

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate) DOCKET NO. 930912-WS
increase in Osceola and Polk) ORDER NO. PSC-94-0585-PHO-WS
Counties by Poinciana Utilities,) ISSUED: May 18, 1994
Inc.)
_____)

Pursuant to Notice, a Prehearing Conference was held on May 2, 1994, in Tallahassee, Florida, before Chairman J. Terry Deason, as Prehearing Officer.

APPEARANCES:

WAYNE L. SCHIEFELBEIN, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308
On behalf of Poinciana Utilities Inc.

ROBERT J. PIERSON and MARGARET E. O'SULLIVAN, Esquires, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

Poinciana Utilities Inc. (Poinciana or utility) is a Class A utility which provides water and wastewater services to approximately 4,127 water and 3,946 wastewater customers in Poinciana, Florida. The utility is located in the South Florida Water Management District, which has been designated as a critical use area for water. As of July 31, 1993, the water and wastewater systems had approximately 4,732 and 4,321 equivalent residential connections (ERCs), respectively. For the twelve months ending July 31, 1993, the utility recorded operating revenues of \$794,610 for water service and \$1,326,868 for wastewater service. Operating income of \$107,285 and \$174,571 for that same period was recorded for the respective water and wastewater systems.

On December 20, 1993, the utility filed an application for approval of a permanent rate increase pursuant to Section 367.081,

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FPSC-RECORDS/REPORTING

Florida Statutes. The utility initially filed a request that its rate request be processed pursuant to proposed agency action procedures. However, the utility later notified our staff that its request for a proposed agency action was incorrect and refiled its application. This occurred on January 7, 1994, which was established as the official filing date for this rate proceeding. The utility's last rate case was in Docket No. 920200-WS (Order No. PSC-93-023-FOF-WS, issued February 9, 1993).

Poinciana has requested final water rates designed to generate annual revenues for water and wastewater of \$892,991 and \$1,728,027, respectively. These revenues exceed the test year revenues for water by \$98,381 (12.3%) and for wastewater by \$401,159 (30.2%). These requested final rates are sufficient to recover a 6.97% rate of return for water and wastewater. By Order No. PSC-94-0262-FOF-WS, issued March 8, 1994, the Commission suspended Poinciana's requested rates.

Pursuant to Poinciana's request, this matter has been scheduled for an administrative hearing on May 23 and 24, 1994.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. POST-HEARING PROCEDURES

Under Rule 25-22.056(3), Florida Administrative Code, each party shall file a post-hearing statement of issues and positions. The post-hearing statement shall include a summary of each position, which shall not exceed 50 words per position, set off with asterisks. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If any party fails to file a post-hearing statement in conformance with Rule 25-22.056, Florida Administrative Code, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, its statement of issues and positions, and its brief, shall be filed concurrently and shall together total no more than 60 pages. The Prehearing Officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Larry L. Good	Poinciana	1
Johnnie M. Overton	Poinciana	2, 3
Larry N. Coel	Poinciana	3, 4, 7 - 11, 13 - 20
Joseph Schifano	Poinciana	6, 20
Robert B. Gordon	Poinciana	5, 6, 9, 12
Scott Breitenstein	Staff	1
Clarence Anderson	Staff	1
John E. Mann IV	Staff	5

Rebuttal

Robert B. Gordon	Poinciana	5
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VI. BASIC POSITIONS

UTILITY: Poinciana proposes to depreciate plant and amortize advances that will, in time, become contributions-in-aid-of-construction. This proposal has a sound ratemaking rationale and would substantially enhance the stand alone financial viability of the utility, in a manner that is fair and reasonable to the utility and its customers. This proposal would not cause an increase in rates to customers.

The testimony, MFRs and other exhibits to be offered by the utility otherwise support increased water and wastewater rates and charges, as adjusted to reflect the utility positions on the issues identified in this proceeding.

STAFF: The information gathered through Poinciana's application, supporting schedules, prefiled testimony, and discovery

indicates that the utility is entitled to some level of increase. However, the specific level cannot be determined until the evidence presented at hearing is analyzed.

VII. ISSUES AND POSITIONS

Note: Staff's positions are preliminary and are based upon materials filed by Poinciana and acquired through discovery. These preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from its preliminary positions.

QUALITY OF SERVICE

ISSUE 1: Is the quality of service provided by Poinciana Utilities, Inc. satisfactory?

