

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: 4/22/1999
TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)
FROM: DIVISION OF WATER AND WASTEWATER (DEWBERRY, CHU, MUNROE)
DIVISION OF LEGAL SERVICES (JAEGER)
RE: DOCKET NO. 980242-SU - PETITION FOR LIMITED PROCEEDING TO
IMPLEMENT TWO-STEP INCREASE IN WASTEWATER RATES IN PASCO
COUNTY BY LINDRICK SERVICE CORPORATION.
AGENDA: 05/04/99 - REGULAR AGENDA - DECISION ON EMERGENCY RATES -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\980242.RCM

CASE BACKGROUND

Lindrlick Service Corporation (Lindrlick or utility) is a Class B utility in Pasco County. According to the utility's annual report, for the year ended December 31, 1997, the utility provided water and wastewater services for approximately 2,283 water customers and 2,203 wastewater customers.

Lindrlick's last rate case was finalized on November 16, 1983, by Order No. 12691, in Docket No. 830062-WS. By that order, rate base was established and the return on equity was set at 14.38% for both water and wastewater. In Docket No. 860089-SU, the Commission initiated an overearnings investigation and lowered rates for the wastewater system only. Pursuant to Order No. 16142, issued May 23, 1986, the return on equity was lowered to 12.65% for the wastewater system. The Commission approved index and pass-through increases in both March and December of 1995.

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FPSC-RECORDS/REPORTING

By Order No. PSC-97-1501-FOF-WS, issued November 25, 1997, the Commission addressed Lindrick's 1995 earnings level and the disposition of wastewater revenues collected subject to refund. Based on the revenue deficiency of \$81,594 for the water system and the revenue excess of \$26,910 for the wastewater system, the Commission found that on a combined basis the company had a \$54,684 revenue deficiency. The customers and service area are virtually the same for both water and wastewater, and Lindrick as a whole was earning below its authorized rate of return. The Commission also found that the interest of both the customers and the utility would be best served by allowing the utility to offset the overearning in the wastewater system by the underearning in the water system. Staff also addressed the \$15,844 in revenues for the two indexes implemented in 1995, pursuant to Section 367.081(4)(d), Florida Statutes.

On February 12, 1998, Lindrick filled an application, pursuant to Section 367.0822, Florida Statutes, for a limited proceeding to increase its wastewater rates. This requested increase in wastewater rates is based upon the Florida Department of Environmental Protection's (DEP) Notice of Violation and Orders for Corrective Action issued on January 13, 1998, and the resulting increase in cost of the wastewater operation. In the Notice of Violation and Orders for Corrective Action, DEP orders Lindrick to eliminate intrusion/ infiltration into Lindrick's collection system and to meet the effluent limits of the permit or initiate actions that will cease surface water discharge into Cross Bayou.

Lindrick decided to take its wastewater treatment plant off line, ceasing surface water discharge, and send the raw influent to the City of New Port Richey in order to comply with DEP's requirements. The City of New Port Richey then sends the treated wastewater to Pasco County's reuse system. Influent chloride is an inherent problem for Lindrick, given the location of its service area and the age of the system. The Gulf Harbors and Sea Forest Communities were created over 40 years ago by dredging and filling in the Gulf of Mexico. The clay tile wastewater collection system is literally submerged in salt water under high tide conditions and infiltration of some salt water into the system through the aging pipes is unavoidable. The Pasco County reuse system limits the chloride level of the water entering the system. (Reuse water is primarily used for irrigation and excess chlorides are detrimental to plant life). In order to meet the required chloride level so that Lindrick influent treated by the City of New Port Richey can be accepted into the County reuse system, it will be necessary for Lindrick to improve its collection system to further reduce the chloride level. Previous improvements have resulted in a reduction

in influent chlorides, however, the aging clay pipes are a limiting factor which needs to be addressed to achieve additional significant improvement. Large sections of the collection system must be relined or repaired to accomplish this reduction in infiltration.

In the original application, Lindrick requested an emergency rate increase of 47.13% effective immediately, and a second rate increase of 130.12% effective upon the completion of the interconnection with the City of New Port Richey. At that time, Lindrick was still negotiating with the City of New Port Richey for an agreement. On May 18, 1998, the New Port Richey City Council approved a Bulk Wastewater Agreement between the City and Lindrick. Under the terms of the Agreement, actual connection to the City was conditioned on proof that the chloride level in Lindrick's wastewater system effluent do not exceed 600mg/L.

