

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:** January 28, 2010

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Hudson, Bulecza-Banks, Daniel, Fletcher, Walden) *SH* *JMB* *BZ*  
Office of the General Counsel (Klancke) *CMK* *JSB*

**RE:** Docket No. 090244-WU – Application for staff-assisted rate case in Lake County by TLP Water, Inc.

**AGENDA:** 02/09/10 – Regular Agenda – Proposed Agency Action Except for Issues 13, 14, and 15 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Argenziano

**CRITICAL DATES:** 10/25/10 (15-Month Effective Date (SARC))

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\090244.RCM.DOC

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**Table of Contents**

<u>Issue</u>	<u>Description</u>	<u>Page</u>
	Case Background .....	3
1	Quality of Service (Walden) .....	4
2	Used and Useful (Walden) .....	7
3	Rate Base (Hudson).....	8
4	Rate of Return (Hudson) .....	9
5	Test Year Revenues (Hudson) .....	10
6	Operating Expenses (Hudson).....	11
7	Revenue Requirement (Hudson).....	13
8	Rate Structure (Bruce).....	14
9	Repression (Bruce).....	16
10	Rates (Bruce, Hudson) .....	17
11	Interim Refund (Hudson) .....	18
12	Returned Check Charge (Hudson) .....	19
13	Four-Year Rate Reduction (Hudson) .....	20
14	Temporary Rates (Hudson) .....	21
15	Proof of Adjustments (Hudson) .....	23
16	Close Docket (Klancke) .....	24
	Schedule 1-A .....	25
	Schedule 1-B .....	26
	Schedule 2 .....	27
	Schedule 3-A .....	28
	Schedule 3-B .....	29
	Schedule 3-C .....	30
	Schedule 4 .....	31

### **Case Background**

TLP Water, Inc. (TLP or Utility) is a Class C utility serving 53 water customers in Lake County. The Utility is located in the St. Johns River Water Management District (SJRWMD) area where water use restrictions apply. Wastewater treatment is provided by septic tanks. According to TLP's 2008 Annual Report, total gross revenue was \$22,520. The Utility's operating expenses were \$38,838.

Three Lakes Mobile Home Park is a privately owned property formerly known as Carl's Camp. In 1945, Carl's Camp installed a small 4-inch well to provide water service to the area. A 1948 agreement required Carl's Camp to supply water to the residents on Lakeside Lane and Canal Street, which are located outside of the park. The camp became known as the Three Lakes Mobile Home Park in the 1960s. The Commission received jurisdiction over Lake County in 1972.<sup>1</sup> In 1992, Three Lakes Mobile Home Park was incorporated as a non-profit cooperative. The mobile home park believed it was exempt from the Commission's jurisdiction, pursuant to Section 367.022, Florida Statutes (F.S.); however, the Utility continued to serve customers outside the cooperative, which rendered it subject to the Commission's jurisdiction. Recently, the Commission granted Water Certificate No. 644-W to TLP, and established a flat rate for service of \$39.<sup>2</sup>

By Order No. PSC-09-0605-PCO-WU, issued September 8, 2009 in this docket, the Commission approved a 80.57 percent interim rate increase, subject to refund with interest, for TLP. However, to date, the Utility has not implemented the interim rates due to problems with obtaining security.

This recommendation addresses TLP's request for a staff-assisted rate case. The Commission has the authority to consider this rate case pursuant to Section 367.0814, Florida Statutes (F.S.).

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<sup>1</sup> See Order No. 5472, issued June 30, 1972, in Docket No. 5818-WS, In re: Jurisdictional Resolutions from Boards of County Commissioners adopting the Water and Sewer System Regulatory Law, Chapter 71-278, Laws of Florida, (Chapter 367, Florida Statutes). Resolution Adopted by Lake County.

<sup>2</sup> See Order No. PSC-09-0542-PAA-WU, issued August 4, 2009, in Docket No. 080499-WU, In re: Application for certificate to operate water utility in Lake County by TLP Water, Inc.

### **Discussion of Issues**

**Issue 1:** Is the quality of service provided by TLP Water, Inc. satisfactory?

**Recommendation:** The overall quality of service is marginal. Water quality provided by TLP Water, Inc. (the Utility) is meeting Florida Department of Environmental Protection (DEP) standards and should be considered satisfactory. Operational conditions should be considered marginal due to the outstanding DEP violations. The Utility's attempt to address customer satisfaction is satisfactory, although improved communication to the customers outside the park would be beneficial. (Walden)

**Staff Analysis:** Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission shall make a determination of the overall quality of service provided by a utility by evaluating the quality of the utility's product, the operational conditions of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. The utility's compliance with the DEP regulations and customer comments or complaints received by the Commission are also reviewed. Staff conducted a field inspection of the Utility's facilities on July 9, 2009. A customer meeting was held on December 9, 2009 in the City of Tavares (City of Tavares).

