

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

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DATE: August 19, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Thompson, Rieger) *TR*
Office of the General Counsel (Crawford) *CC*

RE: Docket No. 100049-WS – Petition for approval of change in reuse rate by Aqua Utilities Florida, Inc.

AGENDA: 08/31/10 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 09/23/2010 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100049.RCM.DOC

Case Background

Aqua Utilities Florida, Inc. (AUF) is a wholly-owned subsidiary of Aqua America, Inc. AUF provides water and wastewater service in eighty-two certificated service areas (57 water and 25 wastewater systems) in 16 counties. Water and wastewater rates were last established for AUF in its 2008 rate case.¹ In that rate case, the Commission approved AUF's current monthly reuse rate of \$3,053. This is a flat rate and is only available to a single customer, South Seas Island Resort (SSIR), located on Captiva Island in Lee County. On January 22, 2010, AUF filed its petition and proposed tariff sheet to reduce the tariffed reuse rate for SSIR to zero, thereby allowing AUF to provide the effluent at no cost to SSIR. AUF is required by law to properly

¹ See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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dispose of treated effluent from its wastewater treatment plant (WWTP). AUF has utilized the SSIR golf course, located adjacent to the WWTP, as its approved disposal site since AUF's acquisition of the system. The Florida Department of Environmental Protection requires AUF to enter into a contract with the disposal site owner; therefore, AUF has entered into an Effluent and Irrigation Agreement (Reuse Agreement) with SSIR. The current Reuse Agreement with SSIR was executed with the understanding that all costs to pipe and deliver the effluent to SSIR would be borne by AUF and that SSIR would pay for the volume of effluent delivered pursuant to the reuse rate set forth in AUF's existing tariff.

The Commission has authority to consider this matter pursuant to Section 367.091, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve a change in reuse rate by Aqua Utilities Florida, Inc.?

Recommendation: Yes. The Commission should approve Aqua Utilities Florida, Inc.'s (AUF) request to provide effluent to South Seas Island Resort (SSIR) at a special reuse rate which would allow for AUF to provide the effluent to SSIR at no cost. AUF's proposed tariff sheet reflecting the revised reuse rate should be approved. The Utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The new rate should be effective for service rendered as of the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. (Thompson, Rieger)

Staff Analysis: AUF has requested that the reuse rates for SSIR be reduced to zero. AUF is required by law to properly dispose of treated effluent from its WWTP. An irrigation rate for this wastewater system has been in place since 1989, prior to its acquisition by AUF. In AUF's last rate case, the current reuse rate was approved.² According to AUF's petition, SSIR has refused to pay AUF the tariffed rate for the effluent since November 2006, despite AUF's diligent efforts to collect its tariff reuse rate from SSIR. Further, according to AUF's petition, SSIR continues to assert that it is entitled to receive the effluent from AUF's WWTP at no cost.

According to AUF, in an attempt to resolve the impasse, AUF has offered a payment plan to SSIR whereby SSIR would pay the tariff reuse rate over time. However, SSIR has rejected this offer and made it clear that it will cease to allow AUF to dispose of its effluent on SSIR property if AUF continues to insist on imposing and collecting its tariff reