

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 6, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Fletcher, Rendell)
Office of the General Counsel (Gervasi) *ABJ* *CS* *198*

RE: Docket No. 050281-WS – Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

AGENDA: 07/18/06 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: Deason, Arriaga, Carter

PREHEARING OFFICER: Deason

CRITICAL DATES: 11/29/06 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: This recommendation should immediately precede the recommendation in Docket No. 060165-WS.

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050281.RCM.DOC

Case Background

Plantation Bay Utility Company (Plantation or utility) is a Class B utility providing water and wastewater service to approximately 1,473 customers in Volusia and Flagler Counties. Water and wastewater rates were last established for this utility by Order No. PSC-02-1449-PAA-WS, issued October 21, 2002, in Docket No. 011451-WS, In re: Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County. Consummating Order No. PSC-02-1565-CO-WS, issued November 14, 2002, made Order No. PSC-02-1449-PAA-WS effective and final.

On August 8, 2005, Plantation filed the Application for Rate Increase at issue in the instant docket. By Order No. PSC-05-1039-PCO-WS, issued October 24, 2005, in this docket,

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the Commission denied an interim revenue increase for water and approved an interim revenue increase of \$214,097 (95.19%) for wastewater. By Order No. PSC-06-0710A-PAA-WS ("PAA Order"), issued March 9, 2006, the Commission approved rates that were designed to generate a water revenue requirement of \$406,689 and a wastewater revenue requirement of \$490,260.

On March 29, 2006, Plantation timely filed a protest of the PAA Order. On March 30, 2006, the Office of Public Counsel (OPC) also timely filed a protest of the PAA Order. On June 14, 2006, the utility and OPC (collectively, "parties") filed a Joint Motion to Approve Stipulation and Settlement which would resolve all issues addressed in their respective protests. That motion and the stipulation and settlement are incorporated in this recommendation as Attachment A.

The purpose of this recommendation is to present the parties' stipulation and settlement to the Commission for approval. The Commission has jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Joint Motion to Approve Stipulation and Settlement filed by the Office of Public Counsel and Plantation Bay Utility Company?

Recommendation: Yes. The proposed stipulation and settlement should be approved. The utility should file a proposed customer notice within 15 days of the Commission vote, which is consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The utility should provide proof that the customers have received notice within 10 days after the date of the notice. (Fletcher, Gervasi)

Staff Analysis: In the proposed stipulation and settlement, the parties state that they disagree with methodologies utilized by the Commission in making its determinations in the PAA Order. However, the parties have agreed to stipulate to the revenue requirements and rates set forth in the PAA Order for purposes of settling all disputes between the utility and OPC in this docket and for no other purpose. Specifically, the parties assert that the Commission's findings and conclusions for its rate case expense determination and used and useful calculation for water supply and treatment should be stricken from the PAA Order and not serve as precedence in any future proceeding before the Commission.

In addition, the parties have agreed that the last two paragraphs of the subsection entitled "SERVICE AVAILABILITY CHARGES AND POLICY", except for the first sentence of the second to last paragraph should be stricken from the PAA Order. The one sentence that would

remain in that subsection reads as follows: "Due to the high growth rate that the service area is experiencing, we find it appropriate to require the utility to begin collecting donated water transmission and distribution and wastewater collection system expansions immediately." Further, the parties have agreed that all water transmission and distribution lines and wastewater collection system expansions completed after March 19, 2006 shall be contributed to the utility and booked as contributions in aid of construction (CIAC). Finally, the parties state that these water and wastewater line expansions treated as CIAC shall include, but are not limited to, the expansions in the following subdivisions: Korona Park, 2EV Unit3-Prestwick X, 2EV Unit 4-Prestwick XI, 2AF Unit 5-Westlake V, 2AF Unit 6-Westlake VI, and 2AF Unit 7-Westlake VII.

Staff agrees that the language of the PAA Order which the parties seek to strike can be stricken because each rate case is decided on its own merits. Staff believes that the parties' proposed stipulation and settlement is a reasonable resolution because it addresses all protested issues and it agrees with the Commission's water and wastewater revenue requirements as set forth in the PAA Order. Further, staff believes that it is in the public interest for the Commission to approve the stipulation and settlement proposal because it promotes administrative efficiency and avoids the time and expense of a hearing. Therefore, staff recommends that the Commission approve the parties' proposed stipulation and settlement.

If the Commission approves the stipulation and settlement, staff recommends that the utility file a proposed customer notice within 15 days of the Commission vote, which is consistent with its decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the parties' stipulation and settlement. (Fletcher, Gervasi)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the parties' stipulation and settlement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
PLANTATION BAY UTILITY COMPANY
for an increase in water and wastewater
rates in Volusia County, Florida.