There are some pending violations with the distribution system as pointed out to the Utility by DEP. Correction of these violations is hinged on funding that is anticipated from a loan/grant application with the United States Department of Agriculture (USDA). Preliminary steps have been taken with the USDA to determine the Utility's eligibility for a loan/grant and the final application documents are expected to be filed in February. A decision on the loan is expected late 2010.

#### **Quality of the Product**

Lake County water systems are under the purview of DEP's Central District. The District has worked closely with TLP over the last two years while the Utility upgraded its water plant and system. Water quality provided by the Utility meets standards set forth by the DEP and chemical analyses are current. In reviewing the data available, it appears that the quality of the product is satisfactory.

#### **Operational Conditions at the Plant**

Improvements made recently by the Utility include a two-inch water line replacement, a new hydropneumatic tank and pressure controls, a new well pump, a new protective structure over the well and pressure tank, and a fence around the plant site. The Utility has a contract operator who prepares and submits monthly operating reports, draws water samples, and monitors the operation of the water system.

The last Sanitary Survey, conducted by the DEP on March 14, 2008, listed a number of deficiencies. Two items remain incomplete. The Utility is required to pressure test the new section of two-inch water main that replaced a former two-inch main that was leaking. A second deficiency requires replacement of a water line that crosses a canal with a new water line that

meets current design standards. However, the funds needed to accomplish that improvement are not available. A hearing was scheduled with the DEP for December 16, 2009, in Lake County to address the outstanding deficiencies, but that hearing was postponed pending the issuance of a consent order. It is anticipated that DEP and the Utility will reach agreement and DEP will prepare a consent order containing time frames to correct outstanding deficiencies.

A representative from the Florida Rural Water Association is preparing some preliminary documents and drawings to assist in applying for the funds to make the improvements required by DEP. Installation of water meters to each customer is planned and will be accomplished after a loan/grant from the USDA is approved, as metering is required by the USDA and the City. In addition, the Utility is interested in obtaining wholesale water and wastewater service from the City and has met with City officials.

Staff believes that the Utility is making a significant effort to provide quality service to its customers; however due to the outstanding deficiencies noted, staff recommends that the Utility's operational conditions be considered marginal.

#### Customer Satisfaction

The Commission initially became aware of the existence of the Utility in 2008 through customer complaints concerning rates charged by TLP. The Utility had discussed disconnection of service to customers who were not making timely payments which triggered the customer complaints to the Commission. Staff investigated and resolved the complaints.

The Utility tracks complaints received by customers and there are no unresolved complaints pending. The Commission's CATS system also has no complaints on file, although several customers have provided written comments to the Commission in this docket. The service area is small and the Utility President living in the service area knows every customer.

Written comments to the Commission during this rate case included concerns regarding water quality, the distribution system improvements, the granting of a certificate to a utility that has violations with the DEP, discussions with the City for utility services, and the amount of projected costs for TLP to bring its system into compliance. One customer asked about expenses contained in the staff Audit Report and the Staff Report. Another customer wrote about concerns with unrecorded Contributions in Aid of Construction (CIAC) of \$2,582, that drawings showing water line locations are not accurate, that property owners have contacted Lake County and DEP representatives about concerns over the water line crossing the canal, and that numerous complaints have been sent to the Lake County Health Department and the DEP for many years.

Nine customers spoke at the customer meeting on December 9, 2009. Customers want safe water that meets all DEP standards, openness of communication, and rate stability. Customers had concerns regarding the operational costs listed in staff's preliminary report, the status and impact of a loan/grant application pending before the USDA, and the possibility of procuring water and wastewater service from the City. There was one request for copies of water test results.

Staff has reviewed the operational costs that were questioned, contacted the Utility to obtain the most current test results related to water quality, and provided copies to the customer who requested this data. There is still more money to be spent by TLP in finishing the upgrades to the distribution system. The time frame for those items will depend upon the loan/grant application pending before the USDA and whether it is approved. There have been discussions with the City about purchasing wholesale water and wastewater from the City, but until the USDA application is acted upon, wholesale service purchased by TLP Water is not affordable. If the customers outside Three Lakes Park would prefer to discuss water and wastewater service from the City individually or as a group, they are within their rights to do so.