POSITIONS:

UTILITY: Yes. (Good)

STAFF: No position pending testimony at the hearing. (Breitenstein, Anderson)

RATE BASE

ISSUE 2: What are the appropriate used and useful percentages for the water and wastewater treatment plants and lines?

POSITIONS:

UTILITY: 81.9% for water treatment plant; 83.7% for wastewater treatment plant; and 100% for lines. (Overton)

STAFF: The appropriate used and useful percentage for the wastewater treatment plants is 76%. This percentage is based upon an 18 month margin reserve. As to the water treatment plants, Staff has no position at this time pending the receipt of additional discovery related to the water treatment plant capacity. The water transmission and distribution system and the wastewater

collection system are either advanced or contributed, therefore, no adjustment is required.

ISSUE 3: Should margin reserve be allowed in the used and useful determination, and if so, what provision is appropriate?

POSITIONS:

UTILITY: Yes, as per MFRs and Mr. Overton's testimony. (Coel, Overton)

STAFF: Yes, a margin reserve should be included in the used and useful calculation. The appropriate period for a margin reserve for the water and wastewater treatment plants is 18 months.

ISSUE 4: Should CIAC be imputed on the margin reserve?

POSITIONS:

UTILITY: No. (Coel)

STAFF: Yes, consistent with Commission practice, CIAC should be imputed on the margin reserve.

ISSUE 5: Should the utility be allowed to amortize advances for construction, and if so, what amount?

POSITIONS:

UTILITY: Yes, as per MFRs and Mr. Gordon's testimony. (Gordon)

STAFF: Amortization of advances for construction may be appropriate. The final amount will be determined based upon the evidence of record. (Mann)

ISSUE 6: What is the appropriate treatment of unfunded FAS 106 liability for post-retirement benefits other than pensions?

POSITIONS:

UTILITY: Since Poinciana has not recovered FAS 106 costs, the unfunded liability should not be deducted from rate base. (Gordon, Schifano)

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STAFF: Pursuant to Rule 25-14.012, Florida Administrative Code, rate base should be reduced by the average balance of \$30,000 to reflect the unfunded FAS 106 liability.

ISSUE 7: What is the appropriate amount of working capital allowance?

POSITIONS:

UTILITY: Using the balance sheet method, and as per Poinciana's May 4, 1994 Revised Schedule A-17, \$74,818 for water and \$118,510 for wastewater. (Coel)

STAFF: The appropriate amount of working capital is subject to the resolution of other issues. In addition, an adjustment may need to be made for "other debits and credits".

ISSUE 8: What is the test year rate base?

POSITIONS:

UTILITY: The final amount is subject to the resolution of other issues. (Coel)

STAFF: The final amount is subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 9: What is the appropriate cost of debt?

POSITIONS:

UTILITY: 3.86% for long term debt; 6% for short term debt; and, as per recently revised Rule 25-30.311, Florida Administrative Code, 6% for residential customer deposits and 7% for commercial customer deposits. (Coel)

STAFF: No position pending further development of the record.

ISSUE 10: What is the appropriate overall rate of return?

POSITIONS:

UTILITY: The appropriate overall rate of return is subject to the resolution of other issues. (Coel)

STAFF: No position pending further development of the record.

NET OPERATING INCOME

ISSUE 11: What is the appropriate allowance for rate case expense?

POSITIONS:

UTILITY: As per the MFRs, as modified by a late-filed exhibit to be submitted one week before the hearing. (Coel)

STAFF: No position pending review of final documents.

ISSUE 12: What is the appropriate test year provision for test year income taxes?

POSITIONS:

UTILITY: 100% of the fall-out amount. (Gordon)

STAFF: This issue is dependent upon the resolution of other issues. However, the final amount should be reduced by any net operating losses attributed to Poinciana.

ISSUE 13: Is a parent debt adjustment appropriate?

POSITIONS:

UTILITY: Yes, as per the MFRs. (Coel)

STAFF: Yes. The amount will be dependent upon other calculations.

ISSUE 14: What are the appropriate levels of test year operating income for water and wastewater before any revenue increase?

POSITIONS:

UTILITY: The final amounts are subject to the resolution of other issues. (Coel)

STAFF: The final amounts are subject to the resolution of other issues.

REVENUE REQUIREMENTS

ISSUE 15: What are the appropriate total water and wastewater revenue requirements?

POSITIONS:

UTILITY: The final amounts are subject to the resolution of other issues. (Coel)

STAFF: The final amounts are subject to the resolution of other issues.

