

State of Florida



Public Service Commission

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

-M-E-M-O-R-A-N-D-U-M-

RECORDS AND REPORTING
AUG - 5 AM 9:32
M
Adm

DATE: AUGUST 5, 1999

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

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

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: 08/17/99 - REGULAR AGENDA - TARIFF FILING - PROPOSED AGENCY ACTION ON ISSUE NO. 2 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: WAIVED

SPECIAL INSTRUCTIONS: NONE

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

By Order No. PSC-98-0484-FOF-WS, issued April 6, 1998 in Docket No. 971174-WS, the Commission amended the utility's certificated territory to include additional territory in Marion

DOCUMENT NUMBER-DATE

09285 AUG-5 99

PSC-RECORDS/REPORTING

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

County. Residents in this additional territory currently have private wells and septic tanks; however, as a result of problems with contamination of wells and backing-up of septic tanks in this area, the Marion County Health Department requested that the utility extend its territory into this area.

On November 6, 1998, the Commission received a complaint from a customer in the newly certificated territory that Tradewinds recently installed a private water/sewer system and was mandating that all property owners connect to this system. The customer 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 customer on November 24, 1998, and explained that, pursuant to Section 367.045, Florida Statutes, the Commission had recently granted the utility's amendment application to serve the area. As part of its application, Tradewinds was required to submit proof that it provided adequate customer notice of the proposed amendment. The notice was published in the Starr-Banner Newspaper on January 28, 1998, and no protests were filed within the 30-day protest period set forth in Rule 25-30.031, Florida Administrative Code. The customer representative was urged to contact the Marion County Health Department for further information regarding the requirement to connect to Tradewinds system.

On December 3, 1998, Tradewinds initiated a conversation with staff about submitting a proposal requesting approval for flat rates for a new class of service. On December 8, 1998, the utility submitted this proposal requesting that the Commission grant the approval of flat wastewater rates for a new class of service pursuant to Section 367.091(4) and (5), Florida Statutes. The utility proposed to serve an additional 32 equivalent residential connections consisting of an estimated 26 quadraplexes, and 6 light industrial buildings. Although this proposal did not include tariff sheets, the utility also provided the following information pursuant to Rule 25-30.009 (4), Florida Administrative Code: 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 proposed and approved in Order No. PSC-98-0484-FOF-WS issued April 6, 1998 by the Commission. The additional territory includes customers requiring water and wastewater services, for which the utility has Commission approved metered rates, and customers requiring wastewater-only services, for which the utility does not have Commission approved rates.

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

On January 14, 1999, in a telephone conversation, the utility's president, Mr. Charles de Menzes, stated that 16 of the customers requesting water and wastewater service were already connected and being charged the Commission approved metered rates. However, those customers that are not metered by the utility for water cannot be charged the Commission approved base facility and gallonage charge for wastewater. Since some customers did not wish to accept water service, the utility requested flat rates for a new class of wastewater-only service for those customers. These customers are not connected as of this date.

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. By Order No. PSC-99-0382-FOF-SU, issued February 23, 1999, in this docket, the Commission approved temporary rates, subject to refund, for a new class of service for wastewater-only flat rates. This Order provided that "if a protest is filed within 21 days of issuance of this order, the tariff sheet shall remain in effect, with monies collected held subject to refund, pending resolution of the protest."

In accordance with the above-mentioned language, a timely protest was filed by Mr. Charles Ruse, Jr. By letter dated March 12, 1999, Mr. Ruse stated that the approved temporary rate of \$261.55 for quadraplexes was outrageous. He also stated that requiring utilization of a two-inch meter was excessive, especially where a two-inch pipe would terminate into an existing one-inch pipe. According to Mr. Ruse, "this is some ploy by the utility company to maximize its income." Because staff received a protest, the matter was set for hearing by Order No. PSC-99-0898-PCO-SU, issued May 5, 1999, Order Establishing Procedure. In addition to Mr. Ruse's timely protest, several untimely protests were received by the Commission. Those protests were also in regard to the temporary approved flat wastewater rate. One of the tenants that lives in the George Mayo subdivision quadraplexes also filed a complaint and advised staff of her concerns with the approval of the wastewater rate.

