

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

99 DEC 9 AM 11:24

RECEIVED-FPSC

DATE: DECEMBER 9, 1999
TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAY)
FROM: DIVISION OF WATER AND WASTEWATER (BRADY)
DIVISION OF LEGAL SERVICES (FUDGE) *gf MS 65m bl*
RE: DOCKET NO. 991206-WS - NOTICE OF ABANDONMENT OF SPRINGSIDE
AT MANATEE, LTD. IN LEVY COUNTY BY MR. KENNETH DRUMMOND.
COUNTY: LEVY

AGENDA: 12/21/99 - PROPOSED AGENCY ACTION FOR ISSUE 2 - INTERESTED
PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\991206-A.RCM

CASE BACKGROUND

Springside at Manatee, Ltd., (Springside or utility) is a Class C water and wastewater utility serving the Springside Mobile Home community in Levy County (County). According to its 1998 annual report, the utility had approximately 52 connections with combined gross revenues of \$22,649 and a combined net operating loss of \$2,866.

On August 18, 1999, the owner of the utility, Mr. Kenneth Drummond, gave 60 days' notice of his intent to abandon Springside pursuant to Section 367.165, Florida Statutes. The Commission acknowledged the notice of abandonment by Order No. PSC-99-2112-FOF-WS, issued October 25, 1999. The docket remained open pending the appointment of a Receiver for the utility by Levy County.

DOCUMENT NUMBER-DATE

15060 DEC-99

FPSC-RECORDS/REPORTING

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Effective November 24, 1999, Mr. Lonnie Parnell was appointed Receiver for the utility.

Pursuant to Order No. PSC-92-0190-FOF-WS, issued April 13, 1992, in Docket No. 910909-WS, the Commission established annual revenue requirements and rates for the utility. The utility owner requested to forego a return on his investment and to implement rates which exclude recognition of management's time and office facilities. As a result, the Commission approved less than fully compensatory rates for the utility. The new Receiver has indicated, at a minimum, that he will need the compensatory rates to help meet the utility expenses.

This recommendation is being brought to the Commission to acknowledge the appointment of the Receiver and to recommend the implementation of the compensatory rates already established by Order No. PSC-92-0190-FOF-WS.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the appointment of Mr. Lonnie Parnell as the Receiver for the utility?

RECOMMENDATION: Yes, the Commission should acknowledge the appointment of Mr. Lonnie Parnell as the Receiver for the utility.
(BRADY, FUDGE)

STAFF ANALYSIS: As noted in the Case Background, notice of the intent to abandon Springside was given on or about August 18, 1999 by the owner, Mr. Kenneth Drummond. Levy County subsequently filed a "Petition To Appoint A Receiver" with the Circuit Court of the Eighth Judicial Circuit in and for Levy County, Florida (Circuit Court). By Order dated November 24, 1999, the Circuit Court appointed Mr. Lonnie Parnell as the Receiver for Springside in Case No. 99-939-CA. Mr. Parnell has an application with this Commission for the acquisition of Inglewood Water System in Levy County and is interested in possibly acquiring Springside, as well.

The term of the Receiver's appointment began the date of the Circuit Court order and is to continue until such time as the Receiver sells or otherwise disposes of the property of the utility. All property assets, documents, and facilities were ordered to be turned over to the Receiver effective the date of the Circuit Court order. In addition, the Court specifically required Mr. Drummond to turn over and produce all bank accounts, bank account records, customer deposits, cash, and accounts receivable balances to the Receiver.

In order to effectively carry out the responsibilities of the Circuit Court order, the Receiver was given the necessary powers and authority to maintain and operate the utility. The Circuit Court retains jurisdiction to enter further orders and to take further actions as deemed appropriate. Once permanent disposition of the utility is determined, the Circuit Court case will terminate and the matter will be closed. Meanwhile the Receiver is required to submit to the Circuit Court, after review and analysis by Levy County, quarterly utility financial and operational reports.

