



Public Service Commission

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RECORDS AND REPORTING
198

DATE: July 20, 2000

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

FROM: DIVISION OF ECONOMIC REGULATION (FITCH, DEWBERRY) *AF JP RD*
DIVISION OF LEGAL SERVICES (FUDGE) *RF RB*

RE: DOCKET NO. 000662-SU - APPLICATION FOR LIMITED PROCEEDING FOR AN INCREASE AND RE-STRUCTURING OF MONTHLY WASTEWATER CHARGES BY BFF CORP. IN MARION COUNTY
COUNTY: MARION

AGENDA: 08/01/2000 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\000662.RCM

CASE BACKGROUND

BFF Corp. (BFF or utility) is a class C wastewater utility located in Marion County. The Commission acquired jurisdiction over Marion County on May 5, 1981. By Order No. 11180, issued September 21, 1981, in Docket No. 810333-SU, the Commission granted the utility's operating Certificate No. 318-S under the name Panamint Corporation. On July 6, 1983, the Commission issued Order No. 12193, which approved the transfer of Certificate No. 318-S from Panamint Corporation to LTB Utility, Inc. By Order No. 22371, issued January 8, 1990, in Docket No. 890045-SU, the Commission approved the transfer of Certificate No. 318-S from LTB Utility, Inc. to BFF Corp. and amended the utility's certificate to include additional territory.

DOCUMENT NUMBER-DATE

08714 JUL 198

FPSC-RECORDS/REPORTING

The following information was obtained from BFF's 1999 annual report.

<u>Number of Customers</u>	<u>Gross Revenues</u>	<u>Operating Expenses</u>
94	\$62,686	\$62,006

BFF's wastewater customers receive water service from Utilities, Inc.

By Order No. PSC-98-0763-FOF-SU, issued June 3, 1998, in Docket No. 971182-SU, the Commission established a year-end rate base at October 31, 1997 and set rates for this utility. The Commission approved a year-end rate base to allow a fair return on investments required by the Department of Environmental Protection (DEP) and to insure compensatory rates. During this rate case, it was determined that the utility's quality of service was unsatisfactory. This decision was made due to findings that the utility was not in compliance with numerous DEP requirements and had been noncompliant over an eight-year time frame.

In addition, it was determined that the utility's management has a history of poor performance dating back to 1988. Therefore, the Commission approved a reduction in the utility's return on equity by 100 basis points due to its poor quality of service and mismanagement.

On May 31, 2000, the utility filed an application for a limited proceeding for an increase in rates of approximately 109% and a restructuring of monthly wastewater charges. The utility paid a \$100 filing fee. The application included a stipulated order settling a DEP motion for contempt dated July 12, 1999. Included in this order is a list of all events required for abandoning the existing spray-field. This order requires the utility to interconnect with Utilities, Inc. by July 12, 2000. The order also specifies that if the interconnection is not complete by July 12, 2000, BFF may be forced to abandon its plant. A representative of BFF informed staff that BFF would not meet the July 12th deadline and would ask DEP for an extension. Staff confirmed on July 17th that DEP has granted an extension to BFF to complete the interconnection.

This recommendation addresses the requirements for compliance with DEP standards listed in the stipulated order, the utility's compliance with the stipulated order, staff's concerns about the utility's management, and the scope of BFF's limited proceeding

DOCKET NO. 000662-SJ

DATE: July 20, 2000

request. Staff's recommendation on whether to grant BFF's request for a limited proceeding is based on these items.

ISSUE 1: Should BFF's request for a limited proceeding to allow the recovery of costs associated with the DEP-required interconnection with Utilities, Inc. be approved?

RECOMMENDATION: No, the utility's request for a limited proceeding to allow the recovery of costs associated with the DEP-required interconnection with Utilities, Inc. should be denied. If the utility wishes to seek recovery of costs associated with the DEP-required interconnection, it should do so by applying for a staff assisted rate case after retiring the plant. (DEWBERRY, FITCH, FUDGE)

STAFF ANALYSIS: BFF applied for a limited proceeding on May 31, 2000 for an increase in rates and a change in rate structure. In its application, the utility submitted the following documents:

- stipulated order settling DEP's motion for contempt
- Boarding Data Sheet listing information about a \$40,000 loan dated January 28, 2000
- appraisal report listing the market value of land
- updated schedules for plant additions, accumulated depreciation and contributions-in-aid-of-construction (CIAC) through December 31, 1999
- calculation of a requested increased flat rate of \$103.25 per unit (approximately a 109% increase)

BFF applied for this limited proceeding to recover the cost associated with the conditions set forth in the stipulated order. BFF has agreed in the stipulated order to interconnect its sewer lines with Utilities, Inc. and to retire its spray-fields.

