

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: JANUARY 21, 1999

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

FROM: DIVISION OF WATER AND WASTEWATER (BUTTS, DEWBERRY)
DIVISION OF LEGAL SERVICES (FERGUSON)

RE: DOCKET NO. 981825-SU - APPLICATION BY TRADEWINDS UTILITIES, INC. FOR APPROVAL OF A NEW CLASS OF SERVICE FOR WASTEWATER-ONLY FLAT RATES IN MARION COUNTY.
COUNTY: MARION

AGENDA: 02/02/99 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 60-DAY SUSPENSION DATE: MARCH 22, 1999

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\981825.RCM

CASE BACKGROUND

Tradewinds Utilities, Inc. (Tradewinds or utility) is a Class C water and wastewater utility located in Marion County. According to the utility's 1997 annual report, the utility provides water services to approximately 421 customers and wastewater service to approximately 257 customers. In its 1997 annual report, the utility reported water revenues in the amount of \$84,259 and wastewater revenues in the amount of \$132,456 with expenses of \$78,286 for water and \$120,302 for wastewater, resulting in net operating income of \$5,973 and \$12,154 respectively. The utility's service area is located in the St. John's River Water Management District. (SJRWMD)

In Order No. PSC-98-0484-FOF-WS issued April 6, 1998, the Commission amended the utility's certificated territory to include additional territory in Marion County.

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FPSC-RECORDS/REPORTING

On November 6, 1998, staff received a complaint from a customer representative, that Tradewinds recently installed a private water/sewer system and mandated all owners of property be required to connect to this system. The representative stated that the utility neither notified customers prior to the installation nor provided any opportunity for customers to reject the proposal. Staff responded to the customers' complaint on November 24, 1998, and explained that the Commission recently authorized the utility to serve the area in which the customer lived in. Staff also stated that pursuant to Section 367.045, Florida Statutes, the utility was required to file an application with the Commission to have its certificate amended to include additional territory. Staff also noted that Tradewinds had to submit proof to the Commission that it provided customers with notice to serve this additional territory. The notice was published in the Starr-Banner Newspaper on January 28, 1998, and no protest was filed within the 30-day protest period set forth in Rule 25-30.031, Florida Administrative Code. Finally, staff stated in its letter to the representative, that if concerns still exist about being required to connect, the customer should contact their county health department.

On December 3, 1998, Tradewinds Utilities, Inc. initiated conversation with staff about filing a proposal requesting approval for flat rates for a new class of service. On December 8, 1998, the utility filed this proposal requesting that the Commission grant the approval of flat rates for a new class of service, pursuant to Section 367.091(4), Florida Statutes. In support of its request, and in accordance with Rule 25-9.005 (4), Florida Administrative Code, and Section 367.091(4), Florida Statutes, the utility provided: a statement of purpose for the new service, the estimated revenues that will be derived from the new service, the estimated number of customers to be served, and cost justification for the proposed rates and charges. The new class of service includes the amended certificated territory approved in Order No. PSC-98-0484-FOF-WS issued April 6, 1998 by the Commission. The utility proposes to serve an additional 32 equivalent residential connections (ERCs) consisting of an estimated 26 quadraplexes, and 6 light industrial buildings with one or two bathrooms. For informational purposes, the additional territory will include customers requesting water and wastewater services, and customers requesting wastewater only services. On January 14, 1999 in a telephone conversation, the utility's president stated that (16) sixteen of the customers requesting water and wastewater were connected. These customers that are requesting water and wastewater services are on metered rates. On the other hand, the customers requesting wastewater only services were not connected.

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On January 19, 1999, staff received the utility's Original Tariff Sheet No. 16.1 which contained its requested rates for quadraplexes and light buildings. The following analysis will summarize customers requesting wastewater only services. Staff has prepared the following recommendation which addresses the utility's requested rates and charges for approval of flat rates for a new class of service.