On September 3, 1998, Lindrick filed a revised application, which changed the emergency rate increase previously requested to a non-emergency Phase-I increase of 84.95% to allow recovery of the cost of (a) collection system improvements necessary to reduce chloride level; and (b) the City's bulk wastewater treatment rate. The requested Phase-II rate increase is 131.55% to allow the recovery of (a) the remaining investments and costs associated with the interconnection, including the cost of collection system improvements necessary to further reduce the chloride level below 400mg/L; (b) the return on the investments based on the utility's approved rate of return; and (c) the additional contractual services expenses.

On February 17, 1999, a customer meeting was held in the utility's service area. Approximately 350 customers attended the meeting. Customers' concerns will be addressed in staff's final recommendation.

On April 19, 1999, staff received a second amended petition to request a Phase-I wastewater rate increase of 133.26%, and a Phase-II wastewater rate increase of 142.67% assuming no change in related party services. The requested Phase-II wastewater rate increase requested is 158.13% if all related party expenses are replaced with contract services from third parties. The second amended petition also adds a proposed water rate increase of 19.05% for Phase-II assuming no change in related party services. The requested Phase-II water rate increase is 40.64% if all related party expenses are replaced with contract services from third parties. The utility's petition represents that the water rate increase is requested due to underearning experienced by water

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operation for the year ended December 31, 1997. The second amended petition also states that "the required new transfer pumping facility will be completed prior to May 12, 1999. Under the Bulk Wastewater Agreement with the City, Lindrick must commence bulk wastewater treatment from the City on or before May 12, 1999 or risk termination of the Agreement by the City." The petition states that "Lindrick also faces substantial monetary penalties under the DEP Consent Order if bulk treatment service from the City is not commenced prior to May 19, 1999." Consequently, Lindrick requests an emergency, temporary increase in wastewater rates to recover the cost for the Phase-I wastewater revenue requirement prior to May 12, 1999.

DISCUSSION OF ISSUES

ISSUE 1: Should the request for emergency rates by Lindrick Service Corporation to recover the additional cost of its wastewater facilities being interconnected with the City of New port Richey be approved, subject to refund, until a final determination is made by the Commission? If so, what is the appropriate increase?

RECOMMENDATION: Yes. The request for emergency rates by Lindrick Service Corporation should be approved, in part, subject to refund, until the Commission determines the appropriate final rates for the wastewater interconnection with the City of New Port Richey. The appropriate revenue increase should be \$480,394 (59.89%). However, the tariffs filed by Lindrick should be denied. If the utility submits revised tariffs reflecting the Commission's decision on emergency rates, staff should be given administrative authority to approve the submitted tariffs. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. In addition, the utility should provide proof of the interconnection with the City of New Port Richey. (DEWBERRY, CHU, MUNROE, JAEGER)

STAFF ANALYSIS: On February 12, 1998, the utility filed a petition for a limited proceeding to implement a two-step increase in wastewater rates. In its petition, the utility requested emergency rates and final rates to allow the utility to recover the costs of the interconnection with the City of New Port Richey. The cost included in the calculation for emergency rates included adjusted operation and maintenance (O&M) expense and taxes other than income grossed up for the regulatory assessment fees. The total requested revenue increase for emergency rates was \$358,909 (47.13%). The total requested revenue increase for the final rates was \$1,013,680 (130.12%).

By letter dated June 1, 1998, the utility withdrew its request for emergency rates. In that letter it also stated that the collection system improvements under the new agreement with the City would take approximately six to eight months to complete. The utility also stated that it expected to file an amended petition within the next ninety days, which would have been by August 30, 1998.

On September 3, 1998, the utility filed its second petition for a limited proceeding to implement a two-step increase in wastewater rates. In this amended petition, the utility requested a revenue increase of \$646,901 (84.95%) for Phase-I and a revenue increase of \$1,024,782 (131.55%) for Phase-II.

On February 17, 1999, a customer meeting was held in the utility's service area. Approximately 350 customers attended the meeting. Customers' concerns will be addressed in staff's final recommendation.

