

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.

DOCKET NO. 010396-WS  
ORDER NO. PSC-01-1654-FOF-WS  
ISSUED: August 13, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

ORDER GRANTING INTERIM RATES

BY THE COMMISSION:

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 this 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. That transfer was approved by Order No. PSC-01-1628-FOF-WS, issued August 8, 2001. Burkim has also applied for a staff-assisted rate case for CGD and has requested interim rates.

We have the authority to consider this rate case and interim rates under Section 367.0814, Florida Statutes. The interim statute for staff-assisted rate cases 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

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recorded Operations and Maintenance expenses of \$77,519 for water and \$96,297 for wastewater.

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.

We have determined test year revenues and O&M expenses based on the utility's staff-assisted rate case application and the utility's 2000 annual report. The appropriate amount of revenues for interim rate setting purposes are \$74,981 for water and \$46,170 for wastewater. The appropriate amount of O&M expenses for interim rate setting purposes are \$70,180 for water and \$92,459 for wastewater.

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, we have 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." We have decreased revenues by \$7,016 for water to reflect our calculated annualized revenues of \$74,981 (\$74,981-\$81,997). We have also increased revenues by \$6,547 for wastewater to reflect our calculated annualized revenues of \$46,170 (\$46,170-\$39,623).

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 shall be charged to Account No. 114, Utility Plant Acquisition Adjustments, not to O&M expenses (see Order No. 25821). Therefore, we have 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), RAFs shall be recorded as Taxes Other Than Income. Therefore, we have made an adjustment to remove RAFs from O&M expense to Taxes Other Than Income.

Our net adjustments to O&M expense is a decrease of \$7,339 for water and \$3,838 for wastewater. Our approved O&M expenses for interim rate setting purposes are \$70,180 (\$77,519 - \$7,339) for water and \$92,459 (\$96,297 - \$3,838) for wastewater. Revenue and expense adjustments are shown on Schedules Nos. 1-A and 1-B, which are incorporated herein by reference.

We have additionally determined that the utility shall 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.

Prior to the 1999 staff-assisted rate case statute, interim rates were not available in staff-assisted rate cases, and petitions for interim rates were considered petitions for emergency rate relief. This is the first staff-assisted rate case in which interim rates have been requested since the interim statute for staff-assisted rate cases 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.

We believe that the inclusion of RAFs within the O&M expenses is 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." We do not view the words "level necessary to cover" to mean "equals to." For example, if O&M expense is equal to \$100 and we approve 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 approved rates would not be at the "level necessary to cover" O&M.

We believe that the inclusion of expenses other than RAFs, beyond those described as O&M expenses by the NARUC USOA, such as taxes and depreciation expenses, is inappropriate under Section 367.0814(4), Florida Statutes. RAFs are unique because RAFs are levied by this Commission based on rates set by this Commission. Section 367.145(1), Florida Statutes, requires a utility to pay RAFs based on gross revenues. Increasing a utility's rates causes an additional or an increased liability in the form of RAFs. Therefore, we find that it is inappropriate 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 O&M expenses.

For the foregoing reasons, the utility shall be allowed to recover RAFs through interim rates. RAFs of \$3,307 for water and \$4,357 for wastewater shall be included for purposes of calculating the interim revenue requirement.

The utility shall be granted interim rates pursuant to Section 367.0814(4), Florida Statutes, for the wastewater system only. The utility shall be denied interim rates for the water system.

Interim rates shall be designed to generate annual revenues of \$96,816 for the wastewater system. We find it appropriate to

approve interim rates because we have also approved the transfer of the utility system to Burkim in Docket No. 001501-WS. The approved rates shall 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 shall not be implemented until proper notice has been received by the customers. The utility shall 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 our analysis.

We have calculated interim rates based on test year O&M expenses. O&M expense represents the utility's revenue requirement, before RAFs, for interim rate setting purposes. As discussed previously, RAFs shall be included in the calculation of interim rates. Our calculated revenue requirement will allow the utility to recover its O&M expenses and RAFs.

The following is our calculation of revenue requirement for interim rates.

