

State of Florida



Public Service Commission

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DATE: JULY 12, 2001

TO: DIRECTOR, DIVISION OF COMMISSION CLERK AND ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (FITZ, MERTA, RENDELL) *RF*
DIVISION OF LEGAL SERVICES (ESPINOZA) *AE* *msd* *RB* *192*

RE: DOCKET NO. 010396-WS - APPLICATION FOR STAFF-ASSISTED RATE CASE IN BREVARD COUNTY BY BURKIM ENTERPRISES, INC.
COUNTY: BREVARD

AGENDA: 07/24/01 - REGULAR AGENDA - DECISION ON INTERIM RATES - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: 60-DAY FILING DATE: AUGUST 1, 2001
15-MONTH EFFECTIVE DATE: SEPTEMBER 1, 2002 (SARC)

SPECIAL INSTRUCTIONS: ITEM SHOULD BE SCHEDULED IMMEDIATELY AFTER RECOMMENDATION IN DOCKET NO. 001501-WS

FILE NAME AND LOCATION: S:\PSC\ECR\WP\010396.RCM

CASE BACKGROUND

CGD Corporation (CGD or utility) is a water and wastewater utility serving approximately 354 customers in Snug Harbor Lakes and Snug Harbor Village developments in Brevard County. The utility's last rate case was in 1992 and the Commission set rates in Order No. PSC-93-0011-FOF-WS, issued January 5, 1993, in Docket No. 920397-WS.

Currently CGD is requesting authority to transfer facilities and Certificates to Burkim Enterprises, Inc. (Burkim) in Docket No. 001501-WS. Burkim has applied for a staff assisted rate case (SARC) for CGD and has requested interim rates. The Commission has the authority to consider this rate case and interim rates under Section 367.0814, Florida Statutes. The interim statute for SARCs

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was passed in 1999. This is the first time a utility has requested interim rates under the new statute. According to the 2000 annual report, the utility recorded revenues of \$81,997 for water and \$39,623 for wastewater and recorded O&M expenses of \$77,519 for water and \$96,297 for wastewater.

ISSUE 1: What is the appropriate amount of test year revenues and operation & maintenance (O&M) expense for interim rate setting purposes?

RECOMMENDATION: The appropriate amount of revenues are \$74,981 for water and \$46,170 for wastewater and the appropriate amount of O&M expenses are \$70,180 for water and \$92,459 for wastewater, for interim rate setting purposes. (FITCH, MERTA)

STAFF ANALYSIS: The utility has requested interim rates for the test year ending December 31, 2000. Section 367.0814(4), Florida Statutes, specifies that,

The Commission may upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

Staff has determined test year revenues and O&M expenses based on the utility's SARC application and the utility's 2000 annual report.

Revenues - The utility recorded revenues of \$81,997 for water and \$39,623 for wastewater. The utility received a price index increase during the test year, therefore, staff has annualized revenues based on rates in effect at test year end consistent with Chapter 367.082(5)(b)(1), Florida Statutes, which requires "annualizing any rate changes occurring during such period." Staff has decreased revenues by \$7,016 for water to reflect staff calculated annualized revenues of \$74,981 (\$74,981-\$81,997). Staff has also increased revenues by \$6,547 for wastewater to reflect staff calculated annualized revenues of \$46,170 (\$46,170-\$39,623).

Operation & Maintenance (O&M) Expense - The utility recorded O&M expenses of \$77,519 for water and \$96,297 for wastewater during the

test year. The utility recorded \$2,500 in Account No. 631, Contractual Services - Professional, for water and \$2,500 in Account No. 731 for wastewater for legal fees related to the transfer of CGD Corporation to Burkim. Purchase costs of utility systems should be charged to Account No. 114, Utility Plant Acquisition Adjustments, not to O&M expenses (see Order No. 25821). Therefore, staff has reduced Contractual Services - Professional by \$2,500 for water and \$2,500 for wastewater.