In Order No. PSC-98-0763-FOF-SU, the Commission noted that according to DEP, BFF has shown a pattern of noncompliance over the past eight to ten years. This resulted in DEP filing a Stipulated Order against the utility in the Circuit Court of the Fifth Judicial Circuit in Marion County, case number 97-1704-CA-A. This order required the utility to submit a plan concerning modification of its spray-field and required the utility to complete the required improvements. Some of the DEP-required spray-field improvements were included in rate base in the utility's most recent rate case. However, the utility's spray-field continued to be noncompliant and DEP is requiring the utility to abandon the existing spray-field and interconnect its wastewater system to Utilities, Inc. The stipulated order specifies that the interconnection must take place no later than one year from the effective date of the order, July 12, 1999. However, Staff has confirmed that BFF has received an extension of time to complete

the interconnection from DEP. Moreover, the stipulated order states that:

If the facility's wastewater flows have not been interconnected to the Utilities, Inc. System within the one year period or if BFF determines that it cannot comply with the terms of this Order, then Department remedies shall be that the Defendant (BFF) shall give notice to and obtain reasonable concurrence by DEP either to transfer the Facility to a reasonable utility entity or abandon it pursuant to Section 367.165, Florida Statutes and Florida Administrative Code Rules 25-30.090 and 62-600.410.

BFF's request for increased rates is based on the cost associated with the interconnection with Utilities, Inc. and the loss associated with the retirement of the spray-field. The stipulated order specifies the items involved in properly retiring the plant, including:

- pumping the facility dry
- disinfecting the facility's components
- disconnecting the force mains
- disconnecting the electrical system
- removing drain plugs or installing permanent drains
- removing and disposing of any accumulated sludge and debris in the disposal system
- scarifying the pond bottoms

In addition, this order specifies that the proper abandonment of the existing spray-field includes the following:

- disinfecting and purging of the spray-field distribution system
- removing all spray-heads
- disconnecting and capping all effluent supply lines

BFF has not completed any of the items listed above. Moreover, BFF has not provided the cost or salvage values associated with the plant retirement. One of the major components needed to calculate the rate increase is the retirement loss. The retirement loss cannot be calculated without information on removal cost or salvage values. The retirement loss also includes removing the book values of the assets being retired. BFF is retiring \$208,325 of its \$278,097 net plant. Included in the net plant being retired are net plant additions since the last rate case of \$75,161. Staff would need to verify the additions through an

audit, and an engineer would have to determine if these additions were prudent.

Another major component of the rate increase will be the cost associated with interconnecting with Utilities, Inc. as well as the bulk service charged by Utilities, Inc. At this time, BFF has not completed the interconnection. The interconnection includes new lift stations and a meter at the connection point with Utilities, Inc. Although BFF has provided bid prices for these items, it has not provided the contracted prices that would be required for staff to properly verify cost. BFF provided staff with the bulk service agreement with Utilities, Inc. BFF will be charged based on Utilities, Inc.'s tariffs. The base facility charge is calculated by meter size. However, since BFF has not installed a meter or given staff the information on the size of the meter required, staff cannot determine the base facility charge. A billing analysis will also have to be done to determine the number of customers and gallons used.

Rate base and Operation and Maintenance (O&M) expense will also have to be adjusted to determine the new rates for BFF. Rate base will be decreased by retired plant and increased by plant additions. As stated above, staff cannot determine the plant increase until, at a minimum, a contract for the additions has been entered into. A substantial amount of O&M expenses will be eliminated and should be removed from the existing rates or substantially reduced. Some examples of these expenses are operator's salary, sludge removal, chemicals, contractual services testing, management fees, and purchased power. O&M expense will also increase for items such as bulk service charges. As stated above, staff cannot determine the bulk service charge without the meter size and without the billing analysis.

BFF has not provided staff with the source or type of financing that the utility plans to use to interconnect with Utilities, Inc. and to retire the plant. The financing could effect the capital structure of BFF causing a different rate of return.

Staff is also concerned about possible mismanagement. As noted above in the utility's last rate case, the Commission reduced the utility's return on equity by 100 basis points for poor quality of service due to noncompliance with DEP requirements and mismanagement. Staff is concerned that this mismanagement has persisted because of the continual noncompliance with DEP regulations and the structure of the new construction contract with M.I.R.A. International (a related party). According to the

DATE: July 20, 2000

contract with M.I.R.A. International, there is a 10% management fee on all new construction. This type of contract gives no incentive for management to reduce new construction costs. The fact that BFF added \$80,315 in plant over the last two years and still did not comply with DEP regulations warrants further investigation by staff, especially since this amount is being retired.

Staff cannot proceed with the limited proceeding because BFF has failed to provide staff with the necessary information to calculate new rates. Even if BFF had provided this information, staff would have to verify this information through an audit and an engineering investigation. Staff believes that the scope of this case is too expansive for a limited proceeding. Staff believes the recovery of these costs and a restructuring of water and wastewater rates would be better addressed in a rate case. Further the limited proceeding application assumes retirement of the plant; however, it is unclear at this time if DEP will force abandonment of BFF's system. Also, a possible investigation into mismanagement may further result in a reduction in the amount of loss allowed for the retirement.

Staff recommends that the utility's request for a limited proceeding to allow the recovery of costs associated with DEP's required interconnection with Utilities, Inc. should be denied. If the utility wishes to seek recovery of costs associated with the DEP-required interconnection, it should do so by applying for a staff assisted rate case after retiring the plant.

DOCKET NO. 000662-SJ

DATE: July 20, 2000

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if no timely protest is received upon expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and this docket should be closed. (DEWBERRY, FITCH, FUDGE)

STAFF ANALYSIS: If no timely protest is received upon the expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and this docket should be closed.