

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates to provide
water and wastewater service in Duval County
by Regency Utilities, Inc.

DOCKET NO. 080113-WS
ORDER NO. PSC-08-0611-PAA-WS
ISSUED: September 22, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING RATES AND CHARGES
AND
FINAL ORDER GRANTING WATER AND WASTEWATER
CERTIFICATE NOS. 641-W AND 551-S

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the actions discussed herein, except for the granting of water and wastewater certificates, are 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. (F.A.C.)

Background

On February 26, 2008, Regency Utilities, Inc. (Regency or utility) filed an application for original water and wastewater certificates in Duval County. Regency operates the on-site water delivery, wastewater collection, and fire protection systems providing service to Regency Square Mall (Mall) in Jacksonville, Florida. The Mall, which was constructed in 1975, is built out with approximately 189 water and 176 wastewater connections. The utility is located in the St. Johns River Water Management District (SJRWMD), which does not have a water shortage order issued at this time; however, there is a year-round two-day a week irrigation rule.

Regency was previously granted water and wastewater certificates to serve the Mall in 1975.¹ The certificates were amended twice² to extend Regency's service territory to the area

¹ Order No. 6448, issued January 9, 1975, in Docket Nos. 74425-W and 74426-S, In Re: Application of Regency Utilities, Inc., for certificates to operate a water and sewer utility in Duval County, Fla.

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surrounding the Mall. On April 10, 2001, Regency and JEA closed on a transaction whereby Regency transferred its water and wastewater plants to JEA. All of Regency's service territory was transferred in the transaction except for the Mall, which JEA declined to serve directly. We approved the transfer in Order No. PSC-02-0060-FOF-WS.³ Since Regency would thereafter be reselling water and wastewater services pursuant to a reseller exemption in Section 367.022(8), Florida Statutes (F.S.), the Order also cancelled Regency's water and wastewater certificates.

On February 26, 2008, Regency filed this application for water and wastewater certificates and authorization to charge rates in excess of the purchase price. As its reason, Regency stated that it can no longer support its operations while billing customers at the same rates for water and wastewater services which it pays to purchase the services from JEA. On July 24, 2008, a customer meeting was held near the utility's service area to allow customers the opportunity to comment on the utility's application for water and wastewater certificates and proposed new rates and charges. However, no customers attended the meeting and staff has not received any phone calls from the tenants of the Mall.

Pursuant to Section 367.031, F.S., we must grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application. Regency's application was deemed complete on April 1, 2008, making July 7, 2008, the date its request for certificates must be ruled upon. However, the utility waived the 90-day requirement until our August 19, 2007, Agenda Conference so that its certificates could be ruled upon at the same time as its proposed rates and charges. The August 19, 2008 Agenda Conference was cancelled pursuant to Executive Order of the Governor of the state of Florida. Pursuant to the Executive Order, any required agency action could be deferred and any associated statutory timelines tolled. We deferred the item to the next available Agenda Conference, which was September 4, 2008.

This Order addresses Regency's application for water and wastewater certificates and its proposed rates and charges. We have jurisdiction pursuant to Sections 367.031, 367.045, and 367.091, F.S.

Water and Wastewater Certificates

As stated above, Regency filed an application for original water and wastewater certificates to provide service to the Regency Square Mall on February 26, 2008. As completed on April 1, 2008, the application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

² Order No. 8045, issued November 16, 1977, in Docket No. 770504-WS (EX), In Re: Application of Regency Utilities, Inc. for amendment of Water Certificate No. 197-W and Sewer Certificate No. 143-S in Duval County, Florida. Section 367.061, Florida Statutes and Order No. 9518, issued September 3, 1980, in Docket No. 800151-WS (EX), In Re: Application of Regency Utilities, Inc. for amendment of Certificate Nos. 143-S and 143-W (stet) to include territory in Duval County, Florida.

³ Order No. PSC-02-0060-FOF-WS, issued January 8, 2002, in Docket No. 010986-WS, In Re: Notice of sale of assets of Regency Utilities, Inc. in Duval County to Jacksonville Electric Authority, and request for cancellation of Certificate Nos. 197-W and 143-S.