In addition, the utility recorded Regulatory Assessment Fees (RAFs) of \$4,839 for water and \$1,338 for wastewater in Account Nos. 665/765, Regulatory Commission Expense. According to the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), RAF's should be recorded as Taxes Other Than Income. Therefore, staff has made an adjustment to remove RAFs from O&M expense to Taxes Other Than Income.

Staff's net adjustments to O&M expense is a decrease of \$7,339 for water and \$3,838 for wastewater. Staff's recommended O&M expenses for interim rate setting purposes are \$70,180 (\$77,519 - \$7,339) for water and \$92,459 (\$96,297 - \$3,838).

Revenue and expense adjustments are shown on Schedule No. 1-A and 1-B.

ISSUE 2: Should the utility be allowed to recover RAFs through interim rates, and if so, what is the appropriate amount of RAFs for interim purposes?

RECOMMENDATION: Yes, the utility should be allowed to recover RAFs through interim rates. The appropriate amount of RAFs for interim purposes is \$3,307 for water and \$4,357 for wastewater. (FITCH, MERTA, ESPINOZA)

STAFF ANALYSIS: Prior to the 1999 SARC statute, interim rates were not available in SARCs and petitions for interim rates were considered petitions for emergency rate relief. This is the first SARC in which interim rates have been requested since the interim statute for SARCs was passed into law. Section 367.0814(4), Florida Statutes, specifies that,

To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenue of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

Staff believes that the inclusion of RAFs within the operation and maintenance expenses would be consistent with Section 367.0814(4), Florida Statutes, for the reasons discussed below.

Section 367.0814(4), Florida Statutes, sets a maximum threshold for interim rates "not to exceed the level necessary to cover O&M expenses." Staff does not view the words "level necessary to cover" to mean "equals to." For example, if O&M expense is equal to \$100 and staff recommends the revenue requirement equal to \$100, the utility would only realize \$95.50, since the utility would owe \$4.50 in RAFs. Therefore, in this example the recommend rates would not be at the "level necessary to cover" O&M.

Staff believes that the inclusion of expenses other than RAFs, beyond those described as O&M expenses by the National Association of Regulatory Utility Commissioners Uniform System of Accounts, such as taxes and depreciation expenses are inappropriate under Section 367.0814(4), Florida Statutes. RAFs are unique because

RAFs are levied by the Commission based on rates set by the Commission. Section 367.145(1), Florida Statutes, requires a utility to pay RAfs based on gross revenues. Staff believes that increasing a utility's rates causes an additional, or an increased liability in the form of RAfs. Therefore, it is not appropriate, in staff's opinion, to approve an increase in a utility's rates to cover operating expenses, and deny that same utility the funds to pay for RAfs. By allowing for an interim rate that allows for the payment of RAfs, the utility will be able to cover its operation and maintenance expenses.

For the reasons discussed above, staff believes that the utility should be allowed to recover RAfs through interim rates. Staff recommends including RAfs of \$3,307 for water and \$4,357 for wastewater for purposes of calculating the interim revenue requirement.

ISSUE 3: Should the utility's request for interim rates under Section 367.0814(4), Florida Statutes, be approved and if so, what is the appropriate revenue requirement and what are the appropriate rates?

RECOMMENDATION: The utility should be granted interim rates pursuant to Section 367.0814(4), Florida Statutes, for the wastewater system only. The utility should be denied interim rates for the water system. Interim rates should be designed to generate annual revenues of \$96,816 for the wastewater system. The interim rates should not be implemented if the Commission does not approve the transfer of the utility system to Burkim (Docket No. 001501-WS). The approved 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. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice. The appropriate revenue requirement and rates are reflected below in staff's analysis. (FITCH, MERTA)

STAFF ANALYSIS: Staff has calculated interim rates based on test year O&M expenses determined in Issue No. 1. O&M expense represents the utility's revenue requirement, before RAFs, for interim rate setting purposes. As discussed in Issue No. 2, staff believes that RAFs should be included in the calculation of interim rates. Staff's calculated revenue requirement will allow the utility to recover its O&M expenses and RAFs.

