

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint and petition) DOCKET NO. 920649-WS
of Cynwyd Investments against) ORDER NO. PSC-94-1131-FOF-WS
TAMIAMI VILLAGE UTILITY, INC.) ISSUED: September 14, 1994
regarding termination of water)
and wastewater service in Lee)
County.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON

ORDER REQUIRING REPAIR OF WASTEWATER LINES

BY THE COMMISSION:

Tamiami Village Utility, Inc. (TVU) is a Florida Corporation that operates its water and wastewater utility in Lee County, Florida. Cynwyd Investments (Cynwyd) is a Pennsylvania General Partnership that owns a recreational vehicle (RV) park and other parcels of property within TVU's service territory. Cynwyd's RV park is a bulk customer of TVU, while its other parcels are on separate meters.

On June 24, 1992, Cynwyd filed a complaint, followed by a request for emergency relief filed on July 6, 1992. Cynwyd alleged that TVU threatened to terminate service to the RV park because of excessive infiltration into TVU's wastewater system from lines within the RV park. TVU argued that it was Cynwyd's responsibility to maintain these lines. A hearing on this matter was held in Fort Myers, Florida on October 14, 1993.

In Order No. PSC-94-0210-FOF-WS, issued February 21, 1994, we found Cynwyd responsible for the repair and maintenance of the water and wastewater lines within Cynwyd's RV Park. We ordered Cynwyd to submit a repair plan to our staff for approval by March 23, 1994, and to complete the line repairs within three months of the date of Order No. PSC-94-0210-FOF-WS. We also found that if the repairs were not completed, TVU may exercise its right to discontinue Cynwyd's water and wastewater service subject to our prior approval.

On March 8, 1994, Cynwyd filed a timely Motion for Reconsideration or Clarification of Order No. PSC-94-0210-FOF-WS. On April 19, 1994, our staff requested that Cynwyd submit a repair

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plan. Cynwyd responded on April 28, 1994 by stating that a report was not submitted because they believed that they were not under any obligation to comply with the Commission's order until the Motion for Reconsideration was disposed of. Cynwyd did file a repair report on May 5, 1994. Cynwyd's Motion for Reconsideration was denied by Order PSC-94-0718-FOF-WS, issued June 9, 1994.

On May 18, 1994, a staff engineer inspected the wastewater lines within the RV park. This inspection found that Cynwyd could not finish the line repairs by May 21, 1994. On May 23, 1994, TVU filed a request for Commission approval to terminate Cynwyd's service. TVU stated that the repairs to the lines were not been completed or substantially completed nor had Cynwyd provided any assurance or indication that the repairs would be completed. TVU also stated that Cynwyd had not paid the \$168.20 bill.

On June 15, 1994, Cynwyd responded and stated that the repairs to its lines as detailed in the May 5, 1994 repair report have been made and that the two lines suffering the most infiltration (lines K and E) were being replaced and that the \$168.20 bill had been paid. Cynwyd invited our staff to conduct measurements to confirm that the infiltration levels are within the Commission standards.

On July 25, 1994, the staff engineer inspected the system again and drafted a memorandum summarizing his findings. The inspection indicated that even though Cynwyd had replaced lines K and E, additional repairs were still necessary. Staff measured approximately 12,000 gallons per day (gpd) of infiltration coming from the RV park. The 12,000 gpd does not include any infiltration from lines which were not measured since they previously had been plugged by Cynwyd at TVU's request.

Because some lines might allow more infiltration than the allowance and others might allow less, we believe that the total infiltration coming from the RV park, not from the individual lines, is the primary concern. Furthermore, a line which is not leaking at this time may later develop leaks and need to be repaired. Therefore, it is not appropriate to specify which lines will be repaired. Instead, we have calculated an appropriate infiltration allowance by allowing 500 gpd per inch diameter per mile of pipe in the RV park, including the length of pipe for sewer laterals. The appropriate total infiltration allowance from the RV park lines is 4,100 gallons per day. Requiring that the total level of infiltration be less than 4,100 gpd will allow Cynwyd the flexibility to repair those lines which are currently experiencing the most infiltration. In determining the appropriate lines to repair, Cynwyd may wish to utilize staff's July 25, 1994, memorandum.

Cynwyd has not demonstrated why it cannot repair and/or replace the lines in order to reach the acceptable infiltration allowance. During the July 25, 1994 inspection, the RV park manager told staff that the high water table prevented additional repairs. However, according to the plumbing contractor employed to make the repairs, even though the water table is high the lines can still be replaced. Furthermore, since the July 25, 1994, inspection, Cynwyd has not notified either staff or TVU of their plans to further reduce the infiltration. The repair plan which Cynwyd submitted on May 5, 1994 only summarized the work which had been completed as of that date. The report did not state that lines K and E would be replaced or that line T was being replaced. The report also did not indicate what other work, if any, was planned.

Based on the above, we find it appropriate to grant TVU's request to disconnect the RV park's water and wastewater service if Cynwyd does not make repairs within a reasonable time. Because Cynwyd should be given one final opportunity to make these repairs, we find it appropriate to allow Cynwyd until October 20, 1994, to reduce the infiltration to 4,100 gpd. This deadline will allow Cynwyd ample opportunity to complete the necessary work.

Our staff will measure the infiltration coming from the RV park on October 20, 1994, in order to determine if the infiltration level is acceptable. Our staff has already requested that TVU repair the blockage which prevented the measurement of infiltration entering the north invert of Manhole 9 on July 25, 1994. This will allow the total infiltration from the park lines to be measured at two points: Manholes 9 and 31. If the measurement at these manholes indicates that the infiltration is less than 4,100 gpd, Cynwyd's service shall not be disconnected. If it is more than 4,100 gpd, then Cynwyd shall continue to make repairs and TVU shall have authority to disconnect Cynwyd's service at their discretion.

Pursuant to Order No. PSC-94-0210-FOF-WS, this docket shall remain open in order for staff to monitor the adequacy of the repairs and close the docket administratively after the repairs have been verified or, if the repairs have not been made, after Cynwyd's service has been terminated.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Cynwyd Investments shall make the repairs to the wastewater lines within its recreational vehicle park, as detailed in the body of this Order, by October 20, 1994. It is further

ORDER NO. PSC-94-1131-FOF-WS
DOCKET NO. 920649-WS
PAGE 4

ORDERED that on October 20, 1994, staff shall measure the infiltration levels at the recreational vehicle park in order to determine if Cynwyd Investments has made acceptable repairs to the wastewater lines. It is further

ORDERED that if, as of October 20, 1994, the infiltration from the recreational vehicle park has not been reduced to 4,100 gpd, Tamiami Village Utility, Inc. may terminate service to the recreational vehicle park owned by Cynwyd Investments. It is further

ORDERED that this docket shall remain open until staff has verified the repairs to the wastewater lines, or, if the repairs have not been made, until staff receives notification that Tamiami Village Utility, Inc. has terminated Cynwyd Investment's service.

By ORDER of the Florida Public Service Commission, this 14th day of September, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay DeLeon
Chief, Bureau of Records

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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 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.