The application contains evidence that notice of the application was given pursuant to Rule 25-30.030, F.A.C. No objections to the notice have been filed with us and the time for filing objections has expired. The application also contains a description of the territory to be served, a detailed system map, and an adequate territory map as prescribed by Rule 25-30.034(1)(h), (i) and (j), F.A.C. A description of the territory requested by the applicant is appended to this Order as Attachment A.

The utility's only remaining treatment facilities are the wells and facilities associated with fire protection services. Pursuant to Rule 25-30.034(1)(e), F.A.C., the application contains a 99-year Utility Ground Lease Agreement (Lease Agreement) entered into on May 21, 1992, between RS Properties, Inc, and Regency.

The applicant has demonstrated the financial and technical ability to provide water and wastewater to the area. As evidence of financial ability, the application contains a copy of Regency's Balance Sheet as of December 31, 2007, and its Profit and Loss statement from January through December 2007. It appears that Regency has sufficient assets and access to equity through related entities to continue to provide safe, reliable, and efficient water and wastewater services. In addition, the application indicates that Regency has employed the necessary contract operators to ensure that its facilities will be properly monitored and maintained. As additional evidence of its financial and technical ability, the application states that Regency has been providing the same service for the past seven years during which it was not regulated by us as it did for the prior 25 years when it was regulated. We have verified with the Florida Department of Environmental Protection that Regency is currently in compliance with all of that agency's standards and rules.

Based on the above information, we find that it is in the public interest to grant Regency. Certificate Nos. 641-W and 551-S to serve the territory described in Attachment A effective the date of our vote. The resultant order serves as Regency's water and wastewater certificates and shall be retained by the utility.

Rate Base

The utility's proposed rates are based on the cost of the utility's water distribution and wastewater collection lines for the Mall, as well as the fire protection service facilities. The proposed rates also include the cost of purchasing water and wastewater services from JEA. The analysis below describes the utility's proposed water and wastewater revenue requirements and rates. As discussed in the background, a customer meeting was held near the utility's service area on July 24, 2008; however, no customers attended.

We reviewed the utility plant in service (UPIS) costs proposed by the utility for its water and wastewater systems and have determined that the costs of the existing facilities are reasonable. The utility imputed the cost of its water and wastewater lines as contributions-in-aid-of-construction (CIAC) based on the requirement in Rule 25-30.570, F.A.C. The utility's proposed accumulated depreciation and amortization of CIAC balances were calculated using the guidelines for average service lives as set forth in Rule 25-30.140, F.A.C. The utility's proposed working capital allowances are based on one-eighth of operating and maintenance (O&M)

expenses for the respective systems. The utility's proposed rate bases are \$152,660 for water and \$56,692 for wastewater and are shown on Schedule No. 1. Rate base schedules are for informational purposes to establish initial rates and charges, and are not intended to formally establish rate base. This is consistent with our practice in original certificate applications.

Water System. The utility's proposed UPIS cost of \$242,409 for potable water and fire protection facilities designed to serve the Mall, which is built out, includes water distribution lines, services, and meters. The utility's proposed water rate base includes an accumulated depreciation balance of (\$106,954), a CIAC balance of (\$21,980) based on contributed plant, an accumulated amortization of CIAC balance of \$18,883, and a working capital allowance of \$20,302. Therefore, the utility's proposed rate base for its water system is \$152,660.

Wastewater System. The utility's proposed UPIS cost of \$61,942 for the wastewater system includes gravity collection line and services. The utility's proposed rate base for its wastewater system includes an accumulated depreciation balance of (\$26,371), a CIAC balance of (\$30,260) based on contributed plant, an accumulated amortization of CIAC balance of \$24,221, and a working capital allowance of \$27,159. Therefore, the utility's proposed rate base for its wastewater system is \$56,692.

Summary of Rate Base. We find that for purposes of setting initial rates and charges, the utility's proposed rate bases of \$152,660 for water and \$56,692 for wastewater are reasonable and are approved herein. The rate base balances, as shown on Schedule No 1, are for informational purposes to establish initial rates and are not intended to formally establish rate base.