The following is staff's calculation of revenue requirement for interim rates.

<u>Description</u>	<u>Water</u>	<u>Wastewater</u>
O&M per Staff	\$70,180	\$92,459
RAFs	<u>\$3,307</u>	<u>\$4,357</u>
Interim Revenue Requirement	<u>\$73,487</u>	<u>\$96,816</u>
Staff Adjusted test year Revenues	<u>\$74,981</u>	<u>\$46,170</u>
Percentage Increase	<u>0.00%</u>	<u>109.69%</u>

Staff's adjusted revenue of \$74,981 for water exceeds the staff adjusted O&M expense of \$73,487, therefore no interim increase is recommended for the water utility. Since staff's adjusted revenue of \$46,170 for wastewater is less than the \$96,816 of O&M expense, staff recommends an interim increase of \$50,646 (109.69%) for the wastewater utility. It is Commission practice to apply the interim percentage increase to existing rates. The utility's existing rates and staff's recommended rates are shown below.

Monthly Rates - Wastewater
Residential and General Service

	<u>Existing Rates</u>	<u>Staff Recommended Interim Rates</u>
<u>Base Facility Charge</u>		
<u>Meter Sizes</u>		
5/8" x 3/4"	\$3.54	\$7.42
3/4"	\$5.32	\$11.16
1"	\$8.85	\$18.56
1 1/2"	\$17.72	\$37.16
2"	\$28.34	\$59.43
3"	\$56.66	\$118.68
4"	\$88.55	\$185.68
6"	\$177.10	\$371.36
 <u>Gallonge Charge (per 1,000 gallons)</u>		
Residential	\$1.62	\$3.40
General Service	\$1.95	\$4.09

The interim rates should not be implemented until the Commission approves the transfer of the utility system to Burkim (Docket No. 001501-WS). The approved 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. The rates should not be implemented until proper notice has been received by

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the customers. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice.

Rate Requirement and related adjustments are shown on Schedule No. 1-A and 1-B.

ISSUE 4: What is the appropriate security to guarantee the interim increase?

RECOMMENDATION: The utility should be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenues collected under interim conditions. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. (ESPINOZA, FITCH, MERTA)

STAFF ANALYSIS: Because this utility is being purchased by new owners, staff believes it is appropriate to require the utility to provide security for the interim rate increase. Because the Commission has no previous track record for Burkim operating this utility, staff believes that security is appropriate to protect customers against possible variances in O&M expenses due to new ownership. Staff has calculated the percentage amount of potential refunds associated with the interim revenue increase to be 52.31% of interim rate revenue for wastewater. Staff has calculated the amount pursuant to Section 367.0814(5), Florida Statutes, which specifies that,

The Commission may require that the difference between the interim rates and the previously authorized rates be collected under a bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

If the security provided is an escrow account, said account should be established between the utility and an independent financial institution pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: That the account is established at the direction of this Commission for the purpose set forth above, that no withdrawals of funds should occur without the prior approval of the Commission through the Director of the Division of Commission Clerk and Administrative Services, that the account should be interest bearing, that information concerning the escrow account should be available from the institution to the Commission or its representative at all times, and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d. DCA 1972), escrow accounts are not subject to garnishments.

The utility should deposit the funds to be escrowed, 52.31% of interim rate revenue, into the escrow account each month, pending the completion of the rate case proceeding. If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account should revert to the utility.

If the security provided is a bond or a letter of credit, said instrument should be in the amount of \$21,103. If the utility chooses a bond as security, the bond should state that it will be released or should terminate upon subsequent order of the Commission addressing the requirement of a refund. If the utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered addressing the requirement of a refund.