The customer base includes a mobile home park cooperative and some single family homes outside the park. As displayed at the customer meeting, it appears that most of the complaints are from those customers outside the mobile home park. Staff believes that the Utility is working toward the resolution of concerns about bringing the distribution system into compliance as soon as funds are available. Staff has discussed one customer's questions with the Utility President, specifically the complaints made to Lake County and the DEP. He said that he had researched that and knows of no written complaints with either agency. He also stated that if the customers have any questions to ask the Utility, those questions will be answered.

#### Summary

Staff recommends that the Utility's overall quality of service is marginal. Water quality provided by the Utility is meeting DEP standards and should be considered satisfactory. Operational conditions should be considered marginal due to the outstanding DEP violations. The Utility's attempt to address customer satisfaction is satisfactory, although improved communication to the customers outside the park would be beneficial.

Docket No. 090244-WU

Date: January 28, 2010

**Issue 2:** What are the used and useful percentages of the Utility's plant and distribution system?

**Recommendation:** The water plant and distribution system for TLP Water, Inc. are 100 percent used and useful. (Walden)

**Staff Analysis:** The TLP water system has only one well. The distribution system for TLP is installed to serve the current customers which include 28 mobile homes in the Three Lakes Park Co-op, a clubhouse, and 21 homes outside the park. There is no room for expansion and the service area is built out. Pursuant to Rule 25-30.4325(4), F.A.C., water plants with a single well are deemed 100 percent used and useful. Staff recommends that the water plant and distribution system are 100 percent used and useful.

**Issue 3:** What is the appropriate average test year rate base for TLP?

**Recommendation:** The appropriate average test year rate base for TLP is \$67,899. (Hudson)

**Staff Analysis:** The appropriate components of the Utility's rate base include utility plant in service (UPIS), accumulated depreciation, and working capital.

Staff selected a test year ended June 30, 2009, for this rate case. Rate base for this Utility has never been established. Sufficient records of the original construction were not available and are considered lost. Absent these records, the auditor requested that an original cost study be performed by the staff engineer. The staff engineer did not complete an original cost study; because of the age of system, the staff engineer determined that all original rate base components are fully depreciated. Adjustments have been made to match plant additions contained in the audit through June 30, 2009. A summary of each component and the adjustments follows:

**Utility Plant in Service (UPIS):** The Utility recorded \$0 of UPIS for the test year ended June 30, 2009, for water. Staff has made an adjustment to increase UPIS by \$70,373 to reflect plant additions contained in the audit. Also, staff has decreased UPIS by \$35 to reflect an averaging adjustment. Staff's recommended UPIS balance is \$70,338.

**Non-used and Useful Plant:** As discussed in Issue 2, the Utility's water treatment plant and water distribution system should be considered 100 percent used and useful.

**Accumulated Depreciation:** TLP recorded a balance for accumulated depreciation of \$0 for the test year. Staff has calculated accumulated depreciation using the prescribed rates in Rule 25-30.140, F.A.C., and determined that accumulated depreciation should be \$6,473. Also, staff decreased this account by \$1,213 to reflect an averaging adjustment. These adjustments result in accumulated depreciation of \$5,260.

**Working Capital Allowance:** Working capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of the utility. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Applying this formula, staff recommends a working capital allowance of \$2,822 (based on O&M of \$22,573). Working capital has been increased by \$2,822 to reflect one-eighth of staff's recommended O&M expenses.

**Rate Base Summary:** Based on the forgoing, staff recommends that the appropriate test year average rate base is \$67,899. Rate base is shown on Schedule 1-A, and staff's adjustments are shown on Schedule 1-B.



**Issue 4:** What is the appropriate return on equity and overall rate of return for this utility?

**Recommendation:** The appropriate return on equity (ROE) is 11.30 percent with a range of 10.30–12.30 percent. The appropriate overall rate of return is 12.00 percent. (Hudson)

**Staff Analysis:** The Utility recorded long term debt of \$136,866 with a cost rate of 12 percent. TLP's long term debt is a related party loan. The loan to the Utility was primarily for necessary upgrades needed in order to be in compliance with DEP. Staff evaluated the cost rate of this related party loan. Staff believes the rate is appropriate due to the financial posture of the Utility and its inability to obtain other funding sources. The appropriate ROE is 11.30 percent using the most recent Commission-approved leverage formula.<sup>3</sup> The Utility's capital structure has been reconciled with staff's recommended rate base. Staff recommends a ROE of 11.30 percent with a range of 10.30 percent to 12.30 percent resulting in an overall rate of return of 12.00 percent. The ROE and overall rate of return are shown on Schedule 2.