Cost of Capital

As required by Rule 25-30.033(1)(w), F.A.C., a schedule of the utility's capital structure was included in the application. As shown on Schedule No. 2, the utility's capital structure consists of 100% common equity. The proposed capital structure was chosen by the utility so that the initial rates established by us will provide adequate financial resources for utility operations. Equity contributions or advances will come from related entities as needed by the utility. We find that 9.07% shall be used as the overall cost of capital for calculating Regency's return on investment. We set the utility's authorized return on equity at 9.07% with a range of plus or minus 100 basis points which is consistent with our current leverage formula.⁴

Return on Investment

The utility's proposed return on investment of \$13,846 and \$5,142 for water and wastewater, respectively, are based on a cost of capital of 9.07% as shown on Schedule No. 3. Based on the utility's proposed rate base and cost of capital, we find that a return on investment

⁴ Order No. PSC-07-0472-PAA-WS, issued June 1, 2007, in Docket No. 070006-WS, In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

of \$13,846 for water and \$5,142 for wastewater is reasonable and shall be included in the utility's revenue requirements for setting initial rates.

Revenue Requirement

Regency's proposed revenue requirements are \$200,689 and \$234,096 for water and wastewater, respectively. The proposed revenue requirements are based on the utility's rate base, cost of capital, operating and maintenance (O&M) expenses, amortization expense, depreciation, and taxes. Included in O&M expenses are salaries and benefits, purchased water and wastewater services, contractual services, purchased power, insurance, and rent. Taxes other than income include proposed regulatory assessment fees of 4.5% of gross revenues. The following analysis describes the utility's proposed revenue requirements.

Water System. The utility's proposed revenue requirement for its water system of \$200,689 includes \$161,390 for O&M, \$7,349 for depreciation, (\$666) for amortization of CIAC, \$18,770 for taxes other than income, and a net operating income of \$13,846. We find that the proposed revenue requirement for the utility's water system of \$200,689 is reasonable and shall be used to set initial water rates for Regency.

Wastewater System. The utility's proposed revenue requirement for its wastewater system of \$234,096 includes \$217,025 for O&M, \$1,473 for depreciation, (\$672) for amortization of CIAC, \$11,128 for taxes other than income, and a net operating income of \$5,142. We find that the proposed revenue requirement for the utility's wastewater system of \$234,096 is reasonable and shall be used to set initial wastewater rates.

Rates and Rate Structure

The utility proposed a base facility charge and gallonage charge rate structure as shown on Schedule No. 4. A monthly bill comparison at 5,000, 10,000 and 15,000 gallons of water use is shown on Schedule No. 5. The base facility charge will produce approximately 52% of the water revenue requirement and approximately 39% of the wastewater revenue requirement. It should be noted that the utility's requested rates are general service only, because its only customers are tenants of the Mall. We approve as reasonable the proposed base facility charge and gallonage charge rate structure as shown on Schedule No. 4.

Conclusion

The utility's proposed water and wastewater rates and charges shown on Schedule No. 4 are approved. The utility shall be required to charge the approved rates and charges until we authorize a change to the rates and charges in a subsequent proceeding. The utility shall file a proposed customer notice to reflect the approved rates. The water and wastewater rates shall be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. In addition, the rates shall not be implemented until our staff has approved the proposed customer notice and tariff sheets. The utility shall distribute the notice to its customers no later than with the first bill containing the rates and shall provide proof of the

date the notice was given no less than ten days after the date of the notice. A return on equity of 9.07% with a range of plus or minus 100 basis points is approved.

Miscellaneous Service Charges and Late Fees

The utility's request for miscellaneous service charges was accompanied by its reason for requesting the charges, as well as the cost justification required by Section 367.091, F.S. The utility's proposed miscellaneous service charges are shown on Schedule No. 6. Pursuant to Rule 25-30.460, F.A.C., all water and wastewater utilities may apply for miscellaneous service charges. These charges include initial connections, normal reconnections, violation reconnections, and premises visit charges.