Irrespective of the type of security provided, the utility should keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

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ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to process the utility's staff assisted rate case. (ESPINOZA, FITCH, MERTA)

STAFF ANALYSIS: This docket should remain open pending the final resolution of the utility's staff assisted rate case.

BURKIM ENTERPRISES, INC.		Schedule No. 1A	
DOCKET NO. 010396-WS			
INTERIM REVENUE REQUIREMENT			
	TOTAL PER UTILITY	STAFF ADJUST.	TOTAL PER STAFF
WATER REVENUE	81,997	(7,016)	74,981
WATER O&M EXPENSES			
(601) SALARIES AND WAGES - EMPLOYEES	1,150	0	1,150
(603) SALARIES AND WAGES - OFFICERS	0	0	0
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	5,328	0	5,328
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	3,793	0	3,793
(620) MATERIALS AND SUPPLIES	3,829	0	3,829
(630) CONTRACTUAL SERVICES - BILLING	12,500	0	12,500
(631) CONTRACTUAL SERVICES - PROFESSIONAL	19,927	(2,500)	17,427
(635) CONTRACTUAL SERVICES - TESTING	466	0	466
(636) CONTRACTUAL SERVICES - OTHER	10,784	0	10,784
(640) RENTS	950	0	950
(650) TRANSPORTATION EXPENSE	449	0	449
(655) INSURANCE EXPENSE	1,690	0	1,690
(665) REGULATORY COMMISSION EXPENSE	4,839	(4,839)	0
(670) BAD DEBT EXPENSE	0	0	0
(675) MISCELLANEOUS EXPENSES	11,814	0	11,814
TOTAL O&M EXPENSES	<u>77,519</u>	<u>(7,339)</u>	<u>70,180</u>
REVENUE REQUIREMENT			70,180
REGULATORY ASSESSMENT FEE			3,307
TOTAL REVENUE REQUIREMENT			<u>\$73,487</u>
REVENUE INCREASE			(\$1,494)
PERCENT INCREASE			-1.99%

BURKIM ENTERPRISES, INC.		Schedule No. 1B	
DOCKET NO. 010396-WS			
INTERIM REVENUE REQUIREMENT			
	TOTAL PER UTILITY	STAFF ADJUST.	TOTAL PER STAFF
WASTEWATER REVENUE	39,623	6,547	46,170
WASTEWATER O&M EXPENSES			
(701) SALARIES AND WAGES - EMPLOYEES	1,150	0	1,150
(703) SALARIES AND WAGES - OFFICERS	0	0	0
(704) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(710) PURCHASED WASTEWATER TREATMENT	0	0	0
(715) PURCHASED POWER	8,068	0	8,068
(716) FUEL FOR POWER PRODUCTION	0	0	0
(718) CHEMICALS	5,752	0	5,752
(720) MATERIALS AND SUPPLIES	11,530	0	11,530
(730) CONTRACTUAL SERVICES - BILLING	0	0	0
(731) CONTRACTUAL SERVICES - PROFESSIONAL	38,899	(2,500)	36,399
(735) CONTRACTUAL SERVICES - TESTING	0	0	0
(736) CONTRACTUAL SERVICES - OTHER	8,012	0	8,012
(740) RENTS	1,425	0	1,425
(750) TRANSPORTATION EXPENSE	674	0	674
(755) INSURANCE EXPENSE	2,499	0	2,499
(765) REGULATORY COMMISSION EXPENSE	1,338	(1,338)	0
(770) BAD DEBT EXPENSE	0	0	0
(775) MISCELLANEOUS EXPENSES	16,950	0	16,950
TOTAL O&M EXPENSES	96,297	(3,838)	92,459
REVENUE REQUIREMENT			92,459
REGULATORY ASSESSMENT FEE			4,357
TOTAL REVENUE REQUIREMENT			\$96,816
REVENUE INCREASE/(DECREASE)			\$50,646
PERCENT INCREASE/DECREASE			109.69%