

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Sun Communities Finance, LLC d/b/a Water Oak Utility for a revenue-neutral rate restructuring to implement conservation rates in Lake County.

DOCKET NO. 080295-WS
ORDER NO. PSC-10-0219-PAA-WS
ISSUED: April 6, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION ORDER AUTHORIZING RECOVERY OF REGULATORY COMMISSION EXPENSES, AND ESTABLISHING CONSERVATION RATE STRUCTURE AND RATES AND REQUIRING REGULATORY COMMISSION EXPENSE AMORTIZATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is 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

Sun Communities Finance, LLC d/b/a Water Oak Utility (Water Oak or Utility) is a Class B water and wastewater utility located in Lake County. As of the end of the December 31, 2007, test year, the utility provided water and wastewater service to approximately 1,027 water customers and 1,000 wastewater customers. The utility was granted Water Certificate No. 454-W and Wastewater Certificate No. 388-S, pursuant to the provisions of Section 367.041, Florida Statutes (F.S.), in October 1986.¹ The Utility's rate base was last established in 1999 as part of a limited proceeding and overearnings investigation. According to Water Oak's 2007 Annual Report, the utility is built out and no further expansion or development is projected.

On May 30, 2008, Water Oak applied for the revenue-neutral rate restructuring being considered in the instant limited proceeding. In its application, Water Oak states that it was

¹ See Order No. 16150, issued May 23, 1986, in Docket No. 850517-WS, In re: Application of Water Oak Utilities Co., Inc., for certificates to provide water and sewer service in Lake County, pursuant to the provisions of Section 367.041, Florida Statutes.

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FPSC-COMMISSION CLERK

informed by the St. Johns River Water Management District (SJRWMD) that the Utility would be required to implement a conservation-oriented rate structure as a condition of Water Oak's permit renewal in 2010. The Utility paid its filing fee in the amount of \$1,000 on May 30, 2008, in accordance with Section 367.145, Florida Statutes (F. S.), and Section 25-30.020, Florida Administrative Code (F.A.C.). On June 25, 2009, a customer meeting was held in the Utility's service area to give customers an opportunity to address the rate restructuring and any problems that they were experiencing. In addition to a representative from the Utility, a representative from the SJRWMD was present to address questions regarding the rate restructuring and other water supply issues.

This Order addresses Water Oak's revenue-neutral rate restructuring request. We have jurisdiction pursuant to Sections 367.011 and 367.0822, F.S.

DECISION

Regulatory Commission Expense Recovery

Pursuant to Sections 367.121(1)(e), F.S., we shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. It is the Utility's burden to justify its requested costs. Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). We have examined the actual expenses requested by the Utility and the supporting documentation. Based on our review, we believe that the Utility's requested rate case expense shall not be allowed and is modified for the reasons set forth below.

We note that this Commission has granted rate case expense in two applications for a revenue-neutral rate restructuring. Order No. PSC-95-0967-FOF-SU, issued August 8, 1995, in Docket No. 941270-SU, In Re: Application for Revenue Neutral Wastewater Rate Restructuring in Lee County by Forest Utilities, Inc., discusses this Commission's approved recovery of expenses associated with the filing of a request for a revenue-neutral rate restructuring. In that case, we ordered Forest Utilities to file an application for a revenue-neutral rate restructuring after we adjudicated a customer complaint requesting the Commission to require Forest Utilities to reclassify certain condominium associations from the Residential Service tariff to the General Service tariff. We ordered Forest Utility to file an application based upon a base facility and usage charge rate structure within 12 months of the issuance of the customer complaint order. This Commission reasoned that because we required the utility to file the limited proceeding as a revenue-neutral rate restructuring, allowing the recovery of the expenses associated with revenue-neutral rate restructuring was appropriate.