DISCUSSION OF ISSUES

ISSUE 1: Should Tradewinds Utilities, Inc.'s proposed rates and charges for a new class of service to provide flat wastewater rates to general service customers be approved on a temporary basis, subject to refund, pending a final determination by the Commission?

RECOMMENDATION: Yes. Tradewinds Utilities, Inc.'s proposed rates and charges for a new class of service to provide flat wastewater rates to general service customers should be approved on a temporary basis, subject to refund, pending a final decision by the Commission. Staff should be given administrative authority to approve Original Tariff Sheet No. 16.1 which was subsequently submitted by the utility, upon verification that the tariff is consistent with the Commission's decision. The Original Tariff Sheet No. 16.1 should be implemented on or after the stamped approval date of the tariff sheet pursuant to Rule 25-30.475, Florida Administrative Code, provided customers have received notice. The utility should provide proof that the customers have received notice within 10 days after the date of the notice. The appropriate rates should be those listed in the Staff Analysis. (BUTTS, DEWBERRY)

STAFF ANALYSIS: As stated in the case background, in Order No. PSC-98-0484-FOF-WS issued April 6, 1998, the Commission amended the utility's certificated territory to include additional territory in Marion County. As a result of the Order, Tradewinds is currently providing service to residents in the additional territory area. Pursuant to Section 367:091(4), Florida Statutes, a "utility may furnish the new class of service and charge just, reasonable, compensatory rates or charges therefor. A schedule of rates or charges so fixed shall be filed with the Commission within 10 days after the service is furnished." Residents in this additional territory currently have their own private wells and septic tanks. However, there have been considerable problems with contaminated wells and septic tanks in the area. The utility stated in its application that the Marion County Health Department had requested Tradewinds to extend its territory in this area for quite a few years. The utility also stated that some customers in the new territory do not wish to accept water service from the utility. Therefore, those customers that are not metered by the utility for water cannot be charged the Commission-approved base facility and gallonage charge for wastewater.

On December 8, 1998, Tradewinds filed an application

requesting the Commission's approval of a flat rate for unmetered wastewater customers residing in the utility's amended territory. In support of its application, and in accordance with Rule 25-9.005(4), Florida Administrative Code, the utility provided a statement of the purpose and reason for the new service. The purpose is explained as follows:

1. Tradewinds Utilities, Inc. has submitted and has been approved for an extension to serve this commercial subdivision area of 26 quadraplexes, and 6 light industrial buildings with one or two bathrooms.
2. The additional territory has had considerable problems with contaminated wells and septic tanks.
3. The Marion County Health Department has been asking Tradewinds to extend its territory to this area for quite a few years.
4. The utility has received funding from a local financial institution for the amount of \$280,000 for the wastewater extension.

Pursuant to Rule 25-9.005(4), Florida Administrative Code, the utility provided the estimated annual revenues to be derived from the new service, and the estimated number of customers to be served. The utility indicated that the commercial subdivision currently has 26 quadraplexes and 6 light industrial buildings. The utility consulted with an engineer to determine the appropriate meter size for the unmetered wastewater customers. The engineer suggested: a 2 inch meter for the 26 quadraplexes, and a 1 inch meter for the 6 light buildings. This was done to accurately include the appropriate base facility charge for 2 inch meter of \$142.48, and 1 inch meter of \$44.53 in the proposed flat rate. Based on the rates in the utility's existing tariff, the total annual revenues derived from the 26 quadraplexes are estimated at \$81,604, and the total annual revenues derived from the 6 light industrial buildings are estimated at \$4,244. The total annual revenues derived from the quadraplexes and light buildings will be \$85,848. The above estimate is based on the average usage of similar customers to determine the cost per gallon of wastewater treatment. The average usage was multiplied times the existing \$6.01 per 1,000 gallons rate. The appropriate rates for the utility's proposed wastewater rates for a new class of service are as follows:

DESCRIPTION

TEMPORARY RATES

6 Industrial Buildings	\$ 58.95
26 Quadraplexes	261.55

Based on Tradewind's existing rates in its tariff, the calculated annual revenues that were submitted to the Commission, are mathematically correct.

