

ORIGINAL

TOM LEE  
President

ALLAN BENSE  
Speaker



STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL

C/O THE FLORIDA LEGISLATURE  
111 WEST MADISON ST.  
ROOM 812  
TALLAHASSEE, FLORIDA 32399-1400  
850-488-9330



Harold McLean  
Public Counsel

December 9, 2004

RECEIVED-FPSC  
04 DEC -9 PM 3:54  
COMMISSION  
CLERK

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RE: Docket No. 030444-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a fully executed Joint Motion Requesting Commission Approval of Settlement Agreement and Settlement Agreement for filing in the above-referenced docket. These fully executed originals and copies should be substituted for the partially executed originals that had an attached copy of a facsimile execution page, that was filed on December 8, 2004.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Reilly  
Associate Public Counsel

- CMP \_\_\_\_\_
- COM 3
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SEC 1
- OTH Kimp.

SR/pwd  
Enclosures

ok 12/10/04  
KMP

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

13028 DEC-9 8

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for rate increase )  
In Bay County by Bayside Utility )  
Services, Inc. )

Docket No. 030444-WS  
Filed: December 8, 2004

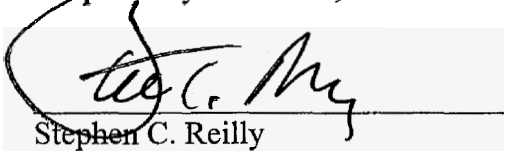
**JOINT MOTION REQUESTING COMMISSION APPROVAL  
OF SETTLEMENT AGREEMENT**

Bayside Utility Services, Inc. (“Bayside”, “Utility” or “Company”) and the Office of Public Counsel (“OPC”) file this joint motion requesting the Florida Public Service Commission (“Commission”) to approve the attached Settlement Agreement. In support of this joint motion, Bayside and OPC state:

1. Bayside and OPC have entered into a Settlement Agreement resolving OPC’s Petition on Proposed Agency Action Order No. PSC-04-0820-PAA-WS, in accordance with the terms of the Settlement Agreement. A copy of the Settlement Agreement is attached to this motion as “Exhibit A.”
2. Bayside and OPC have entered into the Settlement Agreement to avoid the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission’s long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible. For these reasons Bayside and OPC request the Commission to expeditiously issue a final order approving the Settlement Agreement without modification and close Docket No. 030444-WS.
3. Pending Commission consideration of the Settlement Agreement Bayside and OPC request the Commission to suspend discovery and all events currently scheduled in the CASR for this Docket, until such time as the Commission acts on this motion.

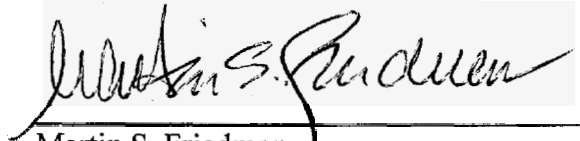
WHEREFORE, Bayside and OPC respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a final order is issued closing this docket.

Respectfully submitted,



Stephen C. Reilly  
Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
(850) 488-9330

Attorney for the Citizens of the State  
of Florida



Martin S. Friedman  
Rose, Sundstrom & Bentley, LLP  
600 S. North Lake Boulevard  
Suite 160  
Altamonte Springs, FL 32701  
(407) 830-6331

Attorney for Bayside Utility  
Services, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by hand delivery to Ralph Jaeger, Esquire, Florida Public Service Commission, Division of Legal Services, Room 370, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 8<sup>th</sup> day of December, 2004.

  
Stephen C. Reilly

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for rate increase )  
in Bay County by Bayside Utility )  
Services, Inc. )  
\_\_\_\_\_ )

Docket No. 030444-WS  
Filed: December 8, 2004

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT is made and entered into this 8<sup>th</sup> day of December, 2004, by and between Bayside Utility Services, Inc., (“Bayside,” “Utility” or “Company”), and the customers of Bayside (“Citizens”), through their undersigned counsel.

**WITNESSETH**

WHEREAS, the Florida Public Service Commission (“Commission”) issued Proposed Agency Action Order No. PSC-04-0820-PAA-WS in this docket on August 23, 2004; and

WHEREAS, on September 13, 2004, the Citizens filed a timely protest to the PAA Order; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission’s long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible, the Citizens and Bayside hereby enter into this agreement to settle this case in accordance with the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the Citizens and Bayside agree as follows:

1. Beginning January 29, 2005 Bayside's final rates shall be designed to generate revenues of \$80,963 and \$111,132 for water and wastewater, respectively. These revenues exceed test year revenues by \$15,069 and \$18,519 for water and wastewater, respectively.

2. Beginning January 29, 2006 Bayside's final rates shall be designed to generate revenues of \$94,017 and \$127,616 for water and wastewater, respectively. These revenues exceed test year revenues by \$28,123 and \$35,003 for water and wastewater, respectively.

3. As provided by Section 367.0816, F.S., Bayside's rates shall be reduced immediately after January 29, 2009 to remove the revenues associated with the four-year amortization of rate case expense and the gross-up for regulatory assessment fees on that expense. This reduction in the revenue requirement shall be \$7,771 for water and \$7,771 for wastewater.