On April 19, 1999, staff received a second revised petition for the two-step limited proceeding. In this petition, the utility requests an emergency temporary increase in wastewater rates. The requested emergency (Phase-I) increase in revenue is \$1,014,813 (133.26%) and the requested final (Phase-II) increase in revenue is \$1,111,459 (142.67%). By this petition, the utility requests that the Commission issue an order authorizing it to implement an emergency temporary increase in wastewater rates prior to May 19, 1999.

The second revised filing includes schedules listing the adjustments made to reflect the requested revenue increase. After reviewing these calculations, staff believes that the only expense that should be allowed in the calculation of emergency rates associated with the interconnection with the City of New Port Richey is purchased wastewater treatment because this appears to be an emergency expense. None of the other expenses included in the calculation of the requested increase appear to be emergency in nature. The other expenses included in the calculations are adjusted O&M expenses, depreciation expense, taxes other than income, income tax expense, and a return on additional investment. Additional time is needed to review invoices and other documents for additional costs. Therefore, all other costs will be addressed in staff's final recommendation.

Although Chapter 367, Florida Statutes, does not expressly authorize "emergency" rates, Section 367.081(2), Florida Statutes, provides that the Commission shall fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. Further, the Commission has granted similar emergency rates in previous limited proceeding dockets. By Orders Nos. PSC-92-0127-FOF-SU and 25711, issued March 31, 1992 and February 12, 1992, in Dockets Nos. 911146-SU and 911206-SU, respectively, the Commission granted emergency rates to Aloha Gardens Wastewater System and Mad Hatter Utility, Inc. In both dockets, the purpose of the emergency

rates was for the payment of bulk wastewater treatment by Pasco County, following DEP required interconnection to the county.

The Commission has also granted emergency rates to Ortega Utility Company by Order No. 25685, issued February 4, 1992, in Docket No. 911168-WS; to Betmar Utility, Inc., by Order No. 93-0525-FOF-WU, issued April 7, 1993, in Docket No. 910963-WU; and to Forest Hill by Order No. PSC-97-0207-FOF-SU in Docket No. 961475-SU (this was also for the purchased treatment costs).

In consideration of the above, staff believes that the utility's request for emergency wastewater rates should be approved subject to refund until the Commission determines the appropriate final rates for the wastewater interconnection with the City of New Port Richey.

An audit of the utility's books has been completed with a test year ended December 31, 1997. The utility's scheduled interconnection date with the City is May 12, 1999. The cost of purchased wastewater treatment has increased from \$2.85 to \$2.89 per 1,000 gallons. Since the scheduled interconnection date is the year after the audit test year ending date, staff requested the number of gallons of wastewater treatment and billing determinants for the calendar year 1998 to include growth. Staff has calculated a revenue increase to include the cost of purchased wastewater at the new rate. Other costs have been grossed up to include regulatory assessment fees. The annualized revenue was calculated based on the existing rates and 1998 consumption and number of customers. The calculated increase for emergency rates is \$480,394 divided by the calculated annualized revenue of \$802,673 which results in a 59.89% increase. Staff's calculation is as follows:

| | |
|---|------------------|
| <u>Emergency Wastewater Rate Increase</u> | |
| Purchased wastewater treatment cost (158,746 gals x \$2.89) | \$458,776 |
| Divided by regulatory assessment fee expansion factor | <u>.955</u> |
| Total recommended emergency revenue increase | <u>\$480,394</u> |
| Divide annualized revenue based on existing rates and 1998 consumption to include growth | <u>\$802,673</u> |
| Percentage increase in revenue | 59.89% |

The tariff sheets filed by Lindrick represent a 133.62% increase in rates, which is the total increase requested for Phase-

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I. Based on staff's analysis, the emergency increase in rates should be 59.89%. Therefore, the tariffs filed by Lindrick Service Corporation should be denied. If the utility submits revised tariffs reflecting the Commission's decision on emergency rates, staff should be given administrative authority to approve the submitted tariffs. The approved rates should be effective for service rendered on or after the stamped approved date on the tariff sheets pursuant to Rule 25.30.475 (1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. In addition, the utility should provide proof of the interconnection with the City of New Port Richey.