A customer/settlement meeting was held on April 28, 1999, at the Marion County Board of County Commissioners complex in Ocala, Florida. Eleven of the proposed 26 potential customers that owned the quadraplexes in the George Mayo subdivision attended the meeting. Also in attendance at the meeting were two employees of the Marion County Health Department, the utility's engineer, the owner of the utility, the utility's counsel, and the Commission staff. Nine of the 11 potential customers at the meeting chose to give comments regarding the utility's proposed flat wastewater

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

rates, along with other issues related to the case. In addition to those comments, the health department representative added additional comments. One of the potential customers attending the meeting, Ms. Barbara Robinson, presented to staff her original complaint against the approved temporary flat rates. She also submitted a letter from the utility to show that the utility had rejected her application for water and wastewater services and returned her check for payment. The utility stated that it rejected the application requesting water and wastewater services because the request was for the 1 inch flat metered rate. In its explanatory letter, the utility stated, "certification from Engineer Miles C. Anderson, P.E., certifying that a two-inch meter is required for the property in question per all local and state guidelines."

Pursuant to Section 381.00655(1)(a), Florida Statutes, "The owner of a properly functioning onsite sewage treatment and disposal system, excluding an approved onsite graywater system, must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the owner of the publicly owned or investor-owned sewerage system that the system is available for connection."

However, representatives for the Marion County Health Department have indicated that the health department does not intend to enforce Section 381.00655(1)(a), Florida Statutes. In a telephone conversation on May 6, 1999, Marion County's utility counsel informed staff that Marion County does not currently have a mandatory interconnection ordinance. Additionally, this matter was discussed at a Marion County Board of County Commissioners' meeting and to its counsel's knowledge, Marion County does not plan on implementing such a policy. The County officials stated that it made a determination that it was not obligated to enforce this statute. Based on that statement, the utility concludes that the recourse of this dispute will be settled by the court system.

At the June 29, 1999 Agenda conference, staff presented a recommendation involving the protest by the potential customers to the Commission. Finding that it was incorrect to include language providing for a protest period in Order No. PSC-99-0382-FOF-SU approving temporary rates, the Commission corrected the Notice of Further Proceedings attached to Order No. PSC-99-0382-FOF-SU, by deleting the protest language. The Commission also vacated the Order Establishing Procedure. The Chairman's office canceled the hearing. Therefore, staff has prepared the following recommendation on the proposed wastewater-only tariff sheet.

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

DISCUSSION OF ISSUES

ISSUE 1: Should Tradewinds Utilities, Inc.'s proposed tariff sheet containing wastewater-only flat rates for the George Mayo subdivision be approved as filed?

RECOMMENDATION: No, the proposed tariff sheet should be denied.
(BUTTS, DEWBERRY, CROSSMAN)

STAFF ANALYSIS: By Order No. PSC-99-0382-FOF-SU, issued February 23, 1999, in this docket, the Commission approved temporary flat wastewater rates for the George Mayo subdivision, located in the utility's service area. The approved rates were for quadraplexes and light industrial buildings and were calculated based on a 2 inch line. The Order erroneously contained language that allowed for a protest. From March 15, 1999 through March 31, 1999, several potential customers filed separate protests against the Order.

Finding that it was incorrect to include language providing for a protest in Order No. PSC-99-0382-FOF-SU, in this docket, by Order No. PSC-99-1390-FOF-SU, issued July 19, 1999, the Commission corrected the Notice of Further Proceedings attached to this Order by deleting the protest language and vacated Order No. PSC-99-0898-PCO-SU, the Order Establishing Procedure. The hearing was canceled by the Chairman's office and the protests by the potential wastewater-only customers were rendered void by the Commission's decision. Staff notes that these customers will have a point of entry to protest the Commission's decision concerning the rates and charges. Staff's recommendation on what the rates and changes should be is the subject of Issue 2. Currently, none of the potential wastewater-only customers in the George Mayo subdivision are being served. Staff counsel will contact the customers who protested the prior Order to determine if they wish to renew their protests.

As stated in the case background, once the Commission granted the approval of the extension for additional territory, the utility requested approval of a flat rate for unmetered wastewater customers residing in this new amended territory. Pursuant to Rule 25-9.005(4), Florida Administrative Code, the utility provided a statement of the purpose and reason for the new service. The utility indicated that one of the reasons for its extension was initiated by the Marion County Health Department, and as a result of the wastewater extension it received a \$280,000 loan from a financial institution. The utility has stated that the health department initially was in favor of requiring these customers in

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

the George Mayo subdivision to connect. Currently, the health department's position on the matter is neutral, and in fact it has stated that it would not force the customers to connect to the wastewater system.

