

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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REC'D
COMMUNICATIONS
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DATE: JANUARY 21, 1999

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

FROM: DIVISION OF WATER AND WASTEWATER (KYLE, MERCHANT) *JKM*
DIVISION OF LEGAL SERVICES (BRUBAKER) *JB*

RE: DOCKET NO. 980057-WU - PETITION BY GULF UTILITY COMPANY
FOR INTERIM AND PERMANENT INCREASE IN WATER RATES,
PURSUANT TO SECTIONS 367.0817, 367.082, AND 367.0822,
F.S., IN LEE COUNTY.
COUNTY: LEE

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

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: I:\980057WU.RCM

CASE BACKGROUND

Gulf Utility Company (Gulf or utility) is a Class A utility which serves approximately 7,040 water and 2,435 wastewater customers in Lee County, Florida. The utility is located in a water use caution area as designated by the South Florida Water Management District (SFWMD).

By Order No. PSC-96-0501-FOF-WS, issued April 11, 1996, in Docket No. 960234-WS, the Commission initiated an overearnings investigation and ordered the utility to hold \$353,492 in annual water revenues subject to refund. As noted by that Order, the overearnings investigation would be combined at the appropriate time with a rate proceeding which the utility indicated it would file for its wastewater system.

DOCUMENT NUMBER-DATE

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REC. RECORDS/REPORTING



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On June 27, 1996, Gulf filed an application for an increase in wastewater rates, approval of a decrease in water rates, and approval of service availability charges. The test year for final rates was the projected year ended December 31, 1996.

By Order No. PSC-97-0847-FOF-WS, issued July 15, 1997 (Final Order), in Dockets No. 960234-WS and 960329-WS, the Commission approved final water and wastewater rates and charges for Gulf. On July 30, 1997, Gulf timely filed a motion for reconsideration of Order No. PSC-97-0847-FOF-WS. Gulf also filed a Motion to Release Escrow Funds on July 30, 1997. OPC filed a response to the Motion for Reconsideration on August 11, 1997, after an extension of time approved by the Commission. On September 18, 1997, Gulf filed a Request for Administrative Notice for a letter provided by an engineering firm to support the in-service time frame for the one-million gallon reject holding tank.

By Order No. PSC-97-1544-FOF-WS (Reconsideration Order), issued December 9, 1997; the Commission denied Gulf's Request for Administrative Notice. The Commission also approved in part and denied in part the Motion for Reconsideration. The Order finalized the rate base, revenue requirement, rates and rate structure. The Order also approved releasing the escrow account to Gulf.

On January 9, 1998, Gulf filed in the instant docket its Petition for an Interim and Permanent Water Rate Increase Pursuant to Sections 367.0817, 367.082 and 367.0822, Florida Statutes. In this limited proceeding, Gulf requests a return on its investment in water reuse facilities and recovery of additional salaries and chemical expense. In addition to its rate case expense for this proceeding, Gulf also seeks to recover the rate case expense it incurred in filing its motion for reconsideration in Dockets No. 960234-WS and 960329-WS. By Order No. PSC-98-0382-FOF-WU, issued March 10, 1998, the Commission denied Gulf's request for interim and emergency/temporary rates.

On June 30, 1988, Gulf's facilities were sold to Gulf Environmental Services, Inc. (GES). On June 18, 1998, just prior to the date of the sale, Gulf and GES filed a joint application for transfer of utilities facilities from Gulf to GES and for cancellation of Certificates Nos. 523-W and 457-S. The joint application was filed pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code, which concern a transfer to a governmental authority. In Order No. PSC-98-1642-FOF-WS, issued December 7, 1998, in Docket No. 980767-WS, the Commission approved the requested transfer of facilities. In Order No. PSC-1626-FOF-WS, issued December 7, 1998, in Docket No.

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980943-WS, the Commission ordered the utility to refund excess gross-up CIAC collected for the years 1992 through 1994.

This recommendation addresses Gulf's request for a permanent increase in water rates, pursuant to Sections 367.0817 and 367.0822, Florida Statutes, in light of the transfer of the utility.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission deem Gulf's petition for a rate increase withdrawn?

RECOMMENDATION: Yes. In light of the transfer of its facilities to a governmental authority, Gulf's petition for a rate increase should be deemed withdrawn pursuant to Section 367.071(4)(a), Florida Statutes. (KYLE, MERCHANT, BRUBAKER)

STAFF ANALYSIS: On June 30, 1998, Gulf's facilities were sold to Gulf Environmental Services, Inc. (GES). On June 18, 1998, just prior to the date of the sale, Gulf and GES filed a joint application for transfer of utilities facilities from Gulf to GES and for cancellation of Certificates Nos. 523-W and 457-S. The joint application was filed pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code, which concern a transfer to a governmental authority. In Order No. PSC-98-1642-FOF-WS, issued December 7, 1998, in Docket No. 980767-WS, the Commission found that GES was a governmental authority and approved the requested transfer of facilities as a matter of right in accordance with Section 367.071(4)(a), Florida Statutes. Subsequently, staff counsel contacted counsel for Gulf and inquired as to whether Gulf intended to withdraw its petition for rate increase. Gulf's counsel indicated that the utility would not withdraw its petition.

Section 367.071(4)(a), Florida Statutes, provides in its pertinent part that:

The sale of facilities, in whole or in part, to a governmental authority shall be approved as a matter of right . . . Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest. (emphasis added)

In light of the transfer of its facilities to a governmental authority pursuant to Order No. PSC-98-1642-FOF-WS, Gulf's application for a rate increase should be deemed withdrawn pursuant to Section 367.071(4)(a), Florida Statutes. As discussed previously, Gulf's request for interim and emergency/temporary rates was denied pursuant to Order No. PSC-98-0387-FOF-WU; therefore, there were no interim rates in this docket.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, nothing will remain to be done in this docket and the docket should be closed. (BRUBAKER)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, nothing will remain to be done in this docket and the docket should be closed.