Pursuant to Section 367.091(4), Florida Statutes, Tradewinds submitted the following as cost justification for the flat rates requested in its filing:

1. Tradewinds consulted with an engineer and the engineer suggested the following design which has been accepted by DEP: for the 26 quadraplexes a 2 inch Meter Size, and for the 6 light buildings a 1 inch Meter Size.
2. Tradewinds proposed the rate of \$261.55 for the quadraplexes, and proposed the rate of \$58.95 for the light buildings. These rates are based on an analysis using the Residential Usage of Tradewinds Village for the last 12 months.
3. In consideration of the above information, Tradewinds indicates that the rates proposed are fair, just, reasonable, and compensatory under Section 367.091, Florida Statutes.

As stated in the case background, the utility reported in its 1997 annual report wastewater revenues of \$132,456. Assuming that the quadraplexes and light buildings generate \$85,848 additional revenues, staff has concerns that the additional revenue will cause the utility's overall rate of return to exceed its limitations. However, staff needs additional information from the utility to determine the accuracy of the proposed rates and the effect of the additional revenue on the utility's earnings posture. The utility has indicated that it has not begun serving these wastewater only customers yet. Therefore, staff is recommending that these rates be approved on a temporary basis, subject to refund, pending further investigation by staff. This recommendation is consistent with Order No. PSC-98-0971-FOF-WU issued on July 16, 1998 in Docket No. 980616-WU.

On January 19, 1999, the utility submitted Original Tariff Sheet No. 16.1, which contained its requested rates. Once staff has verified that this tariff sheet is consistent with the

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Commission's vote, staff should approve this tariff in accordance with Rule 25-30.475, Florida Administrative Code. Therefore, staff should be given administrative authority to approve this tariff sheet upon such verification. The Original Tariff Sheet No. 16.1 should be implemented on or after the stamped approval date of the tariff sheet pursuant to Rule 25-30.475, Florida Administrative Code, provided customers have received notice. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

ISSUE 2: What is the appropriate form of security to guarantee the revenues associated with the new class of service?

RECOMMENDATION: The utility should be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of wastewater flat rate revenues collected subject to refund. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly revenues collected subject to refund. (BUTTS, DEWBERRY)

STAFF ANALYSIS: If Issue 1 is approved, the utility should be authorized to collect the temporary rates upon the staff's approval of security for both the potential refund and a copy of the proposed customer notice. The security should be in the form of a bond or letter of credit in the amount of \$57,232. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rates; or
- 2) If the Commission denies the rates, the utility shall refund the amount collected that is attributable to the rates.

If the utility chooses a letter of credit as a security, it should contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect.
- 2) The letter of credit will be in effect until final Commission order is rendered, either approving or denying the rate.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission.
- 2) The escrow account shall be an interest bearing account.

- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So.2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
- 8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance should any associated costs with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Whichever form of security chosen by the utility, an account of all monies received as result of the temporary approval of rates, should be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

The utility should maintain a record of the amount of the security, and the amount of revenues that are subject to refund. In addition, the utility should file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under these rates.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. If Issue 1 and Issue 2 are approved, the docket should remain open so staff can obtain additional information to perform the needed investigation. If a protest is filed within 21 days of the issuance of the Order, the tariff sheets should remain in effect, subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should remain open. (FERGUSON)

STAFF ANALYSIS: If a protest is filed within 21 days of issuance of the Order, the tariff sheets should remain in effect, with monies collected held subject to refund, pending resolution of the protest. However, if Issue 1 and Issue 2 are approved, the docket should remain open. If no substantially affected person files a protest of the tariff filing within the 21 day protest period, then the docket should remain open.