In its original application, the utility submitted the results of an inspection of the area by its engineer. The engineer stated, "sound engineering practice calls when 3 or more unit's (ERC's) require the installation of 2" water service, the installing of a 2" meter will satisfy the design for the quad buildings criteria for such dwelling units." In its application for a flat wastewater rate, Tradewinds proposed two flat rates for the George Mayo subdivision. The first proposed rate of \$261.55 was for quadraplexes with two or more bathrooms. This was based upon the utility's approved Base Facility Charge (BFC) of \$142.48 for a 2 inch meter plus a consumption amount. Tradewinds used an estimated consumption for these quadraplexes of 19,812 gallons per month. This estimated consumption was based upon the average usage for residential customers with 5/8 x 3/4 inch meters in the Tradewinds Village subdivision. The average usage for these residential customers was 4,953 gallons per month for the year, 1998. This consumption amount was then multiplied by 4 to get the estimated quadraplex usage per month. Tradewinds' currently approved wastewater gallonage rate for general service customers is \$6.01 per 1,000 gallons. Therefore, the proposed flat wastewater rate for the quadraplexes is \$261.55 per month - ($\$142.48 + ((19,812/1000) \times \$6.01)$).

Tradewinds also proposed a flat wastewater rate for light industrial buildings with one or two bathrooms. The proposed flat rate for these buildings is \$58.95. This was based upon the utility's approved BFC of \$44.53 for a 1 inch meter plus a consumption amount. Tradewinds used an estimated consumption for the light industrial building of 2,400 gallons. This estimated consumption was based upon 50 percent of the residential usage, or 2,400 gallons per month. Tradewinds' currently approved wastewater gallonage rate for general service customers is \$6.01 per 1,000 gallons. Therefore, the proposed flat wastewater rate for the light industrial buildings is \$58.95 per month - ($\$44.48 + ((2,400/1000) \times \$6.01)$).

When staff reviewed the utility's request, staff was concerned that the projected revenues may place the utility in a possible overearning situation. As stated in the case background, currently, the utility has proposed to serve an additional 32 (ERC's), and those 32 (ERC's) consist of: 26 quadraplexes and 6 light industrial buildings. The utility also submitted projected

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

revenues associated with these 32 (ERC's). The projected revenues were based on a BFC of a 2 inch meter for the quadraplexes of \$261.55 and the BFC of a 1 inch meter for the light buildings of \$58.95. Based on this information, if the 26 quadraplexes and 6 light buildings were connected, they would generate revenues of \$81,604 and \$4,244 respectively. The total annual revenues would be \$85,848. However, upon further analysis of the projected revenues against the projected Rate Base, projected Capital Structure, and projected Operation & Maintenance Expense, staff made a determination that the projected revenues would not cause the utility's rate of return on equity to exceed beyond its authorized range.

After staff received several protests against the approved temporary rates, an engineer coordinated an on site visit to investigate the concerns of the protesters. The engineer toured the George Mayo subdivision prior to the customer/settlement meeting held on April 28, 1999. Upon visiting the subdivision, staff determined that the lines running from the quadraplexes to the existing wells were 1 inch lines. After the discovery of 1 inch lines, staff concluded that it could not recommend a flat rate based upon a BFC for a 2 inch meter. With the additional information provided by the engineer on the 1 inch lines, staff concluded that the flat rate for quadraplexes should be based upon a BFC for a 1 inch meter. A 1 inch line's maximum capacity of water flow can only be the maximum flow that can be generated through that 1 inch line. In other words, the maximum capacity for the quadraplexes, which is restricted by the 1 inch lines running to the existing wells, is based on that water supply. In simpler terms, it would not matter if a meter larger than a 1 inch were installed on these 1 inch water lines since the maximum capacity would still be restricted by the 1 inch lines. Furthermore, staff has calculated wastewater-only flat rates based on these 1 inch lines and those rates will be addressed in Issue 2.

Since the utility's proposed tariff sheet contains wastewater-only rates that are based upon a BFC for a 2 inch meter for quadraplexes, staff recommends that the tariff sheet should be denied, as filed.

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

ISSUE 2: Should Tradewinds Utilities, Inc. be required to file a tariff sheet reflecting rates as outlined in staff's recommendation within 30 days of the issuance of this Order?

RECOMMENDATION: Yes. The utility should be required to file a tariff sheet reflecting wastewater-only flat rates of \$163.60 for the quadraplexes and \$58.95 for the light buildings within 30 days of the issuance of this Order. Further, Original Tariff Sheet No. 16.1, approving rates on a temporary basis, should be canceled. If the utility files a tariff sheet containing these flat rates, staff should be given administrative authority to approve the tariff sheet upon verification that it is consistent with the Commission's decision. The revised tariff sheet should become effective for services rendered on or after the stamped approval date of the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the potential wastewater-only customers have received notice. (BUTTS, DEWBERRY, CROSSMAN)

STAFF ANALYSIS: As stated in Issue 1, upon visiting the subdivision, staff's engineer determined that the lines running from the quadraplexes to the existing wells were 1 inch lines. After the discovery of 1 inch lines, staff concluded that it could not recommend a flat rate based upon a BFC for a 2 inch meter. With the additional information provided by the engineer on the 1 inch lines, staff concluded that the flat rate for quadraplexes should be based upon a BFC for a 1 inch meter. Staff has calculated a flat wastewater rate for the quadraplexes and light building using estimated consumption provided by the utility and the utility's existing 1 inch BFC. Staff has reviewed the estimated consumption for both the quadraplexes and the light industrial building and has determined that these amounts are reasonable, if not conservative. Therefore, staff used these estimated consumption amounts to calculate its recommended charges.