Similarly, rate case expense was approved in Order No. PSC-95-1228-FOF-WU, issued October 5, 1995, in Docket No. 950232-WU, In re: Application for limited proceeding to restructure water rates in Lake County by Lake Utility Services, Inc. (LUSI). In the LUSI case, we ordered the utility to file a rate restructuring application for its physically interconnected subdivisions. Again, we found that requiring the utility to file such a request without giving

consideration to and allowing the recovery of the expenses associated with the limited proceeding would result in unrecoverable loss to the utility.²

We believe that the present case is similar to both the Forest Utilities and LUSI cases. Forest Utilities and LUSI are Class B utilities, similar to Water Oak which is also a Class B utility. Like Forest Utilities and LUSI, who filed their revenue-neutral rate restructuring cases to comply with our directives, Water Oak filed its revenue-neutral rate restructuring application to comply with a directive from the SJWMD. The Utility stated that it was informally informed by the SJWMD that its existing Consumptive Use Permit (CUP) would not be renewed without implementing a conservation-oriented rate structure. The Utility include in its filing, a letter from the SJRWMD, which states that an inclining-block rate structure: (1) is, in most cases, considered a conservation promoting rate structure; and (2) would help demonstrate compliance with CUP permitting criteria in future permit renewals.

In a revenue-neutral rate restructuring, the methodology used to calculate rates begins with test period revenues. The restructured rates should then be designed such that the resulting revenues are equal to test period revenues. However, like Forest Utilities and LUSI, we depart from this long-held Commission practice and application in the present case. We find that Water Oak has demonstrated a justifiable reason for the Commission to deviate from its current practice and application regarding revenue-neutral proceedings. Thus, the Utility's restructured rates shall be designed such that the resulting revenues are equal to the sum of: (1) test period revenues plus (2) our modification of the Utility's requested rate case expense amortized over a four-year period, pursuant to Section 367.0816, F.S.

Moreover, a revenue-neutral rate restructuring for a Class B utility is tantamount to a limited proceeding rate case with no revenue increase. Because Water Oak is a Class B utility, it does not qualify for a staff assisted rate case (SARC), pursuant to Section 367.0814, F.S., which would have provided the Utility with the benefit of our staff's assistance in the preparation of this case. Therefore, it is reasonable to expect the Utility to incur cost associated with its filing. Based on the foregoing, pursuant to Sections 367.0822 and 367.081(7), F.S., and consistent with our findings in the Forest Utilities and LUSI cases, we find that allowing the recovery of the rate case expenses associated with this revenue-neutral rate restructuring is necessary and appropriate.

However, we also find that the Utility's requested rate case expense to be unreasonable and thus, modified to reflect a more appropriate rate case expense for a case of this magnitude. The complexity of this case (a revenue-neutral rate restructuring proceeding) is much less than the complexity of an average water rate cases. In an average water rate case a utility has to address much more complicated issues. A revenue-neutral rate restructuring proceeding is limiting in scope based on its very nature. Thus, the allotment of time and resources are

² See Order No. PSC-95-1228-FOF-WU, issued October 5, 1995, in Docket No. 950232-WU, In re: Application for limited proceeding to restructure water rates in Lake County by Lake Utility Services, Inc. Rate case expense was subsequently approved for the utility as a result of a settlement; See Order No. PSC-96-0504-AS-SU, issued April 12, 1996.

substantially less. Therefore, we find it appropriate to reduce the Utility's total requested rate case expense to \$23,390.85 based on the final estimate of rate case expense.

Rate Structures

The current rate structure for the Utility's water system is the BFC/uniform kgal charge rate structure, with a monthly BFC of \$6.88 for a 5/8" x 3/4" meter. Customers are also charged \$0.56 for each kgal used. This rate structure is considered usage-sensitive because customers are charged for all kgals consumed. The residential customer base is slightly seasonal, with an average consumption per customer of 7.9 kgals per month.

We take several things into consideration when designing rates, including the current rate structure, characteristics of the Utility's customer base, various conditions of the Utility's Consumptive Use Permit, and the magnitude of the revenue increase. As discussed above, we find that total rate case expense is \$23,390.85. Pursuant to Section 367.0816, F.S., this amount shall be amortized over a four-year period for rate recovery purposes. Therefore, the appropriate annual increase in the Utility's test period revenues is \$5,848.

