



Public Service Commission

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RECORDS AND REPORTING

DATE: SEPTEMBER 14, 2000

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

FROM: DIVISION OF REGULATORY OVERSIGHT (JOHNSON, REDEMANN) *BSM*
DIVISION OF LEGAL SERVICES (BRUBAKER) *JB*

RE: DOCKET NO. 001219-WU - REQUEST FOR APPROVAL OF REVISIONS TO WATER TARIFF IN LEE COUNTY BY MHC-DEANZA FINANCING LIMITED PARTNERSHIP D/B/A BUCCANEER WATER SERVICE. COUNTY: LEE

AGENDA: SEPTEMBER 26, 2000 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 60-DAY SUSPENSION DATE: 10/10/00

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\001219.RCM

CASE BACKGROUND

MHC-DeAnza Financing Limited Partnership d/b/a Buccaneer Water Service (Buccaneer or utility) is a Class C utility which provides water service to approximately 991 customers residing in Buccaneer Mobile Home Park in northern Lee County. According to the 1999 Annual Report, the utility recorded annual revenues of \$191,937, with a net annual operating income of \$16,348. The utility's facilities consist of one water transmission and distribution system.

On August 11, 2000, Buccaneer submitted a tariff to implement a change to paragraph 17.0 of its service rules to address the discontinuance of water service for nonpayment of wastewater bills. Wastewater service is provided by another utility, North Fort Myers Utility (NFMU). NFMU charges a general service rate for service within the park and renders one bill per month, directly to the owner of the mobile home park, who is also the owner of Buccaneer.

DOCUMENT NUMBER-DATE

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Pursuant to a mediated settlement agreement in Docket No. 981781-SU, Buccaneer has agreed to individually bill the park residents for wastewater service. This portion of the agreement was reviewed by staff and approved by the Commission at the August 1, 2000 Agenda Conference. However, there are two separate agreements, one which was approved by the Commission, and a separate agreement between MHC and the customers settling the Chapter 723 dispute. The agreement included language concerning the ability of the water utility to disconnect water service for nonpayment of wastewater bills which the Commission was not privy to. The Commission never received the separate agreement, never ruled it to be confidential, and never reviewed or ruled on it.

Pursuant to Section 367.091(5), Florida Statutes, the tariff schedule proposed by the utility shall become effective within 60 days after filing, unless the Commission votes to withhold consent to the implementation of the requested rates. Staff believes the utility's proposed tariff should be suspended pending further investigation. The following is staff's recommendation regarding suspension of the tariff.

DISCUSSION OF ISSUES

ISSUE 1: Should the proposed tariff of Buccaneer Water Service to allow disconnection of water service for non-payment of wastewater service by the residents to Buccaneer Estates Mobile Home Park be suspended?

RECOMMENDATION: Yes, the proposed tariff of Buccaneer Water Service to allow disconnection of water service for non-payment of wastewater service by the residents to Buccaneer Estates Mobile Home Park should be suspended. (JOHNSON)

STAFF ANALYSIS: On August 11, 2000, Buccaneer Water Service submitted a tariff to implement a change to paragraph 17.0 in its service rules, concerning its nonpayment and disconnection policy. The language authorized Buccaneer to discontinue water service for the nonpayment of wastewater bills.

Section 367.091(5), Florida Statutes, states that the Commission may withhold consent to the operation of any or all portions of tariff modifications, by a vote to that effect within 60 days, giving a reason or statement of good cause for withholding that consent. If the Commission does not withhold consent, the proposed tariff may be assumed in effect after 60 days.

The reason stated by Buccaneer for this unusual tariff change is because of the problem that arose in the disconnection issue in Docket No. 981780-SU, Order No. PSC-00-2522-AS-SU, issued August 22, 2000. In order to discontinue wastewater service for nonpayment of bills pursuant to Rule 25-30.320, Florida Administrative Code, NFMU would be required to bring a backhoe onto each nonpaying customer's property, dig up the wastewater line, and install a shut-off valve. It was estimated by the utility to cost several hundred dollars per customer to disconnect their wastewater service, depending where the line is buried on each respective lot. NFMU's tariff provides that wastewater service shall be restored only after the utility has received payment for all past-due bills and reconnect charges from the customer, in accordance with Rule 25-30.320, Florida Administrative Code. In this instance, the customer would be required to pay the tariffed reconnection fee and the actual cost of disconnection and reconnection, in addition to the customers outstanding bill.

The proposed tariff appears to shift the responsibility for disconnection of wastewater service from NFMU (the wastewater service provider) to Buccaneer (the water service provider). One

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of the stated benefits of this arrangement is that in the event a disconnection is warranted, it would be accomplished through a less costly disconnection of water service rather than wastewater service. Another benefit to both Buccaneer and NFMU is that the customer has more incentive to pay a delinquent bill when both services are subject to disconnection, rather than just one service.

Staff has reviewed the filing and has considered the utility's proposed change to paragraph 17.0. The cover letter included with the tariff filing states that it was filed to reflect the agreement made by the Buccaneer Estates Homeowners Association and MHC in the "Confidential Settlement Agreement". The Confidential Settlement Agreement was a separate settlement agreement relating to certain litigation between the Homeowners and the park owner, pursuant to Chapter 723, Florida Statutes, the execution of which was a condition precedent to the Commission's consideration of the mediated settlement in Docket No. 981781-SU.

The staff is recommending suspension of the tariff for several reasons. First, the staff has not been privy to the confidential settlement between MHC and the Buccaneer residents. Therefore, staff can not evaluate whether the tariff accurately codifies the settlement. Second, the entire arrangement of a water company having the authority to discontinue water service for nonpayment of wastewater service provided by a non-related utility company is an unusual service arrangement, which merits further consideration. Therefore, the staff recommends the tariff be suspended pending further amplification and analysis by staff.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open pending further Commission action on Buccaneer Water Service's request to implement a tariff modification. (BRUBAKER)

STAFF ANALYSIS: This docket should remain open pending further Commission action on Buccaneer's request to implement a tariff modification.