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<sup>3</sup> See Order No. PSC-09-0430-PAA-WS, issued June 19, 2009, in Docket No. 090006-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), Florida Statutes.

Docket No. 090244-WU

Date: January 28, 2010

**Issue 5:** What are the appropriate amount of test year revenues?

**Recommendation:** The appropriate test year revenue for this Utility is \$24,804. (Hudson)

**Staff Analysis:** TLP recorded total revenues of \$14,776 for the 12-month period ended June 30, 2009. Pursuant to Audit Finding No. 4, the Utility has 53 customers that are billed a flat rate of \$39 per month. This results in revenues of \$24,804 ( $53 \times \$39 \times 12$ ). Therefore, staff has increased test year revenues by \$10,028 ( $\$24,804 - \$14,776$ ). Test year revenues are shown on Schedule 3-A. The related adjustment is shown on Schedule 3-B.

**Issue 6:** What are the appropriate operating expenses?

**Recommendation:** The appropriate amount of operating expenses for TLP is \$26,561. (Hudson)

**Staff Analysis:** The Utility recorded operating expenses of \$32,094 during the test year ending June 30, 2009. The test year O&M expenses have been reviewed, and invoices, canceled checks and other supporting documentation have been examined. Staff made several adjustments to TLP's operating expenses as summarized below:

**Material and Supplies – (620)** – The Utility recorded \$3,412 in this account during the test year. Staff has decreased material and supplies by \$492 to remove out-of-period expenses. Staff recommends material and supplies expense for the test year of \$2,920.

**Contractual Services – Professional – (631)** – TLP recorded \$14,263 in this account during the test year. The account consisted of legal fees paid by the Utility in obtaining its certificate from the Commission. It also includes legal fees paid as a result of a pending litigation issue with the DEP. Staff has amortized the legal fees over five years that TLP incurred to obtain its certificate. As result, staff reduced this account by \$1,593 [ $\$1,991 - (\$1,991/5)$ ]. Staff has removed the legal fees of \$6,870 related to the pending DEP issue. Based on the above adjustments, staff recommends contractual services – professional expense of \$5,800.

**Contractual Services – Other – (636)** – The Utility recorded \$6,445 in this account during the test year. Staff has decreased this account by \$553 to remove out of period expenses. Staff recommends contractual services other expense for the test year of \$5,892.

**Regulatory Commission Expense – (665)** – TLP recorded \$0 in this account during the test year. Pursuant to Section 367.0816, F.S., rate case expense is amortized over a four-year period. The Utility paid a \$500 rate case filing fee. TLP is required by Rule 25-22.0407(9)(b), F.A.C., to mail notices of the customer meeting to its customers. Staff has estimated noticing expense for water of \$47 postage expense, \$49 printing expense, and \$5 for envelopes. The above results in a total rate case expense for the filing fee and noticing of \$601, resulting in a four-year amortization of \$150. Staff recommends regulatory commission expense for the test year of \$150.

**Miscellaneous Expense – (675)** – The Utility recorded \$1,502 in this account for the test year. Staff has increased this account by \$150 ( $\$750/5$ ) to amortize the application fee for the certification over five years. This account has been reduced by \$29 to remove out-of-period expenses. Staff has increased this account by \$180 to included the annual expense for post office box. Staff has decreased this account by \$394 to remove an unsupported expense. Also, staff has decreased this account by \$70 to remove noticing expense included in rate case expense. Staff's net adjustment to this account is a decrease of \$163. Staff recommends miscellaneous expense for the test year of \$1,339 ( $\$1,502 - \$163$ ).

**Operation and Maintenance Expense (O&M Summary)** – Based on the above adjustments, O&M should be decreased by \$9,521. Staff's recommended O&M expenses of \$22,573 are shown on Schedule 3-C.

**Depreciation Expense (Net of Amortization of CIAC)** – The Utility recorded depreciation expense of \$0 during the test year. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, F.A.C., and determined depreciation expense to be \$2,426. TLP has no amortization of CIAC. Therefore, staff recommends net depreciation expense of \$2,426.

**Taxes Other Than Income (TOTI)** – The Utility recorded taxes other than income of \$0. Based on staff's calculated test year revenue, TLP's regulatory assessment fees (RAFs) should be \$1,116 and staff has increased this account accordingly.

**Income Tax** – The Utility is an 1120C Corporation but did not record income tax for the test year. Based on its current income tax return, TLP has a large amount of net loss carry forwards. These net loss carry forwards are sufficient enough to offset any income tax liability for the next couple of years. Therefore, staff has not made any adjustments to this account.