Based on our finding that the water system revenues shall increase, coupled with the need to reduce consumption to the extent possible, we find the rate structure for the water system as set forth in Table A on the following page is one that promotes conservation, to the extent possible, while attempting to minimize residential price decreases at or below average consumption. In addition, we find that the price per gallon for the residential nondiscretionary 0-3 kgal block shall not include the price increase associated with the repression adjustment. That is, nondiscretionary consumption shall be shielded from the effects of repression.

Therefore, we find that the appropriate rate structure for residential service as shown on Table A is a two-tiered inclining block rate structure. The appropriate usage blocks shall be set for monthly consumption levels: (1) of 0-6,000 gallons (6 kgals); and (2) for usage in excess of 6 kgals. The usage block rate factors shall be set at 1.0 and 1.25, respectively. The price per gallon for the residential nondiscretionary 0-3 kgal block shall not include the price increase associated with the repression adjustment. The appropriate rate structure for the Utility's general service customers shall remain the base facility charge (BFC)/uniform gallonage charge rate structure. The BFC cost recovery allocation shall be set at 40%.

TABLE A

WATER OAK UTILITY			
RATE STRUCTURES FOR TYPICAL CUSTOMERS ON 5/8" x 3/4" METERS			
POST-REPRESSION ANALYSIS			
Current Rate Structure and Rates		Approved Rate Structure and Rates	
BFC/uniform gallonage charge rate structure, with kgals included in the BFC (greater meter sizes have greater kgal allotments included)		Residential: Two-tiered inclining-blocks – consumption of 0-6 kgals, 6+ kgals; rate factors at 1.0 and 1.25; General Service: BFC/uniform kgal BFC = 40 percent	
BFC	\$6.88	BFC	\$4.56
Per kgal	\$0.56	0-3 kgals	\$0.85
		3.001-6 kgals	\$0.88
		In excess of 6 kgals	\$1.11
		General Service, all kgals	\$0.93

Repression Adjustment

Using our database of utilities that have previously had repression adjustments made, our staff calculated a repression adjustment for this Utility based upon our finding of the revenue requirement increase, while using a price elasticity of demand of -0.4 applied to consumption. The methodology for calculating repression adjustments is the same methodology that we have approved in prior cases.³ Based on this analysis, we find that a repression adjustment to the Utility’s water system is appropriate. Residential water consumption shall be reduced by 2.90 percent, resulting in a consumption reduction of approximately 2,744 kgals. Total residential water consumption for rate setting is 91,983 kgals. Total water consumption for rate setting is 99,341 kgals, which represents a 2.69 percent reduction in overall consumption.

In order to monitor the effects of both the changes in revenues and rate structure, the Utility is ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed for each system. In addition, the reports shall be prepared, for both the water and wastewater systems, by customer class and meter size. The reports shall be filed with our staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. The filing requirements for these repression reports have traditionally been on a quarterly basis. In the recent Labrador Utilities’ case in Docket No. 080249-WS, we approved requiring the reports on a semi-annual, rather than a quarterly, basis.⁴ For the purposes of consistency and equal treatment among utilities, we find that on a going-forward basis, the reporting period shall be on a semi-annual basis. However, we do not find that the reporting periods shall be longer than a semi-annual basis. As we design more aggressive conservation-oriented rate structures, we believe it is important to obtain information regarding consumption changes on a frequent basis. To the extent the Utility makes

³ See Order no. PSC-09-0462-PAA-WS, issued June 22, 2009, in Docket No. 080249-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

⁴ Ibid.

adjustments to consumption in any month during the reporting period, the Utility is ordered to prepare and file a revised monthly report for that month within 30 days of any revision.

Approved Rates

Excluding miscellaneous service revenues, the water rates shown on Schedule No. 1 are designed to produce revenues of \$157,702. Approximately 40 percent (or \$63,048) of the water monthly service revenues is recovered through the base facility charges, while approximately 60 percent (or \$94,654) represents revenue recovery through the consumption charges.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect our approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice.

Rate Case Expense Reduction

Section 367.0816, F.S., requires rates to be reduced immediately following the expiration of the four-year amortization period by the amount of the rate case expense previously included in the rates. The reduction shall reflect the removal of revenues associated with the amortization of rate case expense which is \$23,390.85 for the water system in this case. The decreased revenue results in our approved rate reductions shown on Schedule No. 1.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates shall not be implemented until our staff has approved the proposed customer notice. Water Oak shall provide proof of the date notice was given no less than 10 days after the date of the notice.

