

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: March 1, 2007

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

FROM: Division of Economic Regulation (Fletcher, Springer, Rendell) *BF* *TR*
Office of the General Counsel (Brown) *MB* *W*

ALM

RE: Docket No. 060285-SU – Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

AGENDA: 03/13/07 – Regular Agenda – Decision on Temporary Charges – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

CRITICAL DATES: 07/9/07 (5-Month Statutory Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060285.RCM.DOC

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Case Background

Utilities, Inc. of Sandalhaven (Sandalhaven or utility) is a class B wastewater utility providing service to approximately 910 customers in Charlotte County. Sandalhaven is a wholly-owned subsidiary of Utilities, Inc. In its 2005 Annual Report, the utility reported operating revenues of \$270,518 and a net operating loss of \$45,037.

On May 15, 2006, Sandalhaven filed an Application for Rate Increase at issue in the instant docket. After review of the Minimum Filing Requirements (MFRs), staff determined that the MFRs contained a number of deficiencies that would require revisions by the utility. On December 28, 2006, the utility filed its Amended Application for increase in rates which included a request for increased service availability charges. Sandalhaven requested the

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application be processed using the Proposed Agency Action (PAA) procedure. On January 16, 2007, the utility filed a request for authority to collect revised system capacity charges on an temporary basis, pending the determination of final rates and charges in this proceeding.

After review of the revised Minimum Filing Requirements (MFRs), staff determined that the MFRs contained a number of deficiencies that would require revisions by the utility. On February 9, 2007, Sandalhaven filed revisions which satisfied the MFR deficiencies; therefore, the official filing date has been established as February 9, 2007.

The test year established for final rates is a projected test year ended December 31, 2007. The utility requested final rates designed to generate annual wastewater revenues of \$1,118,134. This represents a revenue increase of \$841,571 (313.33%). At the February 13, 2007, Agenda Conference, the Commission voted to suspend Sandalhaven's final requested rates.

The intervention of the Office of Public Counsel was acknowledged by Order No. PSC-06-0542-PCO-SU, issued June 26, 2006, in this docket. On January 23, 2007, Placida HG, LLP (Placida) filed a Petition for Leave to Intervene in this docket. The intervention was granted by Order No. PSC-07-0135-PCO-SU, issued February 16, 2007.

This recommendation addresses the Utilities Inc. of Sandalhaven's request for authority to collect revised system capacity charges on temporary basis. The Commission has jurisdiction pursuant to Sections 367.011, 367.081, 367.101, and 367,121, Florida Statutes.

Discussion of Issues

Issue 1: Should the utility's proposed wastewater system capacity charge of \$2,627.75 per equivalent residential connection and \$13.83 per gallon for all others be approved on an temporary basis?

Recommendation: Yes, the utility's proposed wastewater system capacity charges of \$2,627.75 per equivalent residential connection and \$13.83 per gallon for all others should be approved on an temporary basis, subject to refund, for connections made after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. (Fletcher)

Staff Analysis: Currently, Sandalhaven has an authorized residential plant capacity charge of \$1,250 per equivalent residential connection (ERC) and a per gallon charge of \$6.28 for all others. On December 28, 2006, the utility filed its Amended Application for increase in rates which included a request for increased service availability charges. Specifically, Sandalhaven is requesting a residential system capacity charge of \$2,627.75 per ERC and a per gallon charge of \$13.83 for all others.

According to its filing, the utility has entered into an agreement with the Englewood Water District (EWD or District) whereby the District will provide bulk wastewater treatment and disposal to serve new customers of Sandalhaven through an interconnection with the EWD's system. The utility is requesting a change in its service availability charges to enable it to pass through the costs of interconnection. Sandalhaven asserts that the proposed charges are appropriate because the customers who are to be served by the interconnection with the District's facilities should pay for the cost of this service. The utility states that the proposed charges will not affect current customers and that the number of future customers affected is approximately 1,700.

On January 16, 2007, Sandalhaven filed a request for authority to collect revised system capacity charges on an temporary basis, pending the determination of final rates and charges in this proceeding. The utility has entered into certain developer agreements pursuant to which the utility will provide wastewater service to new customers within its service area. These customers may require service before the Commission determines the final rates and charges in this proceeding, particularly if there is an intervenor who protests the increase in service availability charges. The utility states that it will not be able to recover its reasonable capital costs of providing service to these new customers unless the Commission authorizes Sandalhaven to impose the proposed revised system capacity charges on an temporary basis, subject to refund, pending the Commission's determination of final rates and charges.

The Commission has the authority under Chapter 367, Florida Statutes (F.S.), to set temporary service availability charges pending final resolution of a utility's rate proceeding. Section 367.011(2), Florida Statutes (F.S.), states that the Commission has exclusive jurisdiction over each utility with respect to its authority, service, and rates. Section 367.081(1), F.S., states that, except for pass-through and index rate adjustments, a utility may only charge rates and charges that have been approved by the Commission. Section 367.101(1), F.S., states:

The commission shall set just and reasonable charges and conditions for service availability. The commission by rule may set standards for and levels of service-availability charges and service-availability conditions. Such charges and conditions shall be just and reasonable. The commission shall, upon request or upon its own motion, investigate agreements or proposals for charges and conditions for service availability.