**Taxes Other Than Income** – As discussed in Issue 7, revenues have been increased by \$9,904 to reflect the change in revenue required to cover expenses and allow the recommended return on investment. As a result, the operating expense should be increased by \$446 to reflect regulatory assessment fees of 4.5 percent on the change in revenues.

**Operating Expenses Summary** – The application of staff's recommended adjustments to the audited test year operating expenses results in staff's calculated operating expenses of \$26,561. Operating expenses are shown on Schedule 3-A. The related adjustments are shown on Schedule 3-B.

**Issue 7:** What is the appropriate revenue requirement?

**Recommendation:** The appropriate revenue requirement is \$34,708 for water. (Hudson)

**Staff Analysis:** The Utility should be allowed an annual increase of \$9,904 (39.93 percent). This will allow TLP the opportunity to recover its expenses and earn a 12.00 percent return on its investment. The calculation is as follows:

	<u>Water</u>
Adjusted Rate Base	\$67,899
Rate of Return	x .1200
Return on Rate Base	<u>\$ 8,148</u>
Adjusted O & M expense	22,573
Depreciation expense (Net)	2,426
Amortization	0
Taxes Other Than Income	1,562
Income Taxes	<u>0</u>
Revenue Requirement	\$34,708
Less Test Year Revenues	<u>24,804</u>
Annual Increase	<u>\$9,904</u>
Percent Increase/(Decrease)	<u>39.93%</u>

The recommended revenue requirement is shown on Schedule 3-A.

**Issue 8:** Should the Utility's current rate structure be changed, and if so, what is the appropriate rate structure for the Utility's water system?

**Recommendation:** No. Due to the lack of metered data coupled with low average consumption due to a highly seasonal customer base, staff recommends a continuation of a flat rate structure. However, staff recommends that a dual flat rate is appropriate to include a flat rate for both residences that are occupied year round and a reduced flat rate for residences that are unoccupied for at least 60 consecutive days during the off-season. (Bruce)

**Staff Analysis:** TLP provides water service to 53 unmetered customers which includes one general service customer. Wastewater treatment is provided by septic tanks. The service area is over 60 years old and the Utility serves a mobile home park. Also, TLP serves residents on Lakeside Lane and Canal Street, which are located outside the mobile home park. A 1948 agreement required the Utility to supply water to the residents on Lakeside Lane and Canal Street.

As indicated in the Utility's current tariff, the rate structure consists of a flat rate charge of \$39.00. In 2008, this rate was negotiated between TLP and its customers on Lakeside Lane and Canal Street. The current rate structure became effective when the Utility was granted its water and wastewater certificates.<sup>4</sup>

TLP is located in the SJRWMD. However, the Utility falls below the permitting threshold and is therefore considered non-jurisdictional by the SJRWMD.

Rule 25-30.255(1), F.A.C., requires that each utility measure water sold on the basis of metered volume sales unless the Commission approves a flat rate service arrangement. Staff sought to convert the Utility's flat rate structure to a conservation oriented rate structure. However, there is a lack of metered data. Staff has been in contact with the Utility owner, Mr. Carey and he has indicated to staff that fourteen meters have been placed on Lakeside Lane. However, Mr. Carey is awaiting a loan from the Federal Government to complete individual metering in the service area. He also indicated that the time anticipated to complete metering is not yet known. This is an indication that a flat rate structure may be appropriate for this case.

Although staff is lacking consumption data, staff calculated the customer's average consumption of 2.57 kgal per month based on total number of gallons taken from the 2008 Monthly Operating Reports less 10 percent unaccounted-for-water, divided by the total number of bills. This number is relatively low for an unmetered customer base which indicates that there is virtually no discretionary usage. Therefore, staff recommends that the flat rate structure be continued. In the past, the Commission has implemented a flat rate structure when it is not possible to obtain accurate consumption data.<sup>5</sup>

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<sup>4</sup> See Order No. PSC-09-0542-PAA-WU, issued August 4, 2009, in Docket No. 080499-WU, In re: Application for certificate to operate water utility in Lake County by TLP Water, Inc.

<sup>5</sup> See Order No. PSC-03-0740-PAA-WS, issued June 23, 2003 in Docket No. 021067-WS, In re: Application for staff-assisted rate case in Polk County by River Ranch Water Management, LLC.

Furthermore, as mentioned earlier, the Utility's current rate structure consists of a flat rate structure. Also, the customer base is very seasonal wherein over half of the residences are unoccupied six months out of the year. Therefore, staff believes that an unoccupied flat rate charge is appropriate for the seasonal customers while they are out of residence during the year. This will allow the unoccupied residence to pay only fixed costs that are associated with the Utility rather than a flat rate that includes variable costs. This rate was calculated based on staff's recommended flat rate for the residence that are occupied year round times staff's percentage allocation of fixed costs.