The utility will only be charging miscellaneous service charges when a specific customer requests the service or is responsible for the service. The utility's justification for the miscellaneous service charges is to place the burden of these charges on the cost-causer rather than the general body of rate payers. The cost justification provided by the utility appears reasonable and is consistent with our recent decisions. Therefore, we find that the utility's proposed miscellaneous service charges, as shown on Schedule No. 6, are reasonable and are approved. It should be noted that if both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions.

In addition to the miscellaneous service charges, the utility proposed a \$5.00 late fee. The cost basis provided by the utility is based on the cost of a quarter of an hour of employee time to research and confirm that payment has not been received, as well as the cost of printing, paper, envelopes, and postage to mail the bill. These costs are consistent with our prior decisions. Therefore, we find that the utility's proposed late fee of \$5.00 is reasonable and is approved.

We find that Regency's proposed miscellaneous service charges and late fee shown on Schedule No. 6 are consistent with our rules and accordingly, those charges and fees are approved. The charges shall be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Regency Utilities, Inc's application for water and wastewater certificates is hereby approved effective September 4, 2008, as set forth in the body of this Order. It is further

ORDERED that Regency Utilities, Inc. shall be issued Certificate Nos. 641-W and 551-S to serve the territory described in Attachment A. It is further

ORDERED that this Order serves as Regency's water and wastewater certificates and the Order shall be retained by the utility. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all schedules and attachments to this Order are incorporated by reference herein. It is further

ORDERED that Regency shall file with the Commission a proposed customer notice to reflect the approved rates. It is further

ORDERED that the utility's proposed rates and charges are approved as set forth herein. It is further

ORDERED that the tariffs are approved upon our staff's verification that the tariffs are consistent with our decision herein. It is further

ORDERED that Regency shall distribute the notice to its customers no later than with the first bill containing the rates and shall provide proof of the date the notice was given no less than ten days after the date of the notice

ORDERED that the approved rates and charges shall be effective for service rendered on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475, F.A.C.

ORDERED that the approved water and wastewater rates shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by Regency's customers as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, except for the issuance of water and wastewater certificates, are 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 Commission Clerk, 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 if no person whose substantial interests are affected by the Proposed Agency Action files a protest within twenty-one days of the issuance of the Order, a Consummating Order will be issued. It is further

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ORDERED, in the event no protest is filed, this docket shall remain open for our staff's verification that the tariff sheets and customer notice have been filed by the utility and approved by our staff. Once these actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 22nd day of September, 2008.



ANN COLE
Commission Clerk

(SEAL)

LCB

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 approving rates and charges 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 Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 13, 2008. 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 Office of Commission Clerk, 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 Office of Commission Clerk 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.

Regency Utilities, Inc.
Water and Wastewater Service Territory
Duval County

Township 2 South, Range 27 East
Sections 13 and 24

A part of Sections 13 and 24, Township 2 South, Range 27 East, Duval County, Florida, more particularly described as follows: Commence at the Northeasterly corner of said Section 24; thence South 89°41'10" West, along the Northerly line of said Section 24, 1150.02 feet to the Westerly right of way line of Monument Road (as established for a width of 100 feet) and the POINT OF BEGINNING; thence South 00°18'50" East, along said Westerly right of way line, 431.02 feet to its intersection with the Northerly right of way line of the Arlington Expressway; thence South 83°17'50" West, along said Northerly right of way line, 690.41 feet to the point of a curve to the right, said curve being concave Northerly and having a radius of 5679.65 feet; thence continue along said Northerly right of way line along and around said curve an arc distance of 1574.52 feet; thence continue along said right of way line North 00°18'50" West, 33.45 feet to a curve concave Northeasterly and having a radius of 5646.65 feet; thence continue along said Northerly right of way line along and around said curve an arc distance of 556.44 feet to the point of a compound curve to the right, said curve being concave Northeasterly and having a radius of 4366.66 feet; thence continue along said Northerly right of way of line along and around said curve an arc distance of 879.22 feet; thence North 64°05'10" West, 98.48 feet; thence North 10°28'24" East, 136.95 feet to its intersection with a curve concave Southeasterly and having a radius of 1527.02 feet; thence Northeasterly along and around said curve an arc distance of 773.14 feet; thence North 45°24'31" East, 263.23 feet to its intersection with the Southerly right of way line of Regency Square Boulevard; thence North 89°45'21" East, along said Southerly right of way line, 1737.82 feet; thence South 01°31'15" East, 325.58 feet; Thence North 89°41'10" East, 1383.45 feet to its intersection with the aforementioned Westerly right of way line of Monument Road; thence South 00°10'50" East, along said Westerly right of way, 690 feet to the POINT OF BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Regency Utilities, Inc.
pursuant to
Certificate Number 641-W

