



Public Service Commission

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RECORDS AND REPORTING

DATE: MARCH 4, 1999

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

FROM: DIVISION OF WATER AND WASTEWATER (RENDEL WILSON) (REDACTED)
DIVISION OF LEGAL SERVICES (VACCARO) (REDACTED)

RE: DOCKET NO. 980483-WU - INVESTIGATION INTO POSSIBLE OVERCOLLECTION OF ALLOWANCE FOR FUNDS PRUDENTLY INVESTED (AFPI) IN LAKE COUNTY, BY LAKE UTILITY SERVICES, INC. COUNTY: LAKE

AGENDA: 03/16/99 - REGULAR AGENDA - DECISION ON SETTLEMENT OFFER PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\980483.RCM

CASE BACKGROUND

Lake Utility Services, Inc., (LUSI or utility) is a Class B utility located in Lake County. LUSI is a wholly-owned subsidiary of Utilities, Inc. and provides no wastewater service.

A complaint was received from a customer in August of 1996. The customer was concerned about the fees she was required to pay for service. At the time of complaint, the utility had three schedules of fees and charges for service that differed depending on the location of the customer's residence. The customer's residence was in the territory approved for LUSI by Order No. PSC-92-1369-FOF-WU issued November 24, 1992, in Docket No. 920174-WU. By that order, LUSI's service territory was amended to include additional territory. The rates and charges for the additional territory were also established in the aforementioned order.

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FPSC-RECORDS/REPORTING

In the initial investigation of the complaint, staff believed that the fees the customer was required to pay were appropriate. Those fees were a plant capacity charge of \$569, a main extension charge of \$509, a meter installation charge of \$100, and an allowance for funds prudently invested (AFPI) charge of \$608.09. After analysis done in the utility's rate case in Docket No. 960444-WU, staff believed that the collection of the AFPI from customers in the territory approved by Order No. PSC-92-1369-FOF-WU may have been inappropriate. An informal investigation into the AFPI charges was conducted. Staff sent the utility a data request relating to its AFPI charges. The utility responded to the questions. After a few letters of correspondence with the utility, staff notified LUSI by letter dated January 27, 1998, that it was appropriate for the utility to collect AFPI from the customers in the additional territory pursuant to a tariff page contained in the utility's policy section of its Commission approved tariff. However, staff also indicated to the utility that, in its opinion, the collection of AFPI should have ceased after 106 equivalent residential connections (ERCs). Staff further indicated that the utility should refund all AFPI collected beyond 106 ERCs.

The utility requested that the issue be submitted to the Commissioners for a final decision if staff did not reconsider its position. By Proposed Agency Action (PAA) Order No. PSC-98-0796-FOF-WU, issued June 8, 1998, this Commission required that LUSI record AFPI collected beyond 106 ERCs as contributions in aid of construction. On June 26, 1998, two utility customers, Ms. Kathy Shutts and Ms. Sandy Baron, filed a protest to the PAA Order and requested a hearing on their protest. Likewise, LUSI filed a Petition on PAA on June 29, 1998 and requested a hearing on its protest. Accordingly, this matter was set for hearing for January 25, 1999. On January 15, 1999, a prehearing was held by the Prehearing Officer. On January 25, 1999 the parties filed an offer of settlement. The Chairman canceled the hearing date, pending review of the settlement offer.

Staff notes, however, that on January 26, 1999, the Division of Consumer Affairs received a telephone call from a customer who inquired about the outcome of the hearing. She explained that she was unable to attend the hearing due to a medical appointment. The Consumer Affairs representative explained that the hearing had been canceled because the parties had reached a settlement. The customer asked what recourse she had, and was referred to the Division of Legal Services.

During a subsequent telephone conversation with Legal Services, the customer explained that she first became involved in

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the matter after receiving the utility's notice of hearing in December, 1998. The customer cited the provision in the notice indicating that interested persons wishing to participate as parties must file a written petition to intervene pursuant to Rule 25-22.039, Florida Administrative Code. The customer indicated that she had not filed a petition to intervene. Legal Services subsequently provided a letter to the customer indicating that the time to file a petition to intervene had lapsed. However, the letter also indicated that if she wished, the customer could file a complaint against the utility regarding the AFPI charge, pursuant to Rule 25-22.032, Florida Administrative Code. A copy of that rule was provided to the customer. The customer subsequently indicated that she would pursue that course of action. This recommendation addresses the parties' offer of settlement.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the parties' offer of settlement filed January 25, 1999?