Furthermore, staff recommends that the residences that are unoccupied for at least 60 consecutive days receive the unoccupied rate. This will allow these customers to notify the Utility owner when they are out of residence. Also, this will allow the Utility owner time to adjust the Utility's billing system. Recently, the Commission implemented an unoccupied rate for residences that are unoccupied for at least 60 days.<sup>6</sup>

When the meters have been placed and there is at least 12 months of consumption data, staff will be able to implement BFC/gallage charge rate structure in a subsequent rate proceeding. This will be consistent with Commission policy and with the overall statewide goal of eliminating conservation-d discouraging water rate structures.

Based on the foregoing, staff recommends that a dual flat rate structure which includes rates for the occupied and unoccupied residence is appropriate for the water system's residential and non-residential class.

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<sup>6</sup> See Order No. PSC-09-0587-PAA-WU, issued August 31, 2009 in Docket No. 080715-WU, In re: Application for staff-assisted rate case in Lake County by CWS Communities LP.

Docket No. 090244-WU

Date: January 28, 2010

**Issue 9:** Is an adjustment to reflect repression of consumption appropriate at this time?

**Recommendation:** No, a repression adjustment is not appropriate at this time. (Bruce)

**Staff Analysis:** As previously discussed in Issue 8, staff is recommending that a flat rate structure be continued by the Utility at this time. Due to the fact that a flat rate structure will not let customers reduce their bills by reducing consumption, staff does not believe that a reduction in consumption will occur. Therefore, a repression adjustment is not appropriate at this time.



**Issue 10:** What are the appropriate rates for this Utility?

**Recommendation:** The appropriate monthly water rates are shown on Schedule No. 4. The recommended rates should be designed to produce revenues of \$34,708, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bruce, Hudson)

**Staff Analysis:** As discussed in earlier issues, the appropriate revenue requirement is \$34,708 for the water system. Due to the lack of metered data coupled with low average consumption due to a highly seasonal customer base, staff recommends a continuation of a flat rate structure. However, staff recommends that a dual flat rate is appropriate to include a flat rate for both occupied residence year round and residence that are out of season during the year. Therefore, when the meters are in place and there is consumption data, staff will be able to implement BFC/gallonage charge rate structure in a subsequent rate proceeding. Staff has calculated the flat rates by dividing the water revenue requirement of \$34,708 by 636 factored ERCs.

The approved rates should be effective for service rendered on or after stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge shall be prorated based on the number of days in the billing cycle on and after the effective date of the new rates. In no event shall the rates be effective for service rendered prior to the stamped approval date.

Based on the foregoing, the appropriate rates for monthly service for the water are shown on Schedule 4.

Docket No. 090244-WU

Date: January 28, 2010

**Issue 11:** In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

**Recommendation:** The Utility did not implement the Commission approved interim rates. Therefore, no refund is necessary. (Hudson)

**Staff Analysis:** In Order No. PSC-09-0605-PCO-WS, issued on September 8, 2009, interim water rates were approved subject to refund, pursuant to Section 367.0814(4), F.S. The approved interim revenue from rates is shown below:

	<u>Revenues</u>	<u>Increase</u>	<u>Percentage</u>
Water	\$40,668	\$18,148	80.57%

To date, TLP has not implemented the Commission approved interim rates. Therefore, no refund is necessary.

**Issue 12:** Should the Utility be allowed to implement a returned check charge, and, if so, what is the appropriate amount?

**Recommendation:** Yes. TLP should be allowed to implement a returned check charge. The amount of the returned check should be the actual costs incurred by the Utility. (Hudson)

**Staff Analysis:** TLP requested that it be allowed to implement a returned check charge. The Utility indicated that its actual cost for a returned checks is \$35. The actual cost includes the fee the bank charges TLP and for the bookkeeper to adjust all necessary paperwork and mail the notification to the customer. Staff believes this amount is reasonable, and ensures that the cost associated with returned checks is borne by the cost-causer, not the general body of ratepayers. In the past, the Commission has approved the actual cost of returned checks.<sup>7</sup> Staff recommends that TLP be permitted to collect its actual costs for returned checks. The Utility should revise its tariff to reflect that the charge for returned checks will be its actual costs.