Section 367.121(1)(g), F.S., provides that in the exercise of its jurisdiction the Commission shall have power to do all things necessary or convenient to the full and complete exercise of its jurisdiction.

The Commission has approved temporary service availability charges in several previous cases.¹ The Florida Supreme Court has also affirmed the Commission's authority and discretion to determine, on a case by case basis, what evidence it will consider in fixing interim rates. See Citizens of Florida v. Public Service Commission, 425 So. 2d 534, 540 (Fla. 1982), and Citizens of Fla. v. Public Service Commission, 435 So. 2d 784, 786 (Fla. 1983) ("Interim awards attempt to make a utility whole during the pendency of a proceeding without the interjection of any opinion testimony.")

According to Rule 25-30.580, Florida Administrative Code (F.A.C.), the guidelines for designing a utility's service availability policy are as follows:

- (1) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75% of the total original cost, net accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their capacity; and
- (2) The minimum amount of contribution-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

In the utility's revised MFRs, Sandalhaven provided a detailed cost breakdown of the direct construction and engineering costs for the interconnection with EWD which totaled \$2,937,576 and \$138,885, respectively. According to the utility's service availability charge calculation, Sandalhaven's proposed system charges will be within the minimum and maximum CIAC guidelines pursuant to Rule 25-30.580, F.A.C. The information provided by the utility indicates a prima facie entitlement for Sandalhaven's requested temporary system capacity charges. As discussed in Issue 2, staff is recommending that the incremental temporary increase in service availability charges be held subject to refund. Thus, developers and others paying

¹ See Order No. 20639, issued January 20, 1989, in Docket No. 881178-WS, In re: Application of Continental Country Club, Inc.; Order No. 20822, issued February 28, 1989, in Docket No. 880654-SU, In re: Application of Radnor/Plantation Utilities for increase in sewer rates in Martin County.; Order No. 23195, issued July 16, 1990, in Docket No. 900402-WS, In re: Application for approval of new service availability policy in Seminole County by Alafaya Palm Valley Associates, Ltd.; Order No. PSC-96-0043-FOF-SU, issued January 11, 1996, in Docket No. 951311-SU, In Re: Application for approval of increase in wastewater plant capacity charges in Brevard County by Florida Citifies Water Company. (Barefoot Bay Division).; and Order No. PSC-00-1285-FOF-WS, issued July 14, 2000, in Docket No. 960545-WS, In re: Investigation of utility rates of Aloha Utilities, Inc. in Pasco County.

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service availability charges will be protected if the utility is later required by the Commission to refund any portion of the incremental temporary increase.

Based on the above, staff recommends approval of the utility's request for collection of the temporary wastewater system capacity charges of \$2,627.75 per ERC and \$13.83 per gallon for all others. The incremental increase should be held subject to refund in the event further analyses indicate a need to subsequently reduce these charges.

Issue 2: If the temporary charges are approved, what is the appropriate security to guarantee the temporary increase?

Recommendation: A corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of monies collected under temporary conditions. UI's total guarantee should be a cumulative amount of \$1,216,970, which includes an amount of \$124,497 subject to refund in this docket. Pursuant to Rule 25-30.360(6), F.A.C., the utility should provide a report by the 20th of each month indicating the monthly and total amount collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. (Springer, Fletcher)

Staff Analysis: The total annual temporary increase is \$122,601 for wastewater. In accordance with Rule 25-30.360, F.A.C., staff has calculated the potential refund of charges and interest collected under temporary conditions to be \$124,497. This amount is based on an estimated seven months of monies being collected from staff's recommended temporary charges.

Sandalhaven is a wholly-owned subsidiary of UI, which provides all investor capital to its subsidiaries. The Commission approved a cumulative corporate undertaking for UI of \$1,092,473 to secure interim rate increases for several of its subsidiaries in Florida.² Staff reviewed the financial statements of the parent company. As a result, the total requested cumulative corporate undertaking amount is \$1,216,970 which includes \$124,497 subject to refund for this docket.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff has reviewed UI's financial statements from 2003 to 2005 to determine the financial condition of the parent company. Staff's analysis shows that UI has experienced a significant decline in liquidity and interest coverage during 2005 compared to prior years. However, UI's average equity ratio over the three year period has been stable at 40%, which is sufficient in this instance based on UI's overall financial condition. Additionally, net income has been on average six times greater than the requested cumulative corporate undertaking amount. UI's financial performance has demonstrated adequate levels of both profitability and equity capitalization to offset the recent decline in liquidity and interest coverage. Based upon this analysis, staff recommends that a cumulative corporate undertaking of \$1,216,970 is acceptable contingent upon the receipt of the written guarantee of UI and written confirmation 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 provide a report by the 20th day of each month indicating the monthly and total amount collected subject to refund. Should a

² Order No. PSC-06-1006-FOF-WS, issued December 5, 2006, in Docket No. 060253-WS, In Re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida.

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refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

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Issue 3: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the utility's requested rate increase. (Fletcher, Brown)

Staff Analysis: The docket should remain open pending the Commission's final action on the utility's requested rate increase.