

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for amendment of Certificate
No. 539-W to extend territory in Lake County
by Raintree Utilities, Inc., and for modification
of service availability policy.

DOCKET NO. 050028-WU
ORDER NO. PSC-05-0706-PAA-WU
ISSUED: June 29, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION
ORDER MODIFYING SERVICE AVAILABILITY POLICY AND CHARGES AND METER
INSTALLATION FEE
AND
FINAL ORDER APPROVING AMENDMENT OF CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action concerning the revised service availability policy and charges and meter installation fee discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

Raintree Utilities, Inc. (Raintree or utility) is a Class C utility serving approximately 119 residential customers in the Raintree Harbor subdivision. Septic tanks provide wastewater service to its customers. The proposed area is in the St. Johns River Water Management District and is included in a water use caution area.

On January 11, 2005, Raintree filed an application for authority to transfer a non-regulated system called Silver Oaks to Raintree, for a limited proceeding to implement Raintree's existing rates and charges in the Silver Oaks subdivision, and for an amendment to extend its territory to include the proposed Bentwood subdivision. Eight objections to the application for transfer were filed by home owners in the Silver Oaks subdivision. On March 11, 2005, Raintree amended the application to proceed only with the amendment of territory in the proposed Bentwood subdivision, and on March 16, 2005, Raintree withdrew the application for transfer of the Silver Oaks subdivision and the request for a limited proceeding to implement its rates. Consequently, the Silver Oaks home owners are no longer affected by the application. In

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conjunction with the amendment application, on April 6, 2005, the utility filed a developer agreement with this Commission. On April 7, 2005, the utility filed tariffs revising its service availability policy and charges. On May 13, 2005, the utility filed revised tariffs requesting a plant capacity charge along with the cost justification for the proposed plant capacity charges.

This Order addresses the application for amendment and proposed changes in the utility's service availability policy and charges. We have jurisdiction pursuant to Section 367.045 and 367.091, Florida Statutes.

Amendment of Certificate No. 539-W

As discussed above, on March 11, 2005, Raintree amended its application to include additional territory in a new area in Lake County, pursuant to Rule 25-30.036(3), Florida Administrative Code. The application complies with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. Adequate service territory and system maps and a territory description have been provided. A description of the territory requested to be added by the utility is appended to this Order as Attachment A.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. As mentioned previously, objections to the transfer application were received and Raintree withdrew the application for transfer and the request for a limited proceeding to implement Raintree's existing rates in Silver Oaks. Consequently, the Silver Oaks home owners are no longer affected by the application. The local planning agency was provided notice of the application to extend service to the Bentwood subdivision and did not file a protest to the amendment. The Department of Community Affairs has identified no growth management concerns with the proposed expansion of the utility. The utility states that the provision of service will be consistent with the utility section of the local comprehensive plan. The utility plans to serve about 99 single-family homes in the proposed Bentwood subdivision.

Our staff contacted the Department of Environmental Protection and determined that there were no outstanding notices of violation issued for the utility's existing water treatment plant. In order to serve the Bentwood subdivision the utility intends to construct a new water treatment facility that will provide fire protection. Initial plans include a new vertical turbine well pump with a capacity of 1,100 gallons per minute, disinfection with sodium hypochlorite, aeration, and a 15,000 gallon hydropneumatic tank. The utility has provided a copy of a proposed warranty deed which provides for the continued use of the land for the new water treatment plant as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Regarding the financial impact of the proposed amendment, the utility proposed to modify its service availability policy. If modified, the utility believes the impact would not affect Raintree's monthly rates. Based on the above information, Raintree Utilities, Inc.'s amendment application to add the Bentwood territory is granted. The proposed territory to be added is described in Attachment A. The utility shall file an executed and recorded copy of the

warranty deed for the land for the water facilities within 30 days of the issuance date of the Order granting the amendment. The utility shall charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by the Commission. The appropriate service availability policy and charges are discussed below.

Modification of Service Availability Policy and Charges

On April 7, 2005, and May 13, 2005, the utility filed tariff sheets revising its service availability policy and charges. The utility proposes to require developers to construct and donate the on-site and off-site facilities of the water distribution system to the utility. In addition, the utility requested an \$800 plant capacity charge and a meter installation charge of \$125. The new policy and proposed charges will only apply to Bentwood and future developments, because the Raintree Harbour development is built out.

