

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate  
increase in Monroe County by Key  
Haven Utility Corporation.

DOCKET NO. 020344-SU  
ORDER NO. PSC-02-1720-PCO-SU  
ISSUED: December 9, 2002

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

ORDER SUSPENDING PROPOSED FINAL RATES AND  
GRANTING INTERIM RATES SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

Key Haven Utility Corporation (Key Haven or utility) is a Class B wastewater utility providing service to approximately 419 residential customers in Monroe County, Florida. In its 2001 Annual Report, the utility reported operating revenues of \$237,181 and net operating income of \$1,258.

The utility's last rate case, in Docket No. 940299-SU, was based on the test year ended December 31, 1993. By Order No. PSC-94-1557-S-SU, issued December 13, 1994, this Commission approved a stipulation between the utility and the Office of Public Counsel. By that order, the previously authorized flat rates were increased, return on equity was established with a midpoint of 10.93%, and rate base was set at \$719,139. The utility received a price index increase in 2001 that was effective December 31, 2001.

On August 14, 2002, the utility filed for approval of permanent and interim rate increases pursuant to Sections 367.081 and 367.082, Florida Statutes. However, the information submitted did not satisfy the minimum filing requirements (MFRs) for a

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general rate increase. Subsequently, on September 26, 2002, the utility satisfied the MFRs and this date was designated as the official filing date, pursuant to Section 367.083, Florida Statutes. The utility requested that we process this case using the proposed agency action (PAA) procedure.

The test year for interim and final purposes is the historical test year ended December 31, 2001. Key Haven has requested interim revenues of \$296,484, which represent an increase of \$55,377 or 22.97%. The requested final revenues are \$330,623, representing an increase of \$89,516 or 37.13%.

The sixty-day statutory deadline to suspend the utility's requested final rates was November 25, 2002. This Order addresses the suspension of Key Haven's final rates and the granting of an interim rate increase. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

#### SUSPENSION OF FINAL RATES

Section 367.081(6), Florida Statutes, provides that the rates proposed by the utility shall become effective within sixty days after filing unless we vote to withhold consent to implementation of the requested rates. Further, Section 367.081(8), Florida Statutes, permits the proposed rates to go into effect, secured and subject to refund, at the expiration of five months if we have not acted upon the requested rate increase, or if our PAA action is protested by a party other than the utility.

We have reviewed the filing and have considered the proposed rates, the revenues thereby generated, and the information filed in support of the rate application. We find that it is reasonable and necessary to require further amplification and explanation regarding this data, and to require production of additional and/or corroborative data. This further examination will include on-site investigations by our accountants and engineers. Based on the foregoing, we suspend the utility's proposed rate increase.

#### APPROVAL OF INTERIM RATES

As stated in its MFRs, Key Haven requests interim rates designed to generate annual revenues of \$296,484. This represents

a wastewater revenue increase of \$55,377 or 22.97%. The utility has filed rate base, cost of capital, and operating statements to support its requested wastewater increase.

We have reviewed the utility's interim request, as well as the prior rate proceeding orders, and our analysis is discussed below. We have attached accounting schedules to illustrate our interim calculation of rate base, capital structure, and test year operating income amounts. The rate base schedule is attached as No. 1, the capital structure schedule is No. 2, and the operating income schedule is No. 3.

#### Rate Base

The utility has filed a simple average rate base for the calendar year ended December 31, 2001. Working capital has been calculated using the formula approach, which is consistent with Key Haven's last rate case. The utility's only adjustment to working capital was a \$3,107 reduction, which resulted from the removal of a \$24,858 non-recurring charge from operation and maintenance (O&M) expenses.

In Key Haven's last rate case, we approved the stipulation that the wastewater treatment plant and collection systems were 100% used and useful. In this case, the utility has also shown its plant as 100% used and useful. While reported on its rate base schedule as non-used and useful, Key Haven reduced plant to reflect the removal of the original wastewater treatment plant that is being held off-line as a stand-by. The utility's calculation of rate base appears to be reasonable, and as such, we will make no additional adjustments. Schedule No. 1 details our calculation of rate base.

#### Cost of Capital

In its MFRs, Key Haven used a simple average capital structure and made pro rata adjustments to reconcile the capital structure to rate base. The utility used a cost rate of 8.54% for long-term debt. Also, in accordance with the interim statute, Key Haven used a return on equity (ROE) of 9.93%, the lower end of the range of the last authorized ROE, to calculate its overall rate of return. Having reviewed the utility's cost of capital, we find that it is

reasonable and no adjustments are necessary. Therefore, as shown on Schedule No. 2, we calculate the utility's overall cost of capital to be 8.95% for interim purposes.

