Staff's verification that the pages are consistent with our decision herein and that the protest period has expired. It is further

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ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person by the expiration of the protest period.

By ORDER of the Florida Public Service Commission this 24th day of May, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

LAJ

by: Kay Hegan  
Chief, Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 14, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.