

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to implement two-step increase in wastewater rates in Pasco County by Lindrick Service Corporation.

DOCKET NO. 980242-SU  
ORDER NO. PSC-00-0269-PCO-SU  
ISSUED: February 8, 2000

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR ABATEMENT AND CONTINUANCE AND REQUEST FOR EXPEDITED RULING AND SETTING NEW CONTROLLING DATES

This docket was opened in response to a Petition for a Limited Proceeding to Implement a Two-Step Increase in Wastewater Rates filed by Lindrick Service Corporation (Lindrick or utility) on February 12, 1998. In response to this petition, the Commission authorized an emergency rate increase by Order No. PSC-99-1010-PCO-SU, issued May 20, 1999. Also, by Order No. PSC-99-1883-PAA-SU, issued September 21, 1999, the Commission authorized temporary rates. Both the emergency and temporary rate increases were approved subject to refund and protected by an irrevocable letter of credit.

By Proposed Agency Action Order No. PSC-99-1883-PAA-SU, the Commission also proposed to allow the temporary rates as final rates. However, that action was protested and a formal hearing is scheduled for June 21-22, 2000.

During this time, Lindrick has been negotiating with the City of Port Richey (City) for the purchase of the utility by the City. Apparently, a tentative agreement for the purchase of the utility was reached in January 2000, and on January 26, 2000, Lindrick filed the instant Motion for Abatement and Continuance and Request for Expedited Ruling (Motion). While the Office of Public Counsel (OPC) does not acquiesce to the relief requested by the Motion, OPC has verbally stated to staff counsel that it will not file a written response. Therefore, there is no reason to delay issuance of the decision on Lindrick's Motion until the response time lapses.

As grounds for its Motion, Lindrick states that on January 11, 2000, the City passed Resolution No. 00-01, outlining the basic framework for purchase of the utility. Lindrick asserts that if

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the City does purchase the utility, the time and expense of preparation for and proceeding through a final hearing may be totally avoided. Lindrick further asserts that both it and the City anticipate that all actions necessary to consummate the transaction will be concluded by May 31, 2000. In support of its Motion, Lindrick attached a letter from the City Manager stating that the Commission may wish to delay any further hearings so that the City and Lindrick could finalize the financing and other documents for final council approval prior to closing.

Lindrick states that the "City and Lindrick anticipate that all actions necessary to consummate the transaction will be concluded by May 31, 2000." However, in addition to requesting that the hearing be continued, Lindrick "requests a full abatement and continuance of all scheduled proceedings, including abatement of discovery, pending the consummation and closing of the purchase." Lindrick requests that all controlling dates established by the Order Establishing Procedure "be canceled and subject to possible reestablishment following the filing of a report by Lindrick on or before May 31, 2000 regarding the status of the sale of Lindrick to the City."

Upon review of Lindrick's Motion, it appears that Lindrick has demonstrated that, in order to avoid needless cost, it would be appropriate to continue the hearing to a later date. However, it does not appear that a full abatement would be in the public interest. The emergency and temporary rates are being collected subject to refund, and the customers are fully protected by the letter of credit. Nevertheless, the Commission should complete the limited proceeding as expeditiously as possible in the event that the sale to the City should not come to fruition. Therefore, the utility's request for abatement and continuance shall be granted in part, and denied in part, as set forth below. Further, the chairman's office has approved the moving of the hearing from June 21-22, 2000, to October 11-12, 2000.

The Motion is granted to the extent that the hearing shall be moved from June 21-22, 2000, to October 11-12, 2000. All discovery and pending discovery shall be abated through the projected closing date of May 31, 2000. If the closing on the sale of the utility has not occurred by that date, then discovery will be reopened and all parties shall proceed with the processing of this case. The new controlling dates shall be established as follows:

- 1) Utility's direct testimony and exhibits June 30, 2000
- 2) Intervenors' direct testimony and exhibits August 7, 2000
- 3) Staff's direct testimony and exhibits, if any August 23, 2000
- 4) Rebuttal testimony and exhibits September 6, 2000
- 5) Prehearing Statements September 6, 2000
- 6) Prehearing Conference September 18, 2000
- 7) Hearing October 11-12, 2000
- 8) Briefs November 9, 2000

Based on the foregoing, it is

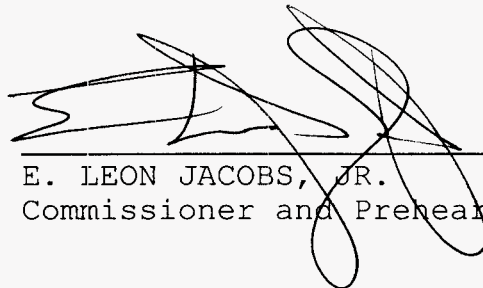
ORDERED by E. Leon Jacobs, Jr., as Prehearing Officer, that the Motion for Abatement and Continuance and Request for Expedited Ruling filed by Lindrick Service Corporation is hereby granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that all discovery shall be abated through May 31, 2000. It is further

ORDERED that the controlling dates shall be modified as set forth in the body of this Order.

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By ORDER of Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, this 8th day of February, 2000.



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E. LEON JACOBS, JR.  
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of

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Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.