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

Our adjusted revenue of \$74,981 for water exceeds the adjusted O&M expense of \$73,487. Therefore, no interim increase is approved for the water utility. Since the adjusted revenue of \$46,170 for wastewater is less than the \$96,816 of O&M expense, we approve 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 our approved rates are shown below.

Monthly Rates - Wastewater  
Residential and General Service

	<u>Existing Rates</u>	<u>Commission Approved 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>Gallonage Charge (per 1,000 gallons)</u>		
Residential	\$1.62	\$3.40
General Service	\$1.95	\$4.09

Revenue requirements and related adjustments are shown on Schedules Nos. 1-A and 1-B, attached hereto and incorporated herein by reference.

Because this utility is being purchased by new owners, we find it appropriate to require the utility to provide security for the interim rate increase. Because we have no previous track record for Burkim operating this utility, we believe that security is appropriate to protect customers against possible variances in O&M expenses due to new ownership. The percentage amount of potential refunds associated with the interim revenue increase has been calculated to be 52.31% of interim rate revenue for wastewater. This amount has been calculated 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.

The utility shall 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.

If the security provided is an escrow account, said account shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. The Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall 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 shall occur without the prior approval of the Commission through the Director of the Division of Commission Clerk and Administrative Services, that the account shall be interest bearing, that information concerning the escrow account shall 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 shall 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 shall be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

If the security provided is a bond or a letter of credit, said instrument shall be in the amount of \$21,103. If the utility chooses a bond as security, the bond shall 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 shall state that it is irrevocable for the period it is in

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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 shall keep an accurate and detailed account of all monies it receives. 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. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the appropriate amount of test year revenues for interim rate setting purposes are \$74,981 for water and \$46,170 for wastewater, and the appropriate amount of operation and maintenance (O&M) expenses for interim rate setting purposes are \$70,180 for water and \$92,459 for wastewater. It is further

ORDERED that the utility shall be allowed to recover regulatory assessment fees in the amount of \$3,307 for water and \$4,357 for wastewater through interim rates. It is further

ORDERED that the utility's request for interim rates pursuant to Section 367.0814(4), Florida Statutes, shall be approved for the wastewater system only, and the interim rates shall be designed to generate annual revenues of \$96,816 for the wastewater system. It is further

ORDERED that the utility's request for interim rates pursuant to Section 367.0814(4), Florida Statutes, shall be denied for the water system. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets



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pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. It is further

ORDERED that the rates shall not be implemented until proper notice has been received by the customers, and the utility shall provide proof to staff of the date notice was given within 10 days after the date of notice. It is further

ORDERED that the appropriate revenue requirements and rates as contained in the body of this order shall be approved for interim purposes. It is further

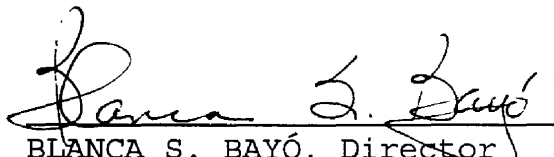
ORDERED that the utility shall be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenue collected under interim conditions, as set forth in the body of this Order. It is further

ORDERED that if the security provided is a bond or a letter of credit, said instrument shall be in the amount of \$21,103. It is further

ORDERED that should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that this docket shall remain open to process the utility's staff assisted rate case.

By ORDER of the Florida Public Service Commission this 13th day of August, 2001.

  
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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

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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.

Any party adversely affected by this order, which is intermediate in nature, may request 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. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final nor reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

BURKIM ENTERPRISES, INC.		Schedule No. 1A	
DOCKET NO. 010396-WS			
INTERIM REVENUE REQUIREMENT			
	TOTAL PER UTILITY	COMM. ADJUST.	TOTAL PER COMM.
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	COMM. ADJUST.	TOTAL PER COMM.
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	<u>96,297</u>	<u>(3,838)</u>	<u>92,459</u>
REVENUE REQUIREMENT			92,459
REGULATORY ASSESSMENT FEE			4,357
TOTAL REVENUE REQUIREMENT			<u>\$96,816</u>
REVENUE INCREASE/(DECREASE)			\$50,646
PERCENT INCREASE/DECREASE			109.69%