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# Public Service Commission

July 26, 2002

Ms. Annabelle Closson, Board Member  
Palm Valley Home Owners Association  
31931 Carlelder  
Beverly Hills, MI 48025

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COMMISSION  
CLERK

**Re: Docket No. 010823-WS, Application for a Staff-Assisted Rate Case by CWS Communities d/b/a Palm Valley**

Dear Ms. Closson:

We received your faxed letter to the Commissioners of the Florida Public Service Commission on July 22, 2002, and filed it in the Docket file prior to the July 23, 2002 Agenda Conference. Because you were unable to attend the agenda conference, staff discussed each of your ten points, item by item, with the Commissioners at the agenda conference. After staff responded to your letter and follow up questions by the Commissioners, the Commission voted to approve staff's recommendation and instructed staff to respond to you in writing to address the concerns discussed at the agenda conference. This letter will address staff's position on the issues raised in your letter, as discussed at the agenda conference.

Your first item raised the point that the residents of Palm Valley do not own the land on which their homes are located and that this was different than most of the cases the Commission encounters. The Commission has encountered this situation in the past; however, it is staff's position that this does not alter the methodology by which rate base, capital structure, operating and maintenance expenses, revenue requirement, and ultimately rates are determined.

Items two and three in your letter raised concerns on property taxes and who should pay for the property taxes of the utility. It is staff's position that all legitimate utility costs (including property taxes) should be recovered through utility rates and charges pursuant to Chapter 367, Florida Statutes. Your letter raises the point that these taxes are included as part of the lot rent and other provisions of your prospectus. According to your letter, the residents are not required to pay taxes more than once. Although staff believes that residents should not be charged twice for the same item, the Commission's jurisdiction is limited to the setting of water, wastewater, and reuse rates pursuant to Chapter 367, Florida Statutes. Staff believes that the property tax issue should be addressed between the Palm Valley residents and developer pursuant to Chapter 723, Florida Statutes. The Commission's Proposed Agency Action (PAA) Order will clearly show that the use

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Ms. Annabelle Closson  
July 26, 2002  
Page 2

and useful portion of the utility's property taxes are included in rates.

The fourth item in your letter addresses the concern that residents have paid impact fees, and that these fees should be used to reduce rates. Staff refers to these impact fees as Contributions in Aid of Construction (CIAC). CIAC is a reduction to the utility's investment. Staff conducted an audit in which it compared the number of units with the service availability charges (impact fees) in effect during that period with the CIAC recorded by the utility. Adjusted CIAC has been included in staff's recommended rates; therefore, the recommended rates reflect a return on the utility's investment less CIAC collections from customers.

The fifth item of your letter addresses the quality of water, potable water pressure, reuse water pressure, and the location of meters. Staff's appraisal regarding the quality of a utility is determined by evaluating three components: quality of product, operation condition at the plant, and customer satisfaction. In this case, the quality of the product and the operation condition at the plant, per the Florida Department of Environmental Protection and Commission engineering staff, is considered satisfactory. Customer satisfaction was also considered satisfactory since the allegations of low water pressure and low reuse pressure could not be verified by the staff engineer.

The Environmental Protection Agency requires that a minimum continuous pressure of 20 pounds per square inch be present in all water lines at all times. The staff engineer visited several homes throughout the community and was unable to find any evidence to support the allegations of low water pressure. Regarding the allegation of low reuse pressure, a representative of the utility stated that on one occasion a partially closed valve caused a reduction in pressure. The manager of the utility assured staff that this situation had been corrected. In addition, during the site visit the staff engineer did not witness any homeowners using their reuse/reclaimed system. Staff also believes that the zero rate for reuse encouraged high usage levels of the reuse water which may have resulted in a reduction in the pressure. The Commission approved a \$1.15 reuse gallonage charge which staff believes will reduce the excessive demand for reuse, and therefore increase pressure.

The issue concerning the two customers whose meters are located under their mobile homes will be resolved soon. The manager of the utility stated that the utility will relocate these meters to the front yards of the two customers' homes.

The sixth item in your letter addresses the use of a historical test year ending July 2001, and the impact that has on the test year revenues used. Staff recommended and the Commission approved a July 31, 2003, projected test year for this rate case. In every staff assisted rate case, staff recalculates test year revenues based on the number of customers and gallons consumed during the test year. Staff used the July 2001, historic test year as a base to project consumption for the July 31, 2003, test year. Although individual meter readings for all customers were not available, staff explained the methodology used to determine consumption per customer. Staff used the master meter readings from the well, subtracted 10% for unaccounted for water (per past Commission practice), subtracted the gallons consumed by customers for which meter readings were available, and then divided the remaining gallons by the customers for which staff did not have meter readings. This methodology was explained at the agenda conference and was approved as part of staff's

Ms. Annabelle Closson  
July 26, 2002  
Page 3

overall recommendation.