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<sup>7</sup> See Order No. PSC-09-0263-TRF-WU, issued April 27, 2009, in Docket No. 080562-WU, In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

**Issue 13:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The water rates should be reduced as shown on Schedule 4, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. TLP should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Hudson)

**Staff Analysis:** Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return on working capital, and the gross-up for RAFs, which is \$157 for water. Using TLP's current revenues, expenses, capital structure, and customer base, the reduction in revenues will result in the rate decreases as shown on Schedule 4.

The Utility should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. TLP also should be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction.

If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

**Issue 14:** Should the recommended rates be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than TLP?

**Recommendation:** Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. Prior to implementation of any temporary rates, TLP should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., TLP should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Hudson)

**Staff Analysis:** This recommendation proposes an increase in water rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than TLP, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the Utility should be subject to the refund provisions discussed below.

TLP should be authorized to collect the temporary rates upon the staff's approval of the appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$6,612. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

If TLP chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it should contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect; and
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the Utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments;
- 8) The Commission Clerk must be a signatory to the escrow agreement; and
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by TLP, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

TLP should maintain a record of the amount of the bond and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Docket No. 090244-WU

Date: January 28, 2010

**Issue 15:** Should the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission-approved adjustments?

**Recommendation:** Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, TLP should provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made. (Hudson)

**Staff Analysis:** To ensure that the Utility adjusts its books in accordance with the Commission's decision, staff recommends that TLP provide proof within 90 days of the final order issued in this docket that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Docket No. 090244-WU

Date: January 28, 2010

**Issue 16:** Should this docket be closed?

**Recommendation:** No. The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, staff has received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once staff has verified all of the above actions are complete, this docket should be closed administratively. (Klancke)

**Staff Analysis:** The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, staff has received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once staff has verified all of the above actions are complete, this docket should be closed administratively.



<b>TLP WATER, INC.</b> <b>TEST YEAR ENDING 06/30/2009</b> <b>SCHEDULE OF WATER RATE BASE</b>		<b>SCHEDULE 1-A</b> <b>DOCKET NO. 090244-WU</b>		
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF	
1. UTILITY PLANT IN SERVICE	\$0	\$70,338	\$70,338	
2. LAND & LAND RIGHTS	0	0	0	
3. NON-USED AND USEFUL COMPONENTS	0	0	0	
4. CIAC	0	0	0	
5. ACCUMULATED DEPRECIATION	0	(5,260)	(5,260)	
6. AMORTIZATION OF CIAC	0	0	0	
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>2,822</u>	<u>2,822</u>	
8. WATER RATE BASE	<u>\$0</u>	<u>\$67,899</u>	<u>\$67,899</u>	

**TLP WATER, INC.**  
**TEST YEAR ENDING 06/30/2009**  
**ADJUSTMENTS TO RATE BASE**

**SCHEDULE 1-B**  
**DOCKET NO. 090244-WU**

	<u><b>WATER</b></u>
<u><b>UTILITY PLANT IN SERVICE</b></u>	
1. To reflect the appropriate plant	\$70,373
2. To reflect an averaging adjustment	(35)
Total	<u>\$70,338</u>
<u><b>ACCUMULATED DEPRECIATION</b></u>	
1. To reflect test year depreciation calculated per 25-30.140 FAC.	(\$6,473)
2. To reflect an averaging adjustment	1,213
Total	<u>(\$5,260)</u>
<u><b>WORKING CAPITAL ALLOWANCE</b></u>	
To reflect 1/8 of test year O & M expenses.	<u>\$2,822</u>

TLP WATER, INC.  
 TEST YEAR ENDING 06/30/2009  
 SCHEDULE OF CAPITAL STRUCTURE

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. TOTAL COMMON EQUITY	\$0	\$0	\$0	\$0	\$0	0.00%	11.30%	0.00%
2. TOTAL LONG TERM DEBT	<u>\$136,866</u>	<u>\$0</u>	<u>\$136,866</u>	<u>(\$68,967)</u>	<u>\$67,899</u>	<u>100.00%</u>	12.00%	12.00%
3. TOTAL	<u>\$136,866</u>	<u>\$0</u>	<u>\$136,866</u>	<u>(\$68,967)</u>	<u>\$67,899</u>	<u>100.00%</u>		<u>12.00%</u>
<b>RANGE OF REASONABLENESS</b>						<b><u>LOW</u></b>	<b><u>HIGH</u></b>	
RETURN ON EQUITY						<u>10.30%</u>	<u>12.30%</u>	
OVERALL RATE OF RETURN						<u>12.00%</u>	<u>12.00%</u>	

