

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for rate increase in Bay County by Bayside Utility Services, Inc. | DOCKET NO. 030444-WS
| ORDER NO. PSC-04-1064-PCO-WS
| ISSUED: October 29, 2004

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
CHARLES M. DAVIDSON

ORDER REQUIRING ADDITIONAL SECURITY

BY THE COMMISSION:

BACKGROUND

Bayside Utility Services, Inc. (Bayside or utility), a wholly-owned subsidiary of Utilities, Inc. (UI), is a class C water and wastewater utility currently serving approximately 283 residential customers and 4 general service customers. Bayside is a reseller utility purchasing water and wastewater service from the City of Panama City Beach. The utility completed its filing of an application for a rate increase on February 17, 2004, and this date was established as the official date of filing.

By Order No. PSC-04-0414-PCO-WS (Interim Order), issued April 22, 2004, in this docket, we suspended the utility's proposed final rates and approved an interim revenue increase of \$42,547 (or 64.57%) for water and \$51,145 (or 55.22%) for wastewater. We also calculated the amount of security for any potential interim refund.

By Proposed Agency Action Order No. PSC-04-0820-PAA-WS (PAA Order), issued August 23, 2004, we proposed to approve a \$31,517 (or 47.83%) water increase and \$39,609 (or 42.77%) wastewater increase. However, on September 13, 2004, the Office of Public Counsel (OPC) filed a protest of that PAA Order. According to Section 367.081(8), Florida Statutes (F.S.), we must render a final decision within 8 months of the date OPC filed its protest. A hearing is scheduled to be held on February 21-22, 2005, in the utility's service area.

Bayside has notified this Commission that it will maintain its interim rates pending our final decision. This Order addresses the appropriate amount of guarantee required to secure the increased potential refund of revenues collected under interim conditions. We have jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

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ADDITIONAL SECURITY REQUIREMENT

By the Interim Order, we calculated the potential refund of revenues and interest collected under interim conditions to be \$46,964. This amount was based on an estimated 6-month time period that interim rates would be in effect. As a result of OPC's protest, we must now render our final decision by May 13, 2005. Therefore, the interim rates will remain in effect for approximately seven more months. In accordance with Rule 25-30.360, Florida Administrative Code (F.A.C.), we calculate the potential refund of revenues and interest collected under the revised interim period to be \$102,733. This amount is based on an estimated thirteen months of revenue being collected from the approved interim rates over the utility's currently authorized rates.

The utility has requested a corporate undertaking from UI to secure the collection of interim rates. UI currently is guaranteeing a total of \$391,471 as a corporate undertaking on behalf of its Florida subsidiaries. This request will bring the total cumulative amount to \$447,240.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Since UI provides all investor capital to its subsidiaries, the financial statements of the parent company were reviewed to determine if UI can support a corporate undertaking on behalf of its subsidiaries. UI's 2001, 2002, and 2003 financial statements were used to determine the financial condition of the company. Our staff's analysis shows that UI experienced a significant decline in net income and interest coverage during 2001 and 2002 compared to prior years. The primary reason for this reversal was merger-related charges of \$9.8 million in 2001 and \$9.9 million in 2002. UI stated that merger related costs have been fully recovered and there will be no additional charges levied by the parent. In 2003, UI showed improvement in both profitability and interest coverage. Absent these merger-related charges, UI's financial performance would show a 3-year trend of stable equity capitalization, interest coverage, and profitability. Based upon this analysis, we find that a cumulative amount of \$447,240 is acceptable contingent upon receipt of the written guarantee of UI and written confirmation of its oral attestation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Pursuant to Rule 25-30.360(6), F.A.C., the utility shall continue to provide a report by the 20th day 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, F.A.C. 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

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ORDERED by the Florida Public Service Commission that the corporate undertaking for Bayside Utility Services, Inc. shall be increased by \$55,769 from \$46,964 to \$102,733. It is further

ORDERED that this corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation by Utilities, Inc., attesting that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. It is further

ORDERED that Utilities, Inc., shall file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions in the total cumulative amount of \$447,240. It is further

ORDERED that pursuant to Rule 25-30.360(6), Florida Administrative Code, that Bayside Utility Services, Inc. shall continue to 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. It is further

ORDERED that this docket shall remain open pending our final action on the utility's requested rate increase.

By ORDER of the Florida Public Service Commission this 29th day of October, 2004.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.