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Water Oak Utility, is hereby authorized to recover regulatory commission expenses as set forth in the body of this Order. It is further

ORDERED that Water Oak Utility shall implement the conservation rate structure set forth in the body of this Order. It is further

ORDERED that Water Oak Utility is hereby authorized to charge rates for water services as set forth in the body of this Order. It is further

ORDERED that Water Oak Utility shall prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenues billed for each system. In addition, the reports shall be prepared, for both the water and wastewater systems, by customer class and meter size. The reports shall be filed with our staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility is ordered to prepare and file a revised monthly report for that month within 30 days of any revision.

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

ORDERED that all matters contained in the schedule attached hereto are by referenced incorporated herein. It is further

ORDERED that Water Oak Utility shall be required to file revised tariff sheets and a proposed customer notice to reflect the rates herein approved. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Water Oak Utility shall provide notice to its customers within 30 days of the Commission's vote in this matter. It is further

ORDERED that the approved rates shall not be implemented until proper notice has been received by the Utility's customers. It is further

ORDERED that Water Oak Utility shall provide proof to the Commission of the date notice was given to its customers within 10 days of the date of the notice. It is further

ORDERED that Water Oak Utility shall recover the regulatory commission expenses as set forth in the body of this Order through amortization over a four-year period. It is further

ORDERED that upon completion of the amortization, Water Oak Utility shall file revised tariffs reflecting the required reduction in rates and a proposed customer notice as set forth in the body of this Order no later than 30 days before the required reduction in rates. It is further

ORDERED that if Water Oak Utility files revised tariffs reflecting the required reduction in rates in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense. It is further

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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. The docket shall remain open for our staff's verification that the revised 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 6th day of April, 2010.



ANN COLE
Commission Clerk

(SEAL)

KY

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 that is available under Section 120.57, 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 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.

The action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 27, 2010.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

SCHEDULE 1
DOCKET NO. 080295-WS

WATER OAK UTILITY				Commission
Water Monthly Service Rates				Approved
Test Year Ended December 31, 2007				
Monthly Rates	Rates	Utility	Comm.	4-Year
Residential and General Service	Prior to	Requested	Approved	Rate
Base Facility Charges by Meter Size	Filing	Final	Final	Reduction
5/8" x 3/4"	\$6.88	\$6.92	\$4.56	(\$0.17)
3/4"	\$10.70	\$10.38	\$6.84	(\$0.25)
1"	\$17.26	\$17.30	\$11.40	(\$0.42)
1 1/2"	\$34.50	\$34.60	\$22.80	(\$0.85)
2"	\$55.22	\$55.36	\$36.48	(\$1.35)
3"	\$110.43	\$110.72	\$72.96	(\$2.71)
4"	\$172.56	\$173.00	\$114.00	(\$4.23)
6"	\$345.12	\$346.00	\$228.00	(\$8.45)
 <u>Residential Irrigation Service</u>				
5/8" x 3/4"	\$3.46	\$3.46	\$4.56	(\$0.17)
 <u>Gallage Charges per Month</u>				
All service, per kgal	\$0.56			
 <u>Residential and Residential Irrigation Service</u>				
0-7 kgals		\$0.43		
7.001-12 kgals		\$0.86		
In excess of 12 kgals		\$1.29		
0-3 kgals			\$0.85	(\$0.03)
3.001-6 kgals			\$0.88	(\$0.03)
In excess of 6 kgals			\$1.11	(\$0.04)
 <u>General Service</u>				
Per kgal		\$0.68	\$0.93	(\$0.03)
 <u>Typical Monthly Bills for 5/8" x 3/4"</u>				
<u>Residential Customers Based on Commission</u>				
<u>Approved Rates</u>				
 <u>Cons (kgal)</u>				
0			\$4.56	
3			\$7.11	
5			\$8.87	
8			\$11.97	
10			\$14.19	
15			\$19.74	
20			\$25.29	