RATES AND CHARGES

ISSUE 16: Should the residential wastewater rates be designed utilizing the base facility charge rate structure?

POSITIONS:

UTILITY: No position pending review of customer testimony at the hearing. (Coel)

STAFF: Yes, in accordance with Rule 25-30.437, Florida Administrative Code.

ISSUE 17: What is the appropriate residential gallonage cap for wastewater service?

POSITIONS:

UTILITY: If a consumption charge is implemented, 6,000 gallons is the appropriate cap so long as the overall revenue requirement is unaffected. (Coel)

STAFF: 8,000 gallons.

ISSUE 18: What are the appropriate water and wastewater rates and charges?

POSITIONS:

UTILITY: The final rates and charges are subject to the resolution of other issues. (Coel)

STAFF: The final rates and charges are subject to the resolution of other issues.

ISSUE 19: What is the appropriate amount of rate reduction in four years as required by Section 367.0816, Florida Statutes?

POSITIONS:

UTILITY: This amount is subject to the resolution of other issues. (Coel)

STAFF: The final amount is subject to the resolution of other issues, but shall be calculated in accordance with Rule 25-30.470, Florida Administrative Code.

MISCELLANEOUS

ISSUE 20: Should Poinciana be required to account for depreciation and amortization on a per-account basis?

POSITIONS:

UTILITY: The utility will not oppose such a requirement but wishes to discuss at hearing the time period necessary for compliance. (Schifano)

STAFF: Yes.

VIII.

EXHIBIT LIST - Direct

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Gordon	Poinciana	RBG-1	Rate base/operating income - water
Gordon	Poinciana	RBG-2	Rate base/operating income - wastewater
Gordon	Poinciana	RBG-3	Extension policy
Gordon	Poinciana	RBG-4	Extension agreement
Gordon	Poinciana	RBG-5	Depreciation/amortization of advances 1976 - 7/31/93

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Gordon	Poinciana	RBG-6	Taxable income on used and useful property
Gordon	Poinciana	RBG-7	Capitalization and earnings 1972 - 7/31/93
Gordon	Poinciana	RBG-8	Construction projects 1994 - 1998
Coel, Good, Overton, Schifano	Poinciana	LC-1	MFRs
Schifano	Poinciana	JS-1	Consolidated allocation spread
Schifano	Poinciana	JS-2	FASB 106 Actuarial Study
Schifano	Poinciana	JS-3	FASB 106 Expense Adjustment
Mann	Staff	JEM-1	Composite summary of proposed adjustments to accumulated amortization

EXHIBIT LIST - Rebuttal

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Gordon	Poinciana	RBG-R1	Florida Public Offering Statement filed by GAC Properties, Inc.
Gordon	Poinciana	RBG-R2	Notice of Proposed Class Action Settlement

Staff has also requested that the Commission take notice of Order No. PSC-93-1288-FOF-SU regarding the imputation of CIAC on

margin reserve. Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

IX. PROPOSED STIPULATIONS

Poinciana and Staff propose to stipulate to the following:

1. The audit report and supplemental audit report, identified as Exhibits Nos. RTM-1 and RTM-2, respectively, are stipulated into the record.
2. Preliminary survey charges of \$224,606 and unamortized debt discount of \$72,399 should be removed from the calculation of working capital.
3. The appropriate cost of equity is the cost of equity determined by the Commission's leverage formula in effect at the time of the Commission's final decision in this proceeding.
4. The provision for Regulatory Assessment Fees should be reduced by \$588 for water and \$423 for wastewater to correct a calculation error.
5. Test year legal expenses for the Wilderness lawsuit should be amortized over a five-year period.
6. Rate case expense should be amortized over a four-year period.
7. If the Department of Environmental Protection (DEP) grants an operating permit for wastewater treatment plant 3 and reduces the testing requirements, Poinciana's requested testing expense for effluent disposal at wastewater treatment plant 3 should be reduced to reflect a reduction in testing costs. If DEP grants the permit but does not reduce the testing requirements, the entire amount should be allowed. If DEP denies the permit, the expense should be amortized over a five-year period.
8. In accord with Rule 25-30.465, Florida Administrative Code, private fire protection rates should be based upon 1/12 of the base facility charge.
9. In accordance with Staff Advisory Bulletin No. 13, Poinciana should be authorized to collect its proposed miscellaneous service charges.

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It is therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings, as set forth above, unless modified by the Commission.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 18th day of May, 1994.


J. TERRY DEASON, Chairman
and Prehearing Officer

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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.