TLP WATER, INC. TEST YEAR ENDING 06/30/2009 SCHEDULE OF WATER OPERATING INCOME			SCHEDULE 3-A DOCKET NO. 090244-WU		
	TEST YEAR PER UTILITY	STAFF ADJ. PER UTILITY	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$14,776</u>	<u>\$10,028</u>	<u>\$24,804</u>	<u>\$9,904</u> 39.93%	<u>\$34,708</u>
<b>OPERATING EXPENSES:</b>					
2. OPERATION & MAINTENANCE	\$32,094	(\$9,521)	\$22,573	\$0	\$22,573
3. DEPRECIATION (NET)	0	2,426	2,426	0	2,426
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	0	1,116	1,116	446	1,562
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$32,094</u>	<u>(\$5,979)</u>	<u>\$26,115</u>	<u>\$446</u>	<u>\$26,561</u>
8. OPERATING INCOME/(LOSS)	<u>(\$17,318)</u>		<u>(\$1,311)</u>		<u>\$8,148</u>
9. WATER RATE BASE	<u>\$0</u>		<u>\$67,899</u>		<u>\$67,899</u>
10. RATE OF RETURN	<u>#DIV/0!</u>		<u>-1.93%</u>		<u>12.00%</u>

**TLP WATER, INC.**  
**TEST YEAR ENDING 06/30/2009**  
**ADJUSTMENTS TO OPERATING INCOME**

**SCHEDULE 3-B**  
**DOCKET NO. 070177-WU**

	<u><b>WATER</b></u>
<b>OPERATING REVENUES</b>	
To reflect the appropriate test year revenues	<u>\$10,028</u>
<b>OPERATION AND MAINTENANCE EXPENSES</b>	
1. Materials and Supplies (620)	
a.) To remove out of period expense	<u>(\$492)</u>
2. Contractual Services - Professional (631)	
a.) To amortize legal expenses related to certification	(\$1,593)
b.) To remove legal expense related to a pending matter	<u>(6,870)</u>
Total	<u>(\$8,463)</u>
3. Contractual Services - Other	
a.) To remove out of period expenses	<u>(\$553)</u>
4. Regulatory Commission Expense (665)	
To reflect the 4 year amortization of rate case expense (\$601/4)	<u>\$150</u>
5. Miscellaneous Expense (675)	
a.) To amortize certification docket application fee	\$150
b.) To remove out of period expense	(29)
c.) To reflect the cost of post office box	180
d.) To remove an unsupported expense	(394)
e.) To remove noticing expense included in rate case expense	<u>(70)</u>
Total	<u>(\$163)</u>
<b>TOTAL OPERATION &amp; MAINTENANCE ADJUSTMENTS</b>	<u>(\$9,521)</u>
<b>DEPRECIATION EXPENSE</b>	
To reflect test year depreciation calculated per 25-30.140, F.A.C.	<u>\$2,426</u>
<b>TAXES OTHER THAN INCOME</b>	
1. To include regulatory assessment fees on test year revenue.	<u>\$1,116</u>

TLP WATER, INC. TEST YEAR ENDING 06/30/2009 ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE	SCHEDULE 3-C DOCKET NO. 090244-WU		
	TOTAL PER UTILITY	STAFF PER ADJUST.	TOTAL PER PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$0	\$0	\$0
(603) SALARIES AND WAGES - OFFICERS	0	0	0
(604) EMPLOYEE PENSION & BENEFITS	0	0	0
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	626	0	626
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	0	0	0
(620) MATERIALS AND SUPPLIES	3,412	(492)	2,920
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	14,263	(8,463)	5,800
(635) CONTRACTUAL SERVICES - TESTING	1,216	0	1,216
(636) CONTRACTUAL SERVICES - OTHER	6,445	(553)	5,892
(640) RENTS	3,720	0	3,720
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	910	0	910
(665) REGULATORY COMMISSION EXPENSE	0	150	150
(670) BAD DEBT EXPENSE	0	0	0
(675) MISCELLANEOUS EXPENSES	<u>1,502</u>	<u>(163)</u>	<u>1,339</u>
	<u>\$32,094</u>	<u>(\$9,521)</u>	<u>\$22,573</u>

Docket No. 090244-WU  
 Date: January 28, 2010

TLP WATER, INC. TEST YEAR ENDING 06/30/2009 MONTHLY WATER RATES		SCHEDULE 4 DOCKET NO. 090244-WU		
	UTILITY'S EXISTING RATES	COMMISSION APPROVED INTERIM RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<b><u>Residential and General Service</u></b>				
<b><u>All Meter Sizes</u></b>				
Flat Rate	\$39.00	\$70.42		
Flat Rate			\$59.80	\$0.27
Vacation Rate			\$42.99	\$0.20