

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

April 24, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (WASHINGTON, K. KAPROTH
MUNROE) *AW* *KK* *AK*
DIVISION OF LEGAL SERVICES (K. JOHNSON) *KW* *AK* *AK*

RE: DOCKET NO. 961498-WU - W.B.B. UTILITIES, INC. -
APPLICATION FOR APPROVAL OF REVISED SERVICE AVAILABILITY
RATES
COUNTY: LAKE

AGENDA: MAY 6, 1997 - REGULAR AGENDA - TARIFF FILING - INTERESTED
PERSONS MAY PARTICIPATE

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: AUGUST 17, 1997

SPECIAL INSTRUCTIONS: I:\PSC\WAW\WP\961498WU.RCM

CASE BACKGROUND

W.B.B. Utilities, Inc. (W.B.B. or utility) is a Class C utility providing water service in Lake County. According to its December 31, 1995 annual report, the utility was serving 27 residential customers. During the twelve months ending December 31, 1995, the utility recorded operating revenues of \$10,034 and a net operating loss of \$4,155.

On December 18, 1996, the utility filed proposed tariffs along with an application for authority to increase its service availability charges and initiate allowance for funds prudently invested (AFPI) charges pursuant to Section 367.091, Florida Statutes, and Rules 25-30.565 and 25-30.434, Florida Administrative Code, respectively. The utility's present service availability charges were established in Docket No. 930656-WU by Order No. PSC-94-0236-FOF-WU, issued March 3, 1994. The test year for this proceeding is the twelve month period ending December 31, 1995.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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The utility paid its filing fee on December 18, 1996, which was designated as the official filing date for this proceeding pursuant to Section 367.083, Florida Statutes. By Order No. PSC-97-0199-FOF-WU, issued February 19, 1997, the Commission suspended the proposed changes to main extension and plant capacity charges in the utility tariff.

The utility's present service availability charges were established in Docket No. 930656-WU, Order No. PSC-94-0236-FOF-WU, issued March 3, 1994. The utility has requested approval of a main extension charge of \$925 and a plant capacity charge of \$828. The current charges are \$294 for main extension and \$282 plant capacity. Requested AFPI charges were calculated by the utility to cover non-used and useful plant using Commission formulas and a five-year cap for necessary upgrade of the water system. The utility stated that a system upgrade was required to accommodate 48 additional ERCs.

By letter dated March 24, 1997, the utility withdrew its request for AFPI charges after discovering the new plant, because of fire flow requirements by the county, is 100% used and useful to existing customers. The utility then filed a limited proceeding on March 31, 1997 (Docket No. 970397-WU) to apply for a return on the new plant.

Staff is proceeding with this docket to process the utility's application for revised service availability charges.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the utility's notice of voluntary withdrawal of its AFPI application?

RECOMMENDATION: Yes. Staff recommends that the Commission acknowledge W.B.B.'s notice of voluntary withdrawal of its AFPI application. (K. JOHNSON, KAPROTH)

STAFF ANALYSIS: As discussed in the case background, this docket was opened when the utility filed an application for authority to increase its service availability charges and initiate AFPI charges. W.B.B. then withdrew its request for AFPI charges by filing a notice of voluntary withdrawal. The utility decided to withdraw its request for AFPI charges after conversations with staff revealed that the fire flow requirements by the county would make the new plant 100% used and useful to existing customers. The Commission has already taken some action in this docket by suspending the proposed tariff in order to allow staff to request more information and further investigate the charges. See Order No. PSC-97-0199-FOF-WU, issued in Docket No. 961498-WU, on February 19, 1997. The utility did not, however, withdraw its request for an increase in its service availability charges. Issue 2 of this recommendation addresses that request.

Rule 25-22.035(3), Florida Administrative Code, states that generally, the Florida Rules of Civil Procedure shall govern in proceedings before the Commission. Rule 1.420(a)(1), Florida Rules of Civil Procedure, allows a party to file a notice of voluntary dismissal without order of court any time before the case has been submitted for decision. Further, this Commission has accepted voluntary withdrawals or dismissals from applicants in the past, even when action had already been taken by the Commission in the docket. See, for example, Order No. PSC-94-0310-FOF-EQ, issued March 17, 1994, in Docket No. 920977-EQ, In Re: Petition for Approval of Contract for the Purpose of Firm Capacity and Energy between General Peat Resources, L.P. and Florida Power and Light Company. In addition, the Fifth District Court of Appeal held that a permit applicant was allowed to withdraw its application prior to an oral argument before the adjudicatory agency, depriving the agency of jurisdiction to enter a final order. Middlebrooks v. St. Johns River Water Management District, 529 So. 2d 1167 (Fla. 5th DCA 1988). The court stated that Rule 1.420(a)(1), Florida Rules of Civil Procedure, could be used as a basis for a voluntary dismissal prior to the time the fact-finders retire to deliberate the outcome. Id. Even though the Commission has acted in the instant docket, the suspension order was procedural in nature and was not determinative of the underlying application's merits.

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Therefore, staff recommends that the Commission acknowledge the utility's notice of voluntary withdrawal of its application for AFPI charges.

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ISSUE 2: Should the utility's tariff filing to modify its service availability charges be approved as filed?