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The utility is current on its annual reports and regulatory assessment fees (RAFs) through 1998. 1999 annual report and RAFs will not be due until March 31st of the year 2000. Since the books and records of the utility were to have been turned over to the Receiver pursuant to the Circuit Court's order, the Receiver will be responsible for submitting the utility's 1999 Annual Report.

In addition, since the Circuit Court required Mr. Drummond to turn over all bank accounts and deposits to the Receiver, the Receiver will also be responsible for submitting the utility's 1999 RAFs. Should there be a dispute regarding the prior collection of RAFs, the Circuit Court holds Mr. Drummond liable under all applicable laws for any claims, violations, demands, penalties, suits, proceedings, actions, or fees occurring prior to the appointment and acceptance of the Receiver. These matters will be resolved in Circuit Court.

Staff has discussed the above matters with the Receiver. Based on the above, staff recommends that the Commission acknowledge the appointment of Mr. Lonnie Parnell as the Receiver for Springside at Manatee, Ltd. The address and telephone number for the utility during the pendency of the receivership is: c/o Mr. Lonnie Parnell, P.O. Box 72, Chiefland, Florida 32644 (352-486-2828).

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ISSUE 2: Should the Commission approve the Receiver's request to implement the compensatory rates for the utility as set forth in Order No. PSC-92-0190-FOF-WS?

RECOMMENDATION: Yes, the Commission should approve the Receiver's request to implement the compensatory rates for the utility as set forth in Order No. PSC-92-0190-FOF-WS, as adjusted to exclude prior rate case expense amortization. The compensatory rates should be effective for service rendered on or after the stamped approval date on the tariff sheets. The utility should be required to provide proof of the date notice was given to customers within 10 days after the date of the notice. Staff should be given authority to administratively approve the tariff sheets upon verification that the notice is adequate and the tariffs are consistent with the Commission's decision. All other existing rates and charges for the utility, as set forth above, should remain in effect. (BRADY, FUDGE)

STAFF ANALYSIS: Order No. PSC-92-0190-FOF-WS, issued April 13, 1992, in Docket No. 910909-WS, established compensatory annual revenue requirements for the utility of \$10,346 for the water system and \$19,195 for the wastewater system, and rates based upon these revenue requirements. At that time, these rates would have represented a 155 percent increase for water and 374 percent increase for wastewater. Consequently, the utility requested to forego a return on investment and to implement rates which excluded any recognition of management's time and office facilities. The Commission concurred and the resulting reduced rates were put into effect on May 4, 1992.

However, the new Receiver has indicated that, at a minimum, he will need the compensatory rates established by Order No. PSC-92-0190-FOF-WS to help offset utility expenses. During the abandonment period, the main water pump failed and a lift station part will need to be replaced. As a result, the Receiver indicated he may also need to file for another staff-assisted rate case once all the repairs and replacements have been affected and the total costs are known.

Staff is not aware of any precedent for implementing previously established compensatory rates once lesser rates had

been put into effect. Nevertheless, appropriate compensatory rates were established by the Commission in Order No. PSC-92-0190-FOF-WS in accordance with Section 367.0814, Florida Statutes. As such, these rates were determined to be fair, just and reasonable. The decision by the former utility owner not to implement the compensatory rates may well have contributed to the utility falling into receivership. In any case, the new Receiver should not be required to continue to collect rates which the Commission has determined are less than compensatory. Section 367.081(2)(a), Florida Statutes, requires the Commission to "fix rates which are just, reasonable, compensatory, and not unduly discriminatory."