Schedule No. 1 reflects the utility's existing rates, the utility's proposed emergency rates and staff's recommended emergency rates.

ISSUE 2: What is the appropriate security to guarantee the emergency rate increase?

RECOMMENDATION: The utility should be required to file an escrow agreement to guarantee any potential refunds of wastewater revenues collected under the emergency rates. The utility should deposit in the escrow account each month the difference in revenue between the emergency rates and the previously approved rates. In addition, the escrow agreement should allow for withdrawals each month by the utility, only with prior Commission approval, for payments to the City of New Port Richey for bulk wastewater service. Under no circumstances should the utility be allowed to withdraw any amount of money except for payments to the City of New Port Richey for bulk wastewater service. Pursuant to Rule 25-30.360.(6), Florida Administrative Code, the utility should provide a report by the 20th day of each month indicating in detail the total amount collected from its wastewater customers, the additional revenue collected through the emergency rates and the amount of the withdrawals to the City of New Port Richey, all on a monthly and total basis. (DEWBERRY, CHU, MUNROE, JAEGER)

STAFF ANALYSIS: The excess of emergency rates over the previously authorized rates should be collected subject to refund with interest. Although an estimated amount for a potential refund may be calculated, due to the change in monthly customer bills, an accurate amount for a potential refund cannot be calculated by staff. Therefore, the utility should deposit in an escrow account each month the difference in revenue between the emergency rates and the previously approved rates. In addition, the escrow agreement should only allow for withdrawals by the utility for payments to the City of New Port Richey for bulk wastewater service. Under no circumstances should the utility be allowed to withdraw any amount of money except for payments to the City of New Port Richey for bulk wastewater service.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th day of each month indicating in detail the total amount collected from its wastewater customers, the additional revenue collected through the emergency rates and the amount of the withdrawals to the City of New Port Richey, all on a monthly and total basis.

The escrow agreement should be established between the utility and an independent financial institution pursuant to a written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: that the

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account is established at the direction of this Commission for the purpose set forth above; that monthly withdrawals of funds should be allowed only with prior approval of the Commission to pay the City of New Port Richey for bulk wastewater service; that the account should be interest bearing; that the Director of Records and Reporting must be a signatory to the escrow agreement; that all information concerning the escrow account be available at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. If a refund to the customers is not required, the interest earned by the escrow account should revert to the utility.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to process the utility's application for a limited proceeding.

STAFF ANALYSIS: This docket should remain open to process the utility's application for a limited proceeding.

RATE SCHEDULE

WASTEWATER

Monthly Rates

| <u>Residential</u> | Rates prior to Filing | Utility's Proposed Emergency Rates | Staff's Recommended Emergency Rates |
|--|--------------------------------------|---|--|
| Base Facility Charge: All meter size: | \$10.76 | \$25.10 | \$17.20 |
| Gallorage Charge Per 1,000 gals (Wastewater Cap - 10,000 Gallons) | \$2.15 | \$5.02 | \$3.44 |
| <u>General Service</u> | | | |
| Base Facility Charge: Meter size: | | | |
| 5/8" x 3/4" | \$10.76 | \$25.10 | \$17.20 |
| 1" | \$26.92 | \$62.79 | \$43.02 |
| 1 1/2" | \$53.78 | \$125.45 | \$85.95 |
| 2" | \$86.15 | \$200.95 | \$137.68 |
| 3" | \$172.30 | \$401.91 | \$275.37 |
| 4" | \$269.21 | \$627.96 | \$430.25 |
| 6" | \$538.40 | \$1,255.87 | \$860.47 |
| 8" (Compound) | \$861.04 | \$2,008.46 | \$1,376.11 |
| 8" (Turbine) | \$968.76 | \$2,259.73 | \$1,548.27 |
| Gallorage Charge Per 1,000 gals | \$2.15 | \$5.02 | \$3.44 |

Typical Residential Bills

Wastewater Only

5/8" x 3/4" meter

| | | | |
|---|---------|---------|---------|
| 3,000 Gallons | \$17.21 | \$40.16 | \$27.52 |
| 5,000 Gallons | \$21.51 | \$50.20 | \$34.40 |
| 10,000 Gallons (Maximum) (Wastewater Cap - 10,000 Gallons) | \$32.26 | \$75.30 | \$51.60 |