

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for approval of) DOCKET NO. 930348-SU
new class of service for bulk) ORDER NO. PSC-93-1111-FOF-SU
sewage treatment to Town of Lady) ISSUED: July 29, 1993
Lake in Lake County by Sunbelt)
Utilities, Inc.)
_____)

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

ORDER APPROVING TARIFF FILING

BY THE COMMISSION:

BACKGROUND

On March 31, 1993, Sunbelt Utilities, Inc. (Sunbelt or utility) filed a proposed tariff with this Commission for approval of a new class of service in order to provide bulk sewage treatment to the Town of Lady Lake (Municipality) in Lake County. Sunbelt is a Class A utility that provides water and wastewater service. As reported in its 1991 Annual Report, Sunbelt provides service to 4,007 residential customers and 64 commercial customers. Sunbelt's net operating income for water service is \$302,000 and for wastewater service is \$274,000. Sunbelt's wastewater treatment plant is located in the St. John's River Water Management District which is designated as a critical use area.

APPROVAL OF TARIFF ADOPTING BULK WASTEWATER SERVICE AGREEMENT

By contract for bulk sewage treatment service between Sunbelt and the Municipality, executed on March 2, 1992, Sunbelt agreed to provide wastewater treatment for up to 90,000 gallons per day to the Municipality. Sunbelt began providing service to the Municipality on a temporary basis in June of 1992. The Municipality entered into this contract because the Municipality's wastewater treatment plant was not complete and could not operate efficiently in accordance with governmental requirements. Furthermore, the Municipality was unable to ensure providing the

DOCUMENT NUMBER-DATE

08154 JUL 29 93

FLORIDA PUBLIC SERVICE COMMISSION

required estimated daily flow of 70,000 gallons per day to the Municipal wastewater treatment plant. The contract provided for a rate of \$2.43 per 1,000 gallons of untreated wastewater. This rate is 14 percent less than the utility's current gallonage rate of \$2.82 for general service customers. Pursuant to the agreement, the Municipality agreed to install a force-main to the Sunbelt Wastewater Plant and to secure all applicable inspections, tests, and regulatory permits.

In addition, the agreement provides that Sunbelt may terminate wastewater service for the Municipality if Sunbelt reaches 84 percent capacity, or if the Municipality transmits in excess of 90,000 gallons per day of wastewater, or in any event, on March 31, 1996. The agreement also provides that upon the occurrence of one of the conditions stated above, the Municipality will purchase plant capacity of 100,000 gallons per day and will pay a plant capacity charge of \$687,184.00 and a gallonage charge of \$2.43 per 1,000 gallons.

Although the agreement indicates that the Municipality will be operational by March 31, 1996, there is a "mutual-aid emergency service" clause and a provision for a 23-year agreement term which renews automatically. The "mutual-aid emergency service" clause provides for payment of the general service gallonage rate in effect at the time of the "emergency" wastewater service by the entity receiving such service.

The utility filed this tariff to adopt the rates contained in its bulk wastewater service agreement with the Municipality. Except as noted below, the application was filed in accordance with Section 367.091(4) and (5), Florida Statutes. By letter dated April 15, 1993, the utility waived the 60 day requirement in Section 367.091(5), Florida Statutes. The utility believes that the rates in this agreement are appropriate because the Municipality is not a retail customer and because the Administrative and General (A & G) expenses incurred are immaterial and should be removed. Typically, the gallonage charge includes the costs associated with treating wastewater and disposing of effluent. It has not been our practice to remove A & G expenses from the gallonage charge. However, based on our review of additional information from the utility regarding how it calculated the proposed gallonage charge of \$2.43, we find that without a full rate case which would provide complete information on cost allocations, the existing rate design should remain in effect.

ORDER NO. PSC-93-1111-FOF-SU
DOCKET NO. 930348-SU
PAGE 3

The utility has also indicated that the mutual aid emergency service provision provides a mutual benefit to both Sunbelt and the Municipality but, more importantly, provides a benefit to the general body of ratepayers by making available "emergency" plant capacity.

Therefore, the tariff filed by Sunbelt adopting the rates in its bulk wastewater service agreement with the Municipality is hereby approved. The utility shall continue collecting this rate until changed by this Commission.

NO SHOW CAUSE APPROPRIATE

For the past twelve months, Sunbelt has been charging a rate of \$2.43 per 1,000 gallons for the bulk sewage treatment service without this Commission's approval. According to Sunbelt, it was unaware of the provisions of Section 367.091(4) and (5), Florida Statutes, and therefore, failed to file an application within the ten day statutory requirement.

We are concerned about the utility charging an unapproved rate and executing an unapproved contract. However, we also recognize the mutual benefit of the agreement and acknowledge the utility's effort to comply with Section 367.091 (4) and (5), Florida Statutes. We agree that the Town of Lady Lake and the customers of Sunbelt are better served with the mutual agreement for emergency temporary wastewater service. Pursuant to the agreement, both Sunbelt and the Municipality agreed to the gallonage rate approved by this Commission for bulk sewage treatment service. Based on the foregoing, we do not find it appropriate to initiate a show cause proceeding.

If no protests are received from any substantially affected person within 21 days of the issuance date of this Order, the docket shall be closed.

Based on the foregoing it is, therefore,

ORDERED by the Florida Public Service Commission that the tariff proposed by Sunbelt Utilities, Inc., is hereby approved. It is further

ORDERED that if no substantially affected person protests the approval of this tariff within 21 days of the issuance date of this Order, the docket shall be closed.

ORDER NO. PSC-93-1111-FOF-SU
DOCKET NO. 930348-SU
PAGE 4

By ORDER of the Florida Public Service Commission this 29th
day of July, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LK


by: Kay Flynn
Chief, Bureau of Records

Chairman Deason and Commissioner Johnson dissented.

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 Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida



ORR NO. 5. PSC-93-1111-FOF-SU
DOCKET NO. 930348-SU
PAGE 5

Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), 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 August 19, 1993.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

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 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 date this Order becomes final, 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.