Below is a comparison of the utility's existing water and wastewater rates along with compensatory rates which were approved by Order No. PSC-92-0190-FOF-WS. The compensatory rates have been adjusted to reflect the fact that rate case expenses have been fully amortized:

M O N T H L Y

WATER

General and Residential Service

<u>Base Facility Charge</u>		PSC-92-0190-FOF-WS	Staff-Adjusted
<u>Meter Size</u>	<u>Existing</u>	<u>Compensatory</u>	<u>Recommendation</u>
5/8" x 3/4"	\$ 7.63	\$ 7.71	\$ 7.68
3/4"	11.46	11.57	11.53
1"	19.09	19.28	19.20
1-1/2"	38.18	38.55	38.40
2"	61.08	61.68	61.44
3"	122.17	123.36	122.89
4"	190.88	192.75	192.01
Gallonge Charge (per 1000 gallons)	\$ 1.53	\$ 2.69	\$ 2.68

WATER

Existing Irrigation Service

Available only if metered residential service is also utilized.

Gallorage Charge (per 1000 gallons) \$ 1.53

WATER

Existing Service Availability Policy and Charges

A water treatment plant and transmission and distribution system have been constructed to serve 113 residential lots. A system capacity charge of \$325 per ERC was developed based on the original cost of the system. (ERC = 350 gallons per day.)

The utility has agreed to provide meters to the existing customers at no charge. All new customers will be metered and charged a meter installation fee of \$100 for a 5/8 x 3/4 meter. No other service availability charges have been approved.

WASTEWATER

General Service

<u>Base Facility Charge</u>	PSC-92-0190-FOF-WS		Staff-Adjusted
<u>Meter Size</u>	<u>Existing</u>	<u>Compensatory</u>	<u>Recommended</u>
5/8" x 3/4"	\$ 10.61	\$ 16.11	\$ 16.08
3/4"	15.93	24.17	24.12
1"	26.54	40.28	40.19
1-1/2"	53.08	80.55	80.38
2"	84.92	128.88	128.61
3"	169.85	257.76	257.23
4"	265.38	402.75	401.92
Gallorage Charge (per 1000 gallons)	\$ 4.61	\$ 6.23	\$ 6.22

WASTEWATER

Residential Service

<u>Base Facility Charge</u>		PSC-92-0190-FOF-WS	Staff-Adjusted
<u>Meter Size</u>	<u>Existing</u>	<u>Compensatory</u>	<u>Recommended</u>
All meter sizes	\$ 10.61	\$ 16.11	\$ 16.08
Gallonage Charge (per 1000 gallons--maximum 10,000 gallons)	\$ 3.84	\$ 5.19	\$ 5.18

WASTEWATER

Existing Service Availability Policy and Charges

A sewer treatment plant and collection system have been constructed to serve 113 residential lots. A system capacity charge of \$950 per ERC (280 gallons per day) was developed based on the original cost of the system. No other service availability charges have been approved.

WATER AND WASTEWATER

Existing Miscellaneous Service Charges

	<u>Water</u>	<u>Wastewater</u>
Initial Connection	\$ 15.00	\$ 15.00
Normal reconnection	15.00	15.00
Violation reconnection	15.00	Actual cost
Premises Visit	10.00	10.00

Where both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions. Actual cost for a wastewater violation reconnection is limited to materials and equipment rental.

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Staff recommends that the Commission approve the Receiver's request to implement the compensatory rates for the utility as set forth in Order No. PSC-92-0190-FOF-WS, as adjusted to exclude prior rate case expense amortization. The compensatory 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. Staff recommends the utility be required to provide proof of the date notice was given within 10 days after the date of the notice. Staff further recommends that it be given authority to administratively approve the tariff sheets upon verification that the notice is adequate and the tariffs are consistent with the Commission's decision. All other existing rates and charges for the utility, as set forth above, should remain in effect.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, if no timely protest is received to the proposed agency action issue, no further action will be necessary, and the order should become final and effective upon the issuance of a Consummating Order and the docket should be closed. (FUDGE)

STAFF ANALYSIS: If no timely protest is received to the proposed agency action issue, no further action will be necessary and, upon the expiration of the protest period, the order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.