RECOMMENDATION: No. The tariff sheets filed on December 18, 1996 should be denied as filed. The appropriate service availability charges should be \$793 for plant capacity and \$887 for main extension. If the utility files revised tariff sheets within thirty days of the date of the Order, which are consistent with the Commission's vote, staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision and the proposed customer notice is adequate. Pursuant to Rule 25-30.475, Florida Administrative Code, if revised tariff sheets are filed and approved, the service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, provided customers have received notice and no protests are filed. (WASHINGTON)

STAFF ANALYSIS: W.B.B. Utilities, Inc. submitted a tariff filing requesting revised service availability charges as allowed by Rule 25-30.565, Florida Administrative Code. The utility's existing service availability charges were approved by Order No. PSC-94-0236-FOF-WU, issued March 3, 1994. Since that time, the utility has invested \$93,689 in new plant to provide for Phase II of the development, and meet fire flow requirements by the county. Staff has reviewed the plant costs and determined them to be reasonable. Staff had to make one correction to the utility's filing. The number of future customers is 48, not 46 as submitted by the utility. This changes the amount of system capacity charge from \$828 to \$793, and the amount of main extension charge from \$925 to \$887. This shown on Schedule No. 1.

Rule 25-30.580(1)(a) and (b), Florida Administrative Code, sets guidelines for maximum and minimum contribution-in-aid-of-construction (CIAC) levels for jurisdictional utilities. The utility's current CIAC level is 11.52%. If the staff recommended revised service availability charges are approved, the new charges will not cause the utility's contribution to exceed the maximum 75% level. Therefore, staff recommends a revised plant capacity charge of \$793, and a revised main extension charge of \$887.

Staff recommends that the tariff sheets filed on December 18, 1996 for revised service availability charges be denied as filed. If the utility files revised tariff sheets within thirty days of the date of the Order, which are consistent with the Commission's vote, staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision and that the proposed

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customer notice is adequate. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision.

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ISSUE 3: Should the docket be closed?

RECOMMENDATION: No. The docket should remain open for thirty days from the date of the Order to allow the utility time to file revised tariff sheets, and if no protests are filed to the denial by a substantially affected person within 21 days of the issuance of the order. If a protest is filed regarding the denial of the proposed tariff, the utility's proposed tariff may be implemented. If the utility's proposed tariff is implemented then all charges collected under the proposed tariff should be held subject to refund pending resolution of the protest. (JOHNSON, WASHINGTON)

STAFF ANALYSIS: If a timely protest is filed, the docket should remain open for thirty days from the effective date of the Order to allow the utility time to file revised tariff sheets. Further, in the event of such protest, staff will prepare an additional recommendation to address additional issues in this docket.

SERVICE AVAILABILITY CHARGE ANALYSIS

W.B.B. UTILITIES, INC.
 DOCKET NO. 981498-WU
 TEST YEAR ENDED DECEMBER 31, 1995
 WATER

SCHEDULE NO. 1

GROSS BOOK VALUE	130,432
LAND	1,905
DEPRECIABLE ASSETS	128,527
ACCUMULATED DEPRECIATION TO DATE	(9,230)
ACCUMULATED DEPRECIATION AT DESIGN CAPACITY	20,203
NET PLANT AT DESIGN CAPACITY	110,229
TRANSMISSION & DISTRIBUTION/COLLECTION LINES	67,845
MINIMUM LEVEL OF C.I.A.C.	52.02%
C.I.A.C. TO DATE	20,687
ACCUMULATED AMORTIZATION OF C.I.A.C. TO DATE	4,598
NET C.I.A.C. TO DATE	16,089
LEVEL OF C.I.A.C. TO DATE	11.52%
ACCUMULATED AMORTIZATION OF C.I.A.C. AT DESIGN CAPACITY	9,335
FUTURE CUSTOMERS (ERC) TO BE CONNECTED	48
COMPOSITE DEPRECIATION RATE	2.29%
NUMBER OF YEARS TO DESIGN CAPACITY	10.00
EXISTING SERVICE AVAILABILITY CHARGE PER ERC	576.00
LEVEL OF C.I.A.C. AT DESIGN CAPACITY	32.48%
NET C.I.A.C. AT DESIGN CAPACITY	35,808
REQUESTED SERVICE AVAILABILITY CHARGE PER ERC	0.00
LEVEL OF C.I.A.C. AT DESIGN CAPACITY	0.00%
NET C.I.A.C. AT DESIGN CAPACITY	11,352
MINIMUM SERVICE AVAILABILITY CHARGE PER ERC	1,083.06
LEVEL OF C.I.A.C. AT DESIGN CAPACITY	52.02%
NET C.I.A.C. AT DESIGN CAPACITY	57,336
MAXIMUM SERVICE AVAILABILITY CHARGE PER ERC	1,679.78
LEVEL OF C.I.A.C. AT DESIGN CAPACITY	75.00%
NET C.I.A.C. AT DESIGN CAPACITY	82,672

LAST UPDATE 15-Apr-97

STAFF RECOMMENDED CHARGES	
Main Extension = \$67,845/\$128527 = 52.79% = \$887	
Plant Capacity = 100% - 52.79% = 47.21% = \$793	