Docket No.: 050281-WS

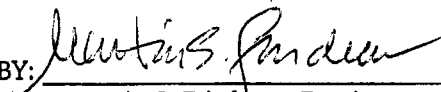
JOINT MOTION TO APPROVE STIPULATION AND SETTLEMENT

PLANTATION BAY UTILITY COMPANY ("Utility") and OFFICE OF PUBLIC COUNSEL ("OPC"), by and through their respective undersigned attorneys, file this Joint Motion to Approve Stipulation and Settlement, and in support thereof, state:

1. Utility and OPC each filed protests of Order No.: PSC-06-0170A-PAA-WS.
2. In consideration of the uncertainties of litigation, the Utility and OPC have entered into a Stipulation and Settlement, a copy of which is attached hereto.
3. Utility and OPC believe the Stipulation and Settlement is a fair and equitable resolution of the respective protests.


WHEREFORE, Utility and OPC respectfully request this Commission approve the Stipulation and Settlement in its entirety.

PLANTATION BAY UTILITY COMPANY

BY: 

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OFFICE OF PUBLIC COUNSEL

BY: 

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
PLANTATION BAY UTILITY COMPANY
for an increase in water and wastewater
rates in Volusia County, Florida

Docket No. 050281-WS

STIPULATION AND SETTLEMENT

THIS STIPULATION AND SETTLEMENT is made and entered into between PLANTATION BAY UTILITY COMPANY (*Utility*), and the OFFICE OF PUBLIC COUNSEL, for and on behalf of the Citizens of the State of Florida (*OPC*).

RECITALS

A. On August 8, 2005, the Utility filed an application for an increase in water and wastewater rates for its operations in Volusia and Flagler counties, Florida (*Application*). The official filing date was established as September 1, 2005.

B. On March 9, 2006, the Florida Public Service Commission (*Commission*) issued Order No. PSC-06-0170A-PAA-WS (*PAA Order*), determining, among matters, that the Utility is entitled to water operating revenues of \$406,689, and wastewater revenues of \$490,260.

C. On March 29, 2006, the Utility filed a protest of the PAA Order.

D. On March 30, 2006, OPC timely filed a protest of the PAA Order.

E. The Utility and OPC disagree with the methodologies used by the

Commission in making the determinations set out in the PAA Order, but have agreed to stipulate to the revenue requirements reached by the Commission and the results set out in the PAA Order for purposes of settling all disputes between them regarding the PAA Order and for no other purpose.

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. The Utility and OPC will submit this Stipulation and Settlement to the Commission for its consideration and approval.

2. The Utility and OPC hereby agree and stipulate to the following regarding the issues raised in their respective protests of the PAA Order:

A. The findings and conclusions in the PAA Order with regard to the subsections titled "Source of Supply," "Capacity of Wells," "Total Available Storage," and "Rate Case Expense" are stricken from the PAA Order and shall not serve as precedent in any future proceeding before the Commission.

B. The used and useful evaluations made by the Commission in this case are based upon a review of the total system. The firm reliable capacity of the wells is determined to be 342,000 gpd. The available storage is determined to be 328,000 gallons. Rate case expense recoverable from ratepayers in this case is determined to be \$38,680 for the wastewater system. This rate case expense shall be amortized over four (4) years pursuant to Section 367.0816, Florida Statutes, at \$9,670 per year.

C. The last two paragraphs of the subsection titled "SERVICE AVAILABILITY CHARGES AND POLICY," except for the first sentence of the second to last paragraph should be stricken. With regard to the Utility's service availability

charges and policy, all water transmission and distribution and wastewater collection system expansions completed after March 19, 2006 shall be contributed to the Utility and booked as CIAC, and all water and wastewater system capacity charges shall be discontinued after this date. The water transmission and distribution and wastewater collection plant that will be contributed and booked as CIAC to the Utility in 2006 shall include but are not limited to plant expansions in the following subdivisions; Korona Park, 2EV Unit 3-Prestwick X, 2EV Unit 4-Prestwick XI, 2AF Unit 5-Westlake V, 2AF Unit 6-Westlake VI and 2AF Unit 7-Westlake VII.

D. Upon the Commission issuing a Consummating Order consistent with all of the terms of this Stipulation and Settlement, the Utility and OPC accept the revenue requirement approved by the Commission in the PAA Order for the purposes of resolving all outstanding disputes between the parties and to conclude this case without incurring further expense.

3. This Stipulation and Settlement shall not be construed to be an adoption, acceptance, approval or consent to or agreement with the methodologies, conclusions or theories utilized by the Commission in reaching the results set out in the PAA Order, and the Utility and OPC expressly reserve the right to object to and protest the subject methodologies, conclusions or theories in any other action before the Commission. However, the PPA Order as modified by this Stipulation and Settlement shall be used as the basis for any future interim rate proceeding for this Utility.

4. This Stipulation and Settlement is contingent upon approval in its entirety by the Commission. In the event this Stipulation and Settlement is not approved by the Commissioners, neither party is bound by the provisions of this Stipulation and

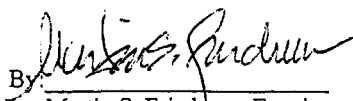
Settlement and the matter shall remain *status quo* pending a full evidentiary hearing before the Commission.

5. This Stipulation and Settlement may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

IN WITNESS WHEREOF, the Utility and OPC have evidenced their acceptance and agreement with the provisions hereof.


THE UTILITY

Plantation Bay Utility Company

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OPC

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