RECOMMENDATION: Yes, the Commission should approve the parties' offer of settlement filed January 25, 1999. (RENDELL, VACCARO)

STAFF ANALYSIS: As stated in the case background, on January 25, 1999, the parties to this docket filed a signed offer of settlement. The offer of settlement was signed by Mr. Ben Girtman, counsel for the utility, Ms. Kathy Shutts, and Ms. Sandy Baron, intervenors in the docket. The offer of settlement contained 2 provisions and is attached to this recommendation as Attachment A. The two provisions in the settlement offer are as follows:

1. LUSI agrees to refund AFPI charges to Ms. Kathy Shutts and to Ms. Sandy Baron in the amount of \$608.09 each, within 30 days after the issuance of the Commission's order approving this offer of settlement.
2. In addition, LUSI further agrees to credit the Contributions-in-Aid-of-Construction account in the amount of \$25,800 to reflect past period adjustments to AFPI revenues previously collected.

Although staff has calculated a potential refund in the amount of \$74,795, it should be noted that in PAA Order No. PSC-98-0796-FOF-WS, the Commission determined that there were extenuating circumstances which existed on both sides of the AFPI refund issue. In that order, the Commission determined that LUSI should be required to record all AFPI collected beyond 106 ERCs as CIAC, **as a reasonable compromise.** (emphasis added) The Commission further found that the compromise would prevent a refund but would, nevertheless, benefit the utility's customers.

Staff believes that this offer of settlement provides a reasonable resolution of this matter. This settlement offer resolves all outstanding issues in this docket. This offer of settlement was filed to avoid the time, expense, and risk of further litigation. Staff notes that all parties to the docket have signed this offer. The two customers who originally protested have agreed to the settlement, one of which was the customer who originally brought this matter to staff's attention. By recording this amount to CIAC, all customers may receive a benefit from the lowering of the utility's investment in future cases. In

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consideration of the forgoing, staff believes that this settlement offer should be accepted.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be administratively closed upon staff's verification that the refunds have been made. The utility should submit proof of refund within 30 days of the issuance of the order approving the offer of settlement. (VACCARO, RENDELL)

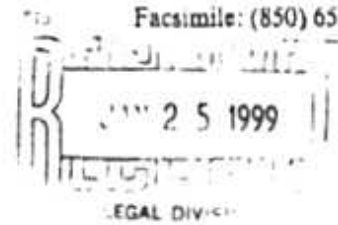
STAFF ANALYSIS: Upon staff's verification that the refunds have been made the docket should be closed administratively. The utility should submit proof of refund within 30 days of the issuance of the order approving the offer of settlement.

BEN E. GIRTMAN
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January 21, 1999



Chairman Joe A. Garcia
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Offer to settle Docket No. 980483-WU - Investigation into possible overcollection of Allowance for Funds Prudently Invested (AFPI) in Lake County, by Lake Utility Services, Inc.


Dear Chairman Garcia:

Lake Utility Services, Inc. (LUSI) hereby makes the following offer to settle the above referenced case which, if accepted by the Commission, would dispose of this case without the necessity of further proceedings. It is believed that this settlement is acceptable to the Commission Staff.

1. LUSI agrees to refund AFPI charges to Ms. Kathy Shutts and to Ms. Sandy Baron in the amount of \$608.09 each, within 30 days after the issuance of the Commission's order approving this offer of settlement.
2. In addition, LUSI further agrees to credit the Contributions-in-Aid-of-Construction account in the amount of \$25,800 to reflect past period adjustments to AFPI revenues previously collected.

By affixing their signatures below, the two intervenors have indicated their concurrence in and acceptance of this settlement and agree that no further proceedings shall be had in relation to this matter.

Sincerely yours,



Ben E. Girtman
Attorney for Lake Utility Services, Inc.

Accepted and agreed to this 21st day of January, 1999 by:



Kathy Shutts



Sandy Baron