4. Neither Bayside nor the Citizens may seek to make any changes to the revenue requirements and resulting rates provided in this Settlement Agreement until January 29, 2006. After this date Bayside may seek such further rate relief it deems necessary, and the Citizens may seek such rate reductions they feel are warranted.

5. The above revenue requirements and resulting rates shall fully satisfy Bayside's obligation to make refunds to the Citizens for having collected interim revenues in excess of the revenues finally approved in this docket.

6. Bayside shall complete \$25,000.00 of pro forma improvements to the lift stations, as described in PAA Order No. PSC-04-0820-PAA-WS, within 90 days of the Commission's final order approving this Settlement Agreement.

7. Bayside's rate base shall be established as provided by Commission Order No. PSC-04-0820-PAA-WS. The simple average rate base for the test year ending December 31, 2002 is \$66,672 for water and \$194,663 for wastewater. However, the Citizens strongly disagree with these figures and shall be free to challenge the Company's rate base in subsequent proceedings before any utility regulatory authority. Such challenge shall include but not be limited to the inclusion of \$92,274 in rate base, and inclusion of nonused and useful plant in rate base. Further, approval by Bayside and the Citizens of the above stipulated revenue requirements shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue that might be in controversy in any subsequent proceeding before any utility regulatory authority.

8. The final rates produced by the revenue requirements agreed to in paragraphs 1. through 3. of this Settlement Agreement are specified in Exhibit "A" attached hereto and made a part hereof.


9. 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 Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

10. Bayside and the Citizens expressly agree that all activity relating to this docket should be suspended until the Commission disposes of the Joint Motion Requesting Commission Approval of Settlement Agreement.


11. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving this Settlement Agreement, the Citizens Petition on Proposed Agency Action, filed on September 13, 2004, shall be deemed resolved, in accordance with the terms of this Settlement Agreement.

12. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures, and personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

**CITIZENS OF THE STATE OF FLORIDA,  
OFFICE OF PUBLIC COUNSEL**

By:   
Stephen C. Reilly  
Associate Public Counsel

**BAYSIDE UTILITY SERVICES, INC.**

By:   
Martin S. Friedman  
Attorney for Bayside Utility  
Services, Inc.



**Bayside Utility Services, Inc.**  
**Docket No. 030444-WS**

EXHIBIT "A"

<u>System</u>	<u>PAA Revenue Requirement</u>	<u>Settlement Agreement First Year</u>	<u>Settlement Agreement Second Year</u>	<u>Settlement Agreement After 4 Years</u>
Water	\$97,411	\$80,963	\$94,017	\$86,247
Wastewater	\$132,222	\$111,132	\$127,616	\$119,845
Water Percentage Change		-16.89%	16.12%	-8.27%
Wastewater Percentage Change		-15.95%	14.83%	-6.09%

<u>WATER RATES</u>	<u>PAA Rates</u>	<u>Settlement Agreement First Year</u>	<u>Settlement Agreement Second Year</u>	<u>Settlement Agreement After 4 Years</u>
<u>Residential Service</u>				
5/8" x 3/4"	\$12.76	\$10.61	\$12.32	\$11.30
3/4"	\$19.15	\$15.92	\$18.48	\$16.96
1"	\$31.91	\$26.52	\$30.80	\$28.25
Gallonge Charge per 1,000 gallons	\$5.19	\$4.31	\$5.01	\$4.60
<u>General Service</u>				
5/8" x 3/4"	\$12.76	\$10.61	\$12.32	\$11.30
3/4"	\$19.15	\$15.92	\$18.48	\$16.96
1"	\$31.91	\$26.52	\$30.80	\$28.25
1-1/2"	\$63.82	\$53.04	\$61.60	\$56.51
2"	\$102.11	\$84.87	\$98.55	\$90.41
3"	\$204.23	\$169.75	\$197.11	\$180.82
4"	\$319.10	\$265.22	\$307.98	\$282.53
6"	\$638.20	\$530.44	\$615.97	\$565.06
Gallonge Charge per 1,000 gallons	\$5.19	\$4.31	\$5.01	\$4.60

<u>WASTEWATER RATES</u>	<u>PAA Rates</u>	<u>Settlement Agreement First Year</u>	<u>Settlement Agreement Second Year</u>	<u>Settlement Agreement After 4 Years</u>
<u>Residential Service</u>				
All meter sizes	\$21.86	\$18.37	\$21.10	\$19.81
Gallonge Charge per 1,000 gallons (With 6,000 gallon cap)	\$7.10	\$5.97	\$6.85	\$6.44
<u>General Service</u>				
5/8" x 3/4"	\$21.86	\$18.37	\$21.10	\$19.81
1"	\$54.64	\$45.92	\$52.74	\$49.53
1-1/2"	\$109.28	\$91.85	\$105.47	\$99.05
2"	\$174.85	\$146.96	\$168.76	\$158.48
3"	\$349.69	\$293.91	\$337.51	\$316.96
4"	\$546.40	\$459.25	\$527.36	\$495.25
6"	\$1,092.80	\$918.50	\$1,054.73	\$990.51
8"	\$1,748.47	\$1,469.58	\$1,687.56	\$1,584.80
Gallonge Charge per 1,000 gallons	\$8.51	\$7.15	\$8.21	\$7.71