

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Seminole County by Alafaya Utilities, Inc.

DOCKET NO. 060256-SU
ORDER NO. PSC-07-0381-PCO-SU
ISSUED: April 30, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN

ORDER ACKNOWLEDGING THE IMPLEMENTATION OF PROPOSED AGENCY ACTION RATES SUBJECT TO REFUND

BY THE COMMISSION:

Background

Alafaya Utilities, Inc. (Alafaya or utility) is a Class A utility providing wastewater service to approximately 7,100 wastewater customers and 1,200 reuse customers in Seminole County. The utility is a wholly-owned subsidiary of Utilities, Inc. (UI). Water service is provided in the area by the City of Oviedo. Wastewater rates were last established for this utility in its 2002 rate proceeding.¹

On May 15, 2006, Alafaya filed the Application for Rate Increase at issue in the instant docket. By Proposed Agency Action Order No. PSC-07-0130-SC-SU (PAA Order), issued February 15, 2007, we approved rates that were designed to generate a wastewater revenue requirement of \$3,508,843.

On March 8, 2007, the Office of Public Counsel (OPC) timely filed a protest of the PAA Order. On March 16, 2007, Alafaya timely filed a cross-petition to protest the PAA Order pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.). By letter dated March 14, 2007, Alafaya stated that it intends to put the PAA Order rates in effect during the pendency of the administrative hearing.

Utilities, Inc. of Pennbrooke (Pennbrooke) also filed the Application for Rate Increase at issue in Docket No. 060261-WS on May 15, 2006. Pennbrooke is another subsidiary of UI. By Order No. PSC-07-0088-PAA-WS (Pennbrooke PAA Order), issued January 31, 2007, in Docket No. 060261-WS, we approved rates that were designed to generate a water revenue requirement of \$341,185 and a wastewater revenue requirement of \$436,207. On February 21, 2007, the OPC timely filed a protest of the Pennbrooke PAA Order. On March 2, 2007, Pennbrooke

¹ See Order No. PSC-04-0363-PAA-SU, issued April 5, 2004, in Docket No. 020408-SU, In re: Application for rate increase in Seminole County by Alafaya Utilities, Inc.

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timely filed a cross-petition to protest the Pennbrooke PAA Order. By letter dated March 14, 2007, Pennbrooke stated that it also intends to put the Pennbrooke PAA Order rates in effect during the pendency of the administrative hearing.

This Order address the implementation of the PAA rates on a temporary basis for Alafaya and the security to guarantee the increased revenues collected under the temporary PAA rates. We have jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

Acknowledgement of the Implementation of the Proposed Agency Action Rates

As discussed above, the PAA order was protested by the OPC and cross-protested by the utility. On March 14, 2007, Alafaya submitted its notice of intent to implement rates pursuant to Section 367.081(8), F.S., pending the resolution of the protest filed in this docket. The utility also submitted tariff sheets, a proposed customer notice, and corporate undertakings to secure any potential refund.

Section 367.081(8), F.S., specifically says:

At the expiration of 5 months following the official filing date, if the commission has not taken action or, if the commission's action is protested by a party other than the utility, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund, upon notice to the commission and upon filing the appropriate tariffs.

The filing of OPC's objection triggers the applicability of subsection 367.081(8), F.S. Although the utility has the right to implement its requested final rates, Alafaya has elected to implement the rates approved by this Commission in the PAA order. These PAA rates are lower than the rates requested by the utility in its filing.

Our staff reviewed the tariff sheets, customer notice, and security provided by the utility, and it appears that the utility has met the requirements of Section 367.081(8), F.S. The security for the rate increase is discussed below. Based on the above, we acknowledge the utility's implementation of the PAA rates on a temporary basis pending the outcome of this rate proceeding.

Appropriate Security

As discussed above, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund pursuant to Section 367.081(8), F.S. In addition to allowing the utility to implement its requested rates, the statute requires that "The utility shall keep accurate records of amounts received as provided by subsection (6)." Subsection (6) specifies that "The utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid."

Pursuant to the PAA Order, we approved increased PAA rates and charges for Alafaya, which included an annual revenue increase of \$626,000. In addition, by Order No. PSC-07-0088-PAA-WS, issued January 31, 2007, we approved increased PAA rates and charges for Utilities Inc. of Pennbrooke (Pennbrooke), which included an annual revenue increase of \$0 for water and \$128,249 for wastewater. Although we approved no increase for the water system, the water PAA rates included a \$20,845 allowance for conservation program expenses. We ordered these conservation program expenses to be secured through a corporate undertaking. By letter dated March 14, 2007, Pennbrooke also stated that it intends to put the PAA Order rates in effect during the pendency of the administrative hearing in Docket No. 060261-WS.

Alafaya and Pennbrooke are wholly-owned subsidiaries of UI, which provides all investor capital to its subsidiaries. UI's present cumulative corporate undertaking amount is \$1,067,292. UI has requested a corporate undertaking to secure the implementation of temporary PAA rates granted for Alafaya and Pennbrooke. In accordance with Rule 25-30.360, F.A.C., our staff calculated the potential refund of revenues and interest collected to be \$579,481 for Alafaya and \$138,015 for Pennbrooke. The total incremental amount of \$717,496 is based on an estimated ten months of revenue being collected. With the total incremental amount for Alafaya and Pennbrooke, the requested cumulative corporate undertaking amount is \$1,784,788 (\$1,067,292 plus \$717,496).

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Our staff reviewed UI's financial statements from 2003 to 2005 to determine the financial condition of the parent company. This review shows that UI 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 40%. 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, we find that a cumulative corporate undertaking of \$1,784,788 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 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

ORDERED by the Florida Public Service Commission that the notice of implementation of the Proposed Agency Action rates subject to refund pursuant to Section 367.081(8), F.S., is acknowledged. It is further

ORDERED that Utilities, Inc. (UI) shall file a corporate undertaking on behalf of its subsidiaries guaranteeing the refund with interest of revenues collected under the temporary Proposed Agency Action rates, and confirming and attesting that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states. It is further

ORDERED that Utilities, Inc.'s total guarantee shall be a cumulative amount of \$1,784,788, which includes an incremental amount of \$717,496 subject to refund in this docket and Docket No. 060261-WS (Pennbrooke Rate Case). It is further

ORDERED that pursuant to Rule 25-30.360(6), F.A.C., the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. It is further

ORDERED that should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that because a protest has been filed to the Proposed Agency Action Order No. PSC-07-0130-SC-SU, the docket shall remain open to complete the hearing process.

By ORDER of the Florida Public Service Commission this 30th day of April, 2007.



ANN COLE
Commission Clerk

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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 Office of Commission Clerk, 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.