#### Net Operating Income

##### Operating Revenues

Section 367.082(5)(b)1., Florida Statutes, states that the achieved rate of return is calculated by applying appropriate adjustments and annualizing any rate changes that occurred during the interim test year. On December 31, 2001, the utility implemented a price index increase, and consistent with the interim statute, Key Haven annualized its revenues associated with this price index. Adjusted test year operating revenues are \$241,107, which includes an increase of \$3,926 due to the price index. Having reviewed this adjustment, we find that no further adjustments to test year revenue are required.

##### Operating Expenses

The utility has adjusted O&M expenses, depreciation, and amortization for the calendar test year ended December 31, 2001. As noted earlier, the utility amortized \$24,858 in non-recurring major line maintenance costs over four years. This resulted in a decrease to O&M expenses of \$19,886, and an amortized charge of \$4,972 in the test year. Key Haven also reduced depreciation expense by \$7,997 to reflect the removal of a stand-by wastewater plant from rate base. Based on our review, these adjustments appear to be reasonable. As such, no additional adjustments are necessary.

Based on these adjustments, the appropriate test year operating income, before any increase, is \$32,849. Schedule No. 3 illustrates our calculation of net operating income.

#### Revenue Requirement

Using the actual operating expenses for the year ended December 31, 2001, as adjusted by the utility, and an 8.95% overall rate of return on a simple average test year rate base, we calculate the interim revenue requirement to be \$296,454 as shown

on attached Schedule No. 3. This represents an interim increase in annual wastewater revenues of \$55,347 or 22.96%. Therefore, we approve interim rates which will allow the utility to generate \$55,347 in additional annual wastewater revenue.

Interim Rates

Interim flat rates for Key Haven's wastewater system shall be designed to allow the utility the opportunity to generate additional annual operating revenues of \$55,347, or an increase of 22.96%. To determine the appropriate increase to apply to the service rates, miscellaneous service and other revenues shall be removed from the test year revenues. The calculation is as follows:

1 Total Test Year Revenues	\$241,107
2 Less: Miscellaneous & Other Revenues	<u>(420)</u>
3 Test Year Revenues from Service Rates	<u>\$240,687</u>
4 Revenue Increase	<u>\$55,347</u>
5 % Service Rate Increase (Line 4/Line 3)	<u>23.00%</u>

This rate increase of 23.00% shall be applied as an across the board increase to flat service rates in effect as of December 31, 2001.

For final rates, the utility has requested to switch from a flat rate to a consumption-based rate structure. The utility is now able to obtain customer water use data from the Florida Aqueduct Authority.

The interim rates shall be implemented for service rendered on or after the stamped approval date on the tariff sheets, provided customers have received notice. The revised tariff sheets will be approved upon our staff's verification that the tariff sheets are consistent with our decision, that the proposed notice to the customers is adequate, and that the required security has been filed. The utility shall provide proof to staff of the date notice was given within 10 days after the date of notice.

The utility's current, approved interim and requested final rates are shown on Schedule No. 4.

SECURITY FOR REFUND

Pursuant to Section 367.082, Florida Statutes, revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest. In accordance with Rule 25-30.360, Florida Administrative Code, the amount of a potential refund in this case has been calculated to be \$37,115. This amount is based on an estimated eight months of revenue being collected from the approved interim rates over the previously authorized rates, plus an allowance for interest.

We have analyzed the utility's financial condition to determine what type of security is appropriate for Key Haven's interim rates. The criterion for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. The 1999, 2000, and 2001 annual reports of Key Haven were used to determine the financial condition of the company. The utility reports minimal liquidity for 2001 and shows a declining equity ratio for the three-year period. In addition, over the three-year period, net income has been negative and the utility has reported minimal interest coverage. Based upon this analysis, we find that Key Haven cannot support a corporate undertaking in the amount of \$37,115.

Considering the above analysis, the utility shall provide a letter of credit, bond, or escrow agreement to guarantee the funds collected, subject to refund. Irrespective of the type of security provided, the utility shall keep an accurate account of all monies it receives. Also, 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.

If the security provided is a bond or a letter of credit, said instrument shall be in the amount of \$37,115. If the utility

chooses a bond as security, the bond shall state that it will be released or should terminate only upon subsequent order of the Commission. 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 effect and that it will be in effect until a final Commission order is rendered releasing the funds to the utility or requiring a 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 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 23.00% of interim revenues collected each month into the escrow account each month to secure for possible refund. The escrow agreement shall also state the following: that if a refund to the customers is required, all interest earned on the escrow account shall be distributed to the customers; and if a refund to the customers is not required, the interest earned on the escrow account shall revert to the utility.