The utility's existing wastewater BFC for a 1 inch meter is \$44.53. Its existing gallonage charge for general service customers is \$6.01 per 1,000 gallons. Estimated consumption for the quadraplex is 19,812 gallons per month and 2,400 gallons per month for the light buildings. Staff's calculated flat rate for the quadraplex is \$163.60 per month ($\$44.53 + (19,812 \text{ gallons}/1,000 \times \$6.01)$). Staff's calculated flat rate for light buildings is \$58.95 per month ($\$44.53 + (2,400 \text{ gallons}/1,000 \times \$6.01)$). The utility has projected that it will serve a total of 26 quadraplexes and 6 light buildings. Staff's calculated flat rates for the quadraplex will produce annual revenue of \$51,043 and will produce

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

annual revenue of \$4,244 for the light buildings. The total annual revenue is \$55,287.

As discussed in Issue 1, if the utility's total projected annual revenues for wastewater-only flat rates for quadraplexes (2 inch flat rate) and light buildings (1 inch flat rate) would not cause the utility to exceed its authorized rate of return on equity, in comparison, staff's revised wastewater-only flat rates for quadraplexes and light buildings, which are based on a 1 inch flat rate and the revenues generated from that 1 inch flat rate, will not cause the utility to exceed its authorized rate of return on equity. In conclusion, staff is recommending wastewater-only flat rates based upon the 1 inch BFC for quadraplexes and light buildings be approved.

The utility should be required to file a tariff sheet reflecting wastewater-only flat rates of \$163.60 for the quadraplexes and \$58.95 for the light buildings within 30 days of the Commission's decision. Further, Original Tariff Sheet No. 16.1, approving rates on a temporary basis, should be canceled. If the utility files a tariff sheet containing these flat rates, staff should be given administrative authority to approve the tariff sheet upon verification that is consistent with the Commission's decision. The revised tariff sheet should become effective for services rendered on or after the stamped approval date of the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the potential wastewater-only customers have received notice.

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

ISSUE 3: Should Tradewinds Utilities, Inc. be required to refund any monies collected due to Order No. PSC-99-0382-FOF-SU?

RECOMMENDATION: No. The utility did not connect any of the wastewater-only customers; therefore, the utility did not collect any money from the potential customers in the subdivision.
(BUTTS, DEWBERRY)

STAFF ANALYSIS: In compliance with Order No. PSC-99-0382-FOF-SU, issued February 23, 1999, in this docket, the utility submitted to the Commission for approval, an escrow agreement made between the Newberry Bank in Marion County, the Florida Public Service Commission, and Tradewinds Utilities, Inc. Staff approved the escrow agreement on March 10, 1999. Throughout this case, the utility and staff had numerous phone conversations and the utility indicated that it has not connected any of the potential wastewater-only customers. Since there were no connections made nor monies collected by Tradewinds from wastewater-only customers, no refunds are required for customers in the George Mayo subdivision.

DOCKET NO. 981825-SU
DATE: AUGUST 5, 1999

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes, if Issues 1 and 2 are approved, the utility files a revised tariff sheet consistent with the Commission's decision, and no timely protest is filed within 21 days of the issuance date of the Order, this docket should be closed upon the issuance of a Consummating Order. However, if a protest is filed by a substantially affected person within 21 days of the issuance date of the Order, the docket should remain open and Original Tariff Sheet No. 16.1 containing the temporary flat wastewater-only rates should remain in effect, subject to refund, pending resolution of the protest. (CROSSMAN, BUTTS, DEWBERRY)

STAFF ANALYSIS: If Issues 1 and 2 are approved, the utility files a revised tariff sheet consistent with the Commission's decision, and no timely protest is filed within 21 days of the issuance date of the Order, this docket should be closed upon the issuance of a Consummating Order. However, if a protest is filed by a substantially affected person within 21 days of the issuance date of the Order, the docket should remain open and the Original Tariff Sheet No. 16.1 containing the temporary flat wastewater-only rates should remain in effect, subject to refund, pending resolution of the protest.