

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: FEBRUARY 21, 2002

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

FROM: DIVISION OF ECONOMIC REGULATION (KYLE, MERCHANT) OFFICE OF THE GENERAL COUNSEL (CHRISTENSEN)

RE: DOCKET NO. 991437-WU - APPLICATION FOR INCREASE IN WATER RATES IN ORANGE COUNTY BY WEDGEFIELD UTILITIES, INC.

COUNTY: ORANGE

AGENDA: 03/05/02 - REGULAR AGENDA - DECISION PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: EXTENDED TO 4/30/02

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\991437.RCM

CASE BACKGROUND

Wedgefield Utilities, Inc. (Wedgefield or utility) is a Class B utility which, according to the minimum filing requirements (MFRs) filed in this rate case, serves approximately 840 water and wastewater customers in Orange County, Florida. Wedgefield is a wholly-owned subsidiary of Utilities, Inc. In its annual report for 2000, the utility reported water operating revenues of \$370,546.

Rate base was last established for Wedgefield's water facilities by Order No. PSC-98-1092-FOF-WS, issued August 12, 1998, in Dockets Nos. 960235-WS and 960283-WS, pursuant to a transfer of the utility's assets from Econ Utilities Corporation.

On November 12, 1999, Wedgefield filed an application for an increase in water rates. The utility was notified of several

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FPSC-COMMISSION CLERK

DOCKET NO. 991437-WU
DATE: FEBRUARY 21, 2002

deficiencies in the filing. Those deficiencies were corrected and the official filing date was established as February 29, 2000, pursuant to Section 367.083, Florida Statutes.

The utility's requested test year for final and interim purposes is the historical year ended June 30, 1999. The utility requested that this case be processed using our Proposed Agency Action (PAA) procedure pursuant to Section 367.081(8), Florida Statutes. As part of the PAA process, staff held a customer meeting on May 31, 2000, in Orlando, Florida.

In its MFRs, the utility has requested final revenues of \$404,098 for water. This represents a revenue increase of \$144,838 (55.87%) for water. The final revenues are based on the utility's request for an overall rate of return of 8.34%. By Order No. PSC-00-0910-PCO-WU, issued May 8, 2000, the Commission suspended the rates requested by the utility pending final action and approved interim rates subject to refund and secured by a corporate undertaking. The interim rates were designed to allow the utility the opportunity to generate additional annual operating revenues of \$103,394 for its water operations (an increase of 40.19%).

On August 23, 2000, the Commission issued its proposed rates and charges by PAA Order No. PSC-00-1528-PAA-WU. On September 13, 2000, Wedgefield timely filed a petition protesting PAA Order No. PSC-00-1528-PAA-WU. On that same day, the Office of Public Counsel (OPC) also timely filed a petition protesting the PAA Order.

By Order No. PSC-00-1895-PCO-WU, issued October 16, 2000 (Order Establishing Procedure), this docket was scheduled for an administrative hearing on January 23 and 24, 2001. By Order No. PSC-00-2182-PCO-WU, issued November 15, 2000 (Order Modifying Order Establishing Procedure), the hearing dates were revised to March 15 and 16, 2001, along with the other key activities dates. By Order No. PSC-00-2365-PCO-WU, issued December 8, 2000, Wedgefield's Motion to Abate and Stay Proceedings Pending Appellate Review was granted, and all discovery efforts and controlling dates were held in abeyance pending completion of the appeal review. By Order No. PSC-01-0544-PCO-WU, issued March 8, 2001 (Second Order Modifying Order Establishing Procedure), the hearing was scheduled in this docket for July 25 and 26, 2001.