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 final rates and schedules proposed by Key Haven Utility Corporation are hereby suspended. It is further

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ORDERED that the request for an interim rate increase for wastewater rates by Key Haven Utility Corporation is hereby granted to the extent set forth in the body of this Order. It is further

ORDERED that the interim rates authorized for Key Haven Utility Corporation are designed to allow the utility to collect annual wastewater revenues in the amount of \$296,454. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the approved interim rates shall become effective for service rendered on or after the stamped approval date on the tariff sheets, provided customers have received notice. It is further

ORDERED that Key Haven Utility Corporation shall provide a bond or letter of credit in the amount of \$37,115 or an escrow agreement as set forth in the body of this Order as guarantee of any potential refund of wastewater revenues collected under the interim conditions. It is further

ORDERED that if Key Haven Utility Corporation chooses to open an escrow account, the utility shall deposit 23% of interim wastewater revenues collected each month. It is further

ORDERED that prior to implementation of the interim rates approved herein, Key Haven Utility Corporation shall file and have approved tariff pages revised in accordance with the provisions of this Order, appropriate security for the refund, a proposed customer notice, and proof that the customers have received notice of the rate increase. It is further

ORDERED that the tariff sheets will be stamped approved upon verification that they are consistent with our decision herein, that the proposed customer notice is adequate, and that the appropriate security is provided. It is further



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ORDERED that during the time the interim rates are in effect, Key Haven Utility Corporation shall file a report by the 20th of each month indicating the monthly and total revenue collected subject to refund pursuant to Rule 25-30.360(6), Florida Administrative Code. 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 pending this Commission's final action on the utility's requested rate increase.

By ORDER of the Florida Public Service Commission this 9th day of December, 2002.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

RRJ

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 non-final in nature, may request (1) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, or (2) 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. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or 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.

KEY HAVEN UTILITY CORPORATION SCHEDULE OF WASTEWATER RATE BASE TEST YEAR ENDED 12/31/2001				SCHEDULE NO. 1 DOCKET 020344-WS	
DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUST- MENTS	ADJUSTED TEST YEAR PER UTILITY	COMMN ADJUST- MENTS	COMMN ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	\$1,668,919	\$0	\$1,668,919	\$0	\$1,668,919
2 LAND	\$5,666	\$0	\$5,666	\$0	\$5,666
3 NON-USED & USEFUL COMPONENTS (*)	(\$47,757)	\$0	(\$47,757)	\$0	(\$47,757)
4 ACCUMULATED DEPRECIATION	(\$617,860)	\$0	(\$617,860)	\$0	(\$617,860)
5 CIAC	(\$308,379)	\$0	(\$308,379)	\$0	(\$308,379)
6 AMORTIZATION OF CIAC	\$237,482	\$0	\$237,482	\$0	\$237,482
7 WORKING CAPITAL ALLOWANCE	<u>\$22,974</u>	<u>(\$3,107)</u>	<u>\$19,867</u>	<u>\$0</u>	<u>\$19,867</u>
<b>RATE BASE</b>	<u>\$961,045</u>	<u>(\$3,107)</u>	<u>\$957,938</u>	<u>\$0</u>	<u>\$957,938</u>

\* This adjustment reflects non-utility plant retired in 1991, but still carried on books.