The seventh question in your letter raises concerns about the inaccuracies of old meters and their impact on consumption data. As discussed on the previous question, staff relied on the master meter readings to determine consumption. Further, the Commission approved initiation of a meter change out program once all the residents homes have been metered as discussed in Issue No. 4 of staff's recommendation.

The eighth item in your letter refers to the utility not recording revenues properly. As discussed in the response to your sixth question, staff recalculates test year revenues based on the number of customers and gallons consumed during the test year.

The ninth item in your letter refers to the availability of reuse and that not everyone can use reuse. Unfortunately reuse cannot be provided to all the residents of Palm Valley because it takes approximately four homes to produce enough reuse for one home. The pricing of reuse is unique from other water and wastewater rates set by the Commission in that it is not cost based. In the past reuse rates were set very low, or even a rate of zero, in order to encourage people to accept reuse as a viable alternative to potable water irrigation. In the case of Palm Valley, the residents have accepted reuse and in fact use a large volume of reuse. Therefore, staff recommended a higher reuse rate than reuse rates approved in the past in order to recognize that reuse should also be conserved as a valuable resource. This results in an approved lower water and wastewater gallonage charge for all customers.

The final item raised in your letter raised concerns that the 9.62% profit allowed was too high and that the proposed profit margins should be aligned with utilities that are available on a free market basis. Staff relied on the current Commission approved leverage formula in Order No. PSC-01-2514-FOF-WS, issued December 24, 2001, in Docket No. 010006-WS, to determine the appropriate return on equity and overall rate of return. The leverage formula was constructed in part by evaluating the returns publicly traded utilities experience. This formula is used to set a uniform return for all similar utilities under the Commission's jurisdiction. Further, the Commission does not guaranty a return on the utility's investment, rather, the Commission gives the utility an opportunity to earn a fair return on its investment, as set forth by the leverage formula. This is reflected in the fact that the return portion of the utility's revenue is recovered through the gallonage charge. The 9.62% is an upper limit that the utility may not surpass; there is no guaranty that the utility will be able to reach this amount.

The Commission's vote on July 23, 2002 was to propose to take certain actions, namely to grant Palm Valley's application for an increase in rates. This action is subject to protest by substantially affected persons, including all customers of the utility. Should a protest be filed in a timely manner, the utility may charge and collect the increased rates, subject to refund, with interest, to the customers in the event the increased rates are not ordered after a hearing. If no protest is filed, the Commission's action will become final, after conclusion of the protest period, with the issuance of a Consummating Order.

Ms. Annabelle Closson  
July 26, 2002  
Page 4

An Order reflecting the Commission's July 23, 2002 vote will be issued on or before August 12, 2002, and you will be provided with a copy of this Order by mail, as will all customers who asked to be placed on the interested persons list regarding this docket. After the order is issued, substantially affected persons will have twenty-one (21) days in which to file a protest to the Commission's proposed action (a protest of this decision). This can be accomplished by a petition, in the form required by Rule 28-106.201(2), Florida Administrative Code, addressed to the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0865. I have enclosed a copy of the Rule for your convenience. I cannot emphasize strongly enough the importance of specific objections about specific actions the Commission proposes to take through the Order which will be issued; disputed issues of material fact must be alleged to sustain a protest.

Additionally, you should be advised that the Office of Public Counsel (OPC) may be available to answer questions you have about the Commission's Order and the protest process. OPC is a separate entity from the Commission, who exists to assist utility customers in Florida. They may be contacted at 1-800-342-0222 or (850) 488-9330. I would also like to advise you that any reasonable and prudent costs Palm Valley incurs during a protest may be passed through to the customers, and these costs can be quite substantial for a rate case protest. Further, at this time, Palm Valley is required to accept the rates the Commission approves, but in the event of a protest, the utility will have the opportunity to put on evidence which may support higher rates being set at the conclusion of the process.

Hopefully, this letter has addressed your concerns. The above explanations were discussed with the Commission at the public Agenda Conference prior to the vote on this docket. If you have any other questions please contact Ryan Fitch at (850) 413-6928 or Larry Harris at (850) 413-6076.

Sincerely,



Larry D. Harris  
Senior Attorney

LH:rf

enclosure

cc: Joann Chase, Assistant to Chairman Jaber  
Division of Economic Regulation (Willis, Rendell, Fitch, Edwards, Lingo)  
Division of Legal Services (Harris)  
Division of Commission Clerk and Administrative Services (010823-WS)