On July 19, 2001, Order No. PSC-01-1502-PHO-WU (Prehearing Order) was issued. By Order No. PSC-01-1511-PCO-WU, issued July

20, 2001, OPC's Motion to Reschedule Hearing was granted due to Wedgefield's failure to notice the customers in accordance with Rule 25-22.0407, Florida Administrative Code and Order No. PSC-00-1895-PCO-WU. By Order No. PSC-01-1591-PCO-WU (Third Order Establishing New Controlling Dates for Hearings and Briefs), issued August 2, 2001, the hearing was rescheduled for January 28 and 29, 2002. By a letter dated August 7, 2001, Wedgefield agreed to an extension of time through and including April 30, 2002, to refrain from exercising its rights pursuant to Section 367.081, Florida Statutes.

On January 25, 2002, Wedgefield and the Office of Public Counsel (OPC) filed a Joint Motion Seeking Commission Approval of Settlement Agreement and Continuation of Hearing (the Motion). By Order No. PSC-02-0118-PCO-WU, issued January 25, 2002, the Joint Motion for Continuation of Hearing was granted and the Joint Motion Seeking Commission Approval of Settlement Agreement was deferred for ruling at a future time by the Commission. The purpose of this recommendation is to seek the Commission's approval of the settlement agreement. The Commission has jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Wedgefield Utilities, Inc. and the Office of Public Counsel's Joint Motion Seeking Commission Approval of Settlement Agreement?

RECOMMENDATION: Yes. The Commission should grant Wedgefield Utilities, Inc. and the Office of Public Counsel's Joint Motion Seeking Commission Approval of Settlement Agreement and approve the settlement agreement in its entirety. (CHRISTENSEN, KYLE)

STAFF ANALYSIS: As discussed in the Case Background, Wedgefield and OPC protested PAA Order No. PSC-00-1528-PAA-WU, which set water rates and charges for Wedgefield. This matter was scheduled for hearing on January 28 and 29, 2002. On January 25, 2002, Wedgefield and OPC filed a Joint Motion Seeking Commission Approval of Settlement Agreement and Continuation of Hearing with the

settlement agreement attached. By Order No. PSC-02-0118-PCO-WU, the Joint Motion for Continuation of the Hearing was granted and a ruling on Motion Seeking Commission Approval of Settlement Agreement was deferred. The settlement agreement filed by the parties is attached as Attachment A and is incorporated by reference.

In support of the Joint Motion Seeking Commission Approval of Settlement Agreement (Motion), Wedgefield and OPC assert that they have entered into a settlement agreement that avoids the time, expense, and uncertainty associated with adversarial litigation. The parties further assert that the settlement agreement is in keeping with the Commission's long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. The parties state that the settlement agreement serves the public interest and accordingly requests that the Commission expeditiously accept and approve the settlement agreement as filed and close this docket.

In the settlement agreement, Wedgefield and OPC agreed, in pertinent part, to the following:

- 1) The interim rates set forth in Order No. PSC-00-0910-PCO-WU, issued May 8, 2000, shall become permanent.
- 2) Except for annual indexing and pass-throughs, Wedgefield will not file a petition for any proceeding to increase water rates for a period of three years. The three-year period shall begin on the issuance date of the Commission's final order approving the settlement agreement. A petition may be filed at any time after the three-year period, based upon any otherwise appropriate test year, including a test year partially or fully within the three-year period.
- 3) Wedgefield shall not be required to refund any of the interim revenues collected during the pendency of this proceeding.
- 4) No party to the agreement will request, support, or seek to impose a change in the application of any provision of the settlement. Further, upon approval of the agreement by the Commission, the parties waive their rights to further administrative and judicial proceedings

concerning any and all matters which were or might have been addressed by the Commission in resolving this docket.

The parties indicate in the agreement that should the settlement agreement be accepted in its entirety, then the agreement shall be a complete and binding resolution of any and all matters that were or might have been addressed by the Commission in this docket. However, the agreement states that if the settlement agreement is not accepted and approved without modification by an order not subject to further proceedings or judicial review, then the settlement is rejected and the agreement shall be considered null and void. Further, the parties state in the agreement that should the Commission reject the agreement, then it shall not be admissible in any future proceedings and the parties have not waived any previous rights.

