

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval
of revised service availability
rates by W.B.B. Utilities, Inc.

DOCKET NO. 961498-WU
ORDER NO. PSC-97-0598-FOF-WU
ISSUED: May 23, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER ACKNOWLEDGING WITHDRAWAL OF REQUEST FOR
AFPI AND DENYING UTILITY'S REQUEST TO
MODIFY SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

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.

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, we suspended the proposed changes to main extension and plant capacity charges in the utility tariff.

DOCUMENT NUMBER-DATE

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PSC-REGULATORY REPORTING

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.

Notice of Voluntary Withdrawal

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. We have already taken some action in this docket by suspending the proposed tariff in order to allow our staff to request additional information and further investigate the charges. See Order No. PSC-97-0199-FOF-WU, issued in Docket No. 961498-WU, on February 19, 1997.

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. Therefore, we acknowledge the utility's notice of voluntary withdrawal of its application for AFPI charges.

Request to Modify Service Availability Charges

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. We have reviewed the plant costs and find them to be reasonable. We made 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 is shown on Schedule No. 1.

The tariff sheets filed on December 18, 1996 are denied as filed. The appropriate service availability charges are \$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 this vote, our staff shall have administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with our decision herein 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 shall 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.

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%.

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This docket shall remain open for thirty days from the date of the Order to allow the utility time to file revised tariff sheets. If a protest is filed, the utility's proposed tariff may be implemented. If the utility's proposed tariff is implemented then all charges collected under the proposed tariff shall be held subject to refund pending resolution of the protest. In the event a protest is filed, staff will prepare a recommendation to address any outstanding issues in this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that W.B.B. Utilities, Inc.'s Notice of Voluntary Withdrawal of its Application for AFPI charges is acknowledged. It is further

ORDERED that W.B.B. Utilities, Inc.'s December 18, 1996 tariff request to modify service availability charges is denied as filed. It is further

ORDERED that if W.B.B. Utilities, Inc. files revised tariff sheets within thirty days of the date of this Order which are consistent with our vote, our staff shall have administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with our decision and the proposed customer notice is adequate. It is further

ORDERED that if revised tariff sheets are filed and approved, the service availability charges shall 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 have been filed. It is further

ORDERED that all matters contained in Schedule No. 1 attached hereto are by reference incorporated herein. It is further

ORDERED that if a protest is filed in accordance with the requirement set forth below, the proposed tariff may be implemented and charges collected under the proposed tariff shall be held subject to refund pending resolution of the protest. It is further

ORDERED that this docket shall remain open for thirty days from the issuance date of this order to allow W.B.B. Utilities, Inc. to file revised tariff sheets consistent with our decision herein.

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By ORDER of the Florida Public Service Commission, this 23rd
day of May, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn, Chief
Bureau of Records

(S E A L)

KMJ

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 13, 1997.

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.

SERVICE AVAILABILITY CHARGE ANALYSIS

SCHEDULE NO. 1

W.B.B. UTILITIES, INC.
DOCKET NO. 961498-WU
TEST YEAR ENDED DECEMBER 31, 1995
WATER

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

$$\text{Main Extension} = \$67,845 / \$128,527 = 52.79\% = \$887$$

$$\text{Plant Capacity} = 100\% - 52.79\% = 47.21\% = \$793$$