to provide water service in Duval County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-08-0612-PAA-WS	9/22/08	080113-WS	Original Certificate

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Regency Utilities, Inc.
pursuant to
Certificate Number 551-S

to provide wastewater service in Duval County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-08-0612-PAA-WS	9/22/08	080113-WS	Original Certificate

REGENCY UTILITIES, INC.

Schedule No. 1

Schedule of Rate Base

Commission Approved Balances

Description	Water	Wastewater
Utility Plant in Service (UPIS)	\$ 242,409	\$ 61,942
Accumulated Depreciation	(106,954)	(26,371)
Contributions in Aid of Construction (CIAC)	(21,980)	(30,260)
Amortization of CIAC	18,883	24,221
Working Capital Allowance	<u>20,302</u>	<u>27,159</u>
Rate Base	\$ 152,660	\$ 56,692

Schedule No. 2

Schedule of Cost of Capital

Description	Utility Capital	Weight	Cost Rate	Weighted Cost
Common Equity	\$209,352	100%	9.07%	9.07%
Debt	\$ 0	0%	0.00%	0.00%
Total	\$209,352	10%		9.07%
Range of Reasonableness	High	Low		
Common Equity	10.07%	8.07%		

Schedule No. 3

REGENCY UTILITIES, INC.

Schedule of Operating Cost

Description	Water	Wastewater
Operating Revenues	<u>\$ 200,689</u>	<u>\$ 234,096</u>
Operating and Maintenance	161,390	217,025
Depreciation Expense	7,349	1,473
Amortization Expense	(666)	(672)
Taxes Other Than Income	<u>18,770</u>	<u>11,128</u>
Total Operating Expenses	<u>186,843</u>	<u>228,954</u>
Operating Income	<u>\$ 13,846</u>	<u>\$ 5,142</u>
Rate Base	\$ 152,660	\$ 56,692
Rate of Return	9.07%	9.07%

Schedule No. 4

**General Service Rates
Monthly**

	Water	Wastewater
Base Facility Charge		
5/8" x 3/4"	\$ 15.79	\$ 17.36
3/4"	\$ 23.69	\$ 26.04
1"	\$ 39.48	\$ 43.40
1 1/2"	\$ 78.95	\$ 86.80
2"	\$ 126.32	\$ 138.88
3"	\$ 252.64	\$ 277.76
4"	\$ 394.75	\$ 434.00
6"	\$ 789.50	\$ 868.00
Charge per 1,000 gallons	\$ 1.49	\$ 3.24

Schedule No. 5

Average Bill Comparison

Water Usage Per Month	Water	Wastewater
5,000 gallons	\$ 23.24	\$ 33.56
10,000 gallons	\$ 30.69	\$ 49.76
15,000 gallons	\$ 38.14	\$ 65.96

Schedule No. 6

Miscellaneous Service Charges

Description	Water Service		Wastewater Service	
	Normal Hours	After Hours	Normal Hours	After Hours
Initial Connection	\$ 30.00	\$ 40.00	\$ 30.00	\$ 40.00
Normal Reconnection	\$ 30.00	\$ 40.00	\$ 30.00	\$ 40.00
Violation Reconnection	\$ 30.00	\$ 40.00	\$ 30.00	\$ 40.00
Premises Visit Charge	\$ 30.00	\$ 40.00	\$ 30.00	\$ 40.00
Late Payment Charge	\$ 5.00	N/A	\$5.00	N/A