Staff notes that Wedgefield and OPC are the only parties of record in this docket. All interested persons have been given a point of entry in this matter. They could have either protested the PAA order, as did Wedgefield and OPC, or intervened in the hearing. Rule 28-106.205, Florida Administrative Code, provides that all persons, other than the original parties, whose substantial interests may be determined in the proceeding and desire to become a party, except for good cause shown, must file a petition 20 days prior to the hearing. In the instant case, no such petitions for intervention were filed. Thus, staff believes that, should the Commission accept the settlement agreement, the order would be appropriately issued as final agency action. Staff notes that the parties agree to waive their rights to any further proceedings or judicial review upon acceptance of the agreement, and no other parties have intervened.

Staff has reviewed the settlement agreement filed by the parties in this matter and believes that it is a reasonable resolution to this rate case docket. Further, staff believes that it is in the public interest for the Commission to approve the settlement agreement in its entirety.

Based on the foregoing, staff recommends that the Commission should grant Wedgefield Utilities, Inc. and the Office of Public Counsel's Joint Motion Seeking Commission Approval of Settlement Agreement and approve the settlement agreement in its entirety.

ISSUE 2: What are the appropriate water rates?

RECOMMENDATION: If the Commission approves the settlement agreement, monthly rates as shown on Attachment B should be effective as permanent rates for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice required by Rule 25-30.475, Florida Administrative Code. The utility should provide an affidavit to the Commission of the date notice was given to the customers within ten days after the date of the customer notice. (KYLE)

STAFF ANALYSIS: Staff has reviewed the proposed final tariff sheets and customer notice filed by the utility, and believes that they are consistent with the settlement agreement. If the Commission approves the settlement agreement, monthly rates as shown on Attachment B should be effective as permanent rates for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice required by Rule 25-30.475, Florida Administrative Code. The utility should provide an affidavit to the Commission of the date notice was given to the customers within ten days after the date of the customer notice.

DOCKET NO. 991437-WU
DATE: FEBRUARY 21, 2002

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendations on Issues 1 and 2, then this docket should be closed upon the issuance of the final order approving the settlement agreement. (CHRISTENSEN)

STAFF ANALYSIS: If the Commission approves staff's recommendations on Issues 1 and 2, then this docket should be closed upon the issuance of the final order approving the settlement agreement.

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|--|------------------------|
| In re: Application for increase) | Docket no. 991437-WU |
| In water rates in Orange County) | |
| By <u>Wedgefield Utilities, Inc.</u>) | Filed January 25, 2002 |

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes (2001), Wedgefield Utilities, Inc. (Wedgefield) and the Office of the Public Counsel (OPC) (collectively, the parties) enter into this settlement agreement to effect an informal disposition and complete and binding resolution of any and all matters and issues which were or might have been addressed by the Florida Public Service Commission (Commission) in Docket No. 991437-WU. This settlement agreement avoids the time, expense and uncertainty associated with adversarial litigation, in keeping with the Florida Public Service Commission's long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. The terms of this settlement agreement are as follows:

1. The interim rates set forth in Florida Public Service Commission order no. PSC-00-0910-PCO-WU issued May 8, 2000, shall become permanent.
2. Except for annual indexing and pass-throughs, Wedgefield will not file a petition for any proceeding to increase water rates for a period of three years. This three year period shall begin on the issuance date of the Commission's final order approving this settlement agreement. A petition may be filed at any time after

the three year period, based upon any otherwise appropriate test year, including a test year partially or fully within the three year period.

3. Wedgefield shall not be required to refund any of the interim revenues collected during the pendency of this proceeding.

4. This settlement agreement will take effect the day after it is approved by the Commission. The parties understand that the Commission's decision will be reflected in a final order.

5. No party to this settlement agreement will request, support or seek to impose a change in the application of any provision of this settlement agreement.