The utility currently has a \$250 system capacity charge that was approved in 1991. It was designed to recover the customers' share of the cost of the existing water treatment plant, lines and meter installation. The utility estimates that the new water treatment plant will cost approximately \$185,729. Pursuant to Rule 25-30.580(1)(b), Florida Administrative Code, at a minimum, the cost of the lines should be contributed to the utility. Pursuant to Rule 25-30.580(1)(a), Florida Administrative Code, the maximum utility contribution level, net of amortization, should not exceed 75% of the total original cost. According to the calculations provided by the utility, the proposed policy will result in a 73 percent contribution level on a total company basis. With contributed lines and no plant capacity charge, the contribution level would be only 54 percent.

We find that the utility's proposed \$800 plant capacity charge, meter installation charge of \$125, and revised service availability policy requiring donated on-site and off-site lines are reasonable, and they are approved. The tariffs shall become effective for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. In the event a timely protest is filed by a substantially affected person, the tariff shall remain in effect and any increased charges collected shall be held subject to refund pending resolution of the protest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Raintree Utilities, Inc.'s Application for Amendment of Certificate No. 539-W to extend its water service area in Lake County is hereby granted. It is further

ORDERED that Raintree Utilities, Inc. shall charge the customers in the added territory the rates and charges contained in its tariffs until it is authorized by this Commission to change them in a subsequent proceeding. It is further

ORDERED that Raintree Utilities, Inc. shall file an executed and recorded copy of the warranty deed for the land for the water facilities within 30 days of this Order granting the amendment. It is further

ORDERED that Attachment A to this Order is incorporated herein by reference. It is further

ORDERED that the provisions of this Order concerning the modification of the service availability policy and charges and meter installation fee, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

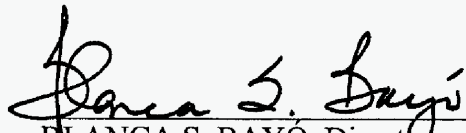
ORDERED that Raintree Utilities, Inc.'s proposed revisions for an \$800 plant capacity charge, a \$125 meter installation charge, and revised service availability policy requiring donated on-site and off-site lines are approved. It is further

ORDERED that the tariffs shall become effective for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. It is further

ORDERED that in the event a timely protest is filed by a substantially affected person, the tariffs shall remain in effect and any increased charges collected shall be held subject to refund pending resolution of the protest. It is further

ORDERED that if no substantially affected person files a protest within 21 days of the Proposed Agency Action portion of this Order, this docket shall be closed upon issuance of a Consummating Order. If a protest is filed, the docket shall remain open pending resolution of the protest.

By ORDER of the Florida Public Service Commission this 29th day of June, 2005.



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

As identified in the body of this order, our action concerning the revised service availability policy and charges and meter installation fee is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 20, 2005. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in this matter may request:

- (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services within fifteen (15) days of the issuance of this order in the form prescribed by 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 by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Raintree Utilities, Inc.

Water Service Area in Lake County

Bentwood

The Southwest 1/4 of the Southeast 1/4 Section 2, Township 19 South, Range 25 East, and the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 2, Township 19 South, Range 25 East, Lake County, Florida, as recorded in Official Records Book 832, Page 745, Public Records of Lake County, Florida, subject to an easement for ingress, egress and utilities over, upon and across the real property described as follows:

Begin at a point on the East line of the Southwest 1/4 of the Southeast 1/4 of Section 2, Township 19 South, Range 25 East, Lake County, Florida, said point being 5 feet North of the Southeast corner of the Southwest 1/4 of the Southeast 1/4 of said Section 2, said point being the POINT OF BEGINNING; thence run northerly along the East line of said Section a distance 25 feet; thence run westerly and parallel to the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 2, a distance of 223.59 feet; thence South a distance of 30 feet more or less to the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 2, said line also being the North line of the Northwest 1/4 of the Northeast 1/4 of Section 11, Township 19 South, Range 25 East; thence East along the South line of the Southwest 1/4 of the Southeast 1/4 of Section 2 a distance of 25 feet; thence North a distance of 5 feet; thence East and parallel to the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 2 to the POINT OF BEGINNING.

Less right-of-way for Poe Street per ORB 749, Page 347. Containing 50.44 acres, more or less.