**KEY HAVEN UTILITY CORPORATION  
 CAPITAL STRUCTURE - SIMPLE AVERAGE  
 TEST YEAR ENDED 12/31/2001**

**SCHEDULE NO. 2  
 DOCKET 020344-WS**

DESCRIPTION	TOTAL CAPITAL	SPECIFIC ADJUST-MENTS (EXPLAIN)	PRO RATA ADJUST-MENTS	CAPITAL RECONCILED TO RATE BASE	RATIO	COST RATE	WEIGHTED COST
<b>PER UTILITY</b>							
1 LONG TERM DEBT	\$739,608	\$0	(\$62,058)	\$677,550	70.73%	8.54%	6.04%
2 SHORT-TERM DEBT	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
3 PREFERRED STOCK	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
4 COMMON EQUITY	\$306,030	\$0	(\$25,642)	\$280,388	29.27%	9.93%	2.91%
5 CUSTOMER DEPOSITS	\$0	\$0	\$0	\$0	0.00%	6.00%	0.00%
6 DEFERRED INCOME TAXES	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
7 <b>TOTAL CAPITAL</b>	<u>\$1,045,638</u>	<u>\$0</u>	<u>(\$87,700)</u>	<u>\$957,938</u>	<u>100.00%</u>		<u>8.95%</u>
<b>PER-COMMN</b>							
8 LONG TERM DEBT	\$739,608	\$0	(\$62,033)	\$677,575	70.73%	8.54%	6.04%
9 SHORT-TERM DEBT	\$0	\$0	\$-0	\$0	0.00%	0.00%	0.00%
10 PREFERRED STOCK	\$0	\$0	\$-0	\$0	0.00%	0.00%	0.00%
11 COMMON EQUITY	\$306,030	\$0	(\$25,667)	\$280,363	29.27%	9.93%	2.91%
12 CUSTOMER DEPOSITS	\$0	\$0	\$-0	\$0	0.00%	6.00%	0.00%
13 DEFERRED INCOME TAXES	\$0	\$0	\$-0	\$0	0.00%	0.00%	0.00%
14 <b>TOTAL CAPITAL</b>	<u>\$1,045,638</u>	<u>\$0</u>	<u>(\$87,700)</u>	<u>\$957,938</u>	<u>100.00%</u>		<u>8.95%</u>
RETURN ON EQUITY					<u>LOW</u>	<u>HIGH</u>	
OVERALL RATE OF RETURN					<u>9.93%</u>	<u>11.93%</u>	
					<u>8.95%</u>	<u>9.53%</u>	

KEY HAVEN UTILITY CORPORATION STATEMENT OF WASTEWATER OPERATIONS TEST YEAR ENDED 12/31/2001				SCHEDULE NO. 3 DOCKET 020344-WS			
DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUST- MENTS	ADJUSTED TEST YEAR PER UTILITY	COMMN ADJUST- MENTS (1)	COMMN ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT
1 OPERATING REVENUES	<u>\$237,181</u>	<u>\$59,303</u>	<u>\$296,484</u>	<u>(\$55,377)</u>	<u>\$241,107</u>	<u>\$55,347</u> 22.96%	<u>\$296,454</u>
OPERATING EXPENSES							
2 OPERATION & MAINTENANCE	\$183,795	(\$24,858)	\$158,937	\$0	\$158,937		\$158,937
3 DEPRECIATION	\$38,462	(\$7,997)	\$30,465	\$0	\$30,465		\$30,465
4 AMORTIZATION	\$0	\$4,972	\$4,972	\$0	\$4,972		\$4,972
5 TAXES OTHER THAN INCOME	\$13,707	\$2,669	\$16,376	(\$2,492)	\$13,884	\$2,491	\$16,375
6 INCOME TAXES	\$0	\$0	\$0	\$0	\$0	\$0	\$0
7 TOTAL OPERATING EXPENSES	<u>\$235,964</u>	<u>(\$25,214)</u>	<u>\$210,750</u>	<u>(\$2,492)</u>	<u>\$208,258</u>	<u>\$2,491</u>	<u>\$210,749</u>
8 OPERATING INCOME	<u>\$1,217</u>	<u>\$84,517</u>	<u>\$85,734</u>	<u>(\$52,885)</u>	<u>\$32,849</u>	<u>\$52,856</u>	<u>\$85,705</u>
9 RATE BASE	<u>\$961,045</u>		<u>\$957,938</u>		<u>\$957,938</u>		<u>\$957,938</u>
10 RATE OF RETURN	<u>0.13%</u>		<u>8.95%</u>		<u>3.43%</u>		<u>8.95%</u>
(1) Reflects removal of requested revenue increase and associated RAF's.							

KEY HAVEN UTILITY CORPORATION WASTEWATER MONTHLY SERVICE RATES TEST YEAR ENDED 12/31/2001		SCHEDULE NO. 4 DOCKET 020344-WS		
	Utility Requested Interim	Rates Prior to Filing	Utility Requested Final	Commn Approved Interim
<b><u>Residential</u></b>				
Flat Rate Charge: All Meter Sizes:	\$59.11	\$48.07		\$59.11
Base Facility Charge: All meter sizes			\$26.96	
Gallonage Charge, per 1,000 Gallons			\$6.34	
<b><u>General Service</u></b>				
Flat Rate Charge: All Meter Sizes:	\$59.11	\$48.07		\$59.11
Base Facility Charge: All meter sizes				
5/8" x 3/4"			\$26.96	
1"			\$67.40	
1-1/2"			\$134.80	
2"			\$215.68	
3"			\$431.36	
4"			\$674.00	
6"			\$1,348.00	
8"			\$2,156.00	
Gallonage Charge, per 1,000 Gallons			\$7.45	
<b>Note:</b> The utility has requested to switch from a flat rate structure, to a consumption-based rate structure for final rates.				