6. Provided the Commission approves the settlement agreement, both parties waive their right to request further administrative or judicial proceedings concerning any and all matters which were or might have been addressed by the Commission in resolving this dockets, except proceedings to enforce this Settlement Agreement. This waiver of the right to further administrative or judicial proceedings shall include (but not be limited to): a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

7. This settlement agreement is contingent upon the Florida Public Service Commission's accepting the entire Agreement, which acceptance shall be a complete and binding resolution of any and all matters and issues which were or might have been addressed by the Florida Public Service Commission (Commission) in Docket No. 991437-WU.

8. Docket no. 991437-WU will be closed effective on the date the Commission order approving this settlement agreement is final. The submission of this settlement agreement by the parties is in the nature of an offer to settle. Consequently, if this settlement agreement is not accepted and approved without modification by a Commission order not subject to further proceedings or judicial review, then the settlement proposal is rejected and the settlement agreement shall be considered null and void and of no further force or effect.

9. If the Commission does not accept this document in its entirety pursuant to its terms, this document shall not be admissible in any hearing on the matters established by this docket, or in any other docket or forum. Moreover, no party to this settlement agreement waives any position on any issue raised or on any issue that it could have otherwise asserted in the docket.

The parties evidence their acceptance and agreement with the provisions of this settlement agreement by their signatures:

Office of Public Counsel

By:

Jack Shreve
Jack Shreve

Date:

1/25/2002

Wedgefield Utilities, Inc.

By:

Carl J. Wenz
Carl J. Wenz

Date:

January 25, 2002

| WEDGEFIELD UTILITIES, INC. WATER MONTHLY SERVICE RATES TEST YEAR ENDED 06/30/99 | | ATTACHMENT B DOCKET 991437-WU | | |
|---|---|---|---|--|
| | <u>Rates</u> Prior to <u>Filing</u> | <u>Utility</u> Requested <u>Final</u> | <u>Staff</u> Recommended <u>Final</u> | |
| <u>General Service</u> | | | | |
| Base Facility Charge: | | | | |
| Meter Size: | | | | |
| 5/8" | \$14.40 | \$22.51 | \$20.19 | |
| 3/4" | \$21.64 | \$33.82 | \$21.64 | |
| 1" | \$36.09 | \$56.41 | \$50.59 | |
| 1.5" | \$71.89 | \$112.36 | \$100.78 | |
| 2" | \$115.47 | \$180.48 | \$161.88 | |
| 3" | \$230.90 | \$339.56 | \$230.90 | |
| 4" | \$360.80 | \$530.59 | \$360.80 | |
| 6" | \$721.61 | \$1,061.20 | \$721.61 | |
| Gallonage Charges, per 1,000 Gallons | \$1.50 | \$2.34 | \$2.10 | |
| <u>Residential Service</u> | | | | |
| Base Facility Charge: | | | | |
| Meter Size: | | | | |
| 5/8" | \$14.40 | \$22.51 | \$20.19 | |
| 3/4" | \$21.64 | \$33.82 | \$30.34 | |
| 1" | \$36.09 | \$56.41 | \$36.09 | |
| 1.5" | \$71.89 | \$112.36 | \$71.89 | |
| 2" | \$115.47 | \$180.48 | \$115.47 | |
| 3" | \$230.90 | \$339.56 | \$230.90 | |
| 4" | \$360.80 | \$530.59 | \$360.80 | |
| 6" | \$721.61 | \$1,061.20 | \$721.61 | |
| Gallonage Charges, per 1,000 Gallons | \$1.50 | \$2.34 | \$2.10 | |
| <u>Typical Residential Bills</u> | | | | |
| 5/8" x 3/4" Meter Size | | | | |
| 3,000 Gallons | \$18.90 | \$29.53 | \$26.49 | |
| 5,000 Gallons | \$21.90 | \$34.21 | \$30.69 | |
| 10,000 Gallons | \$29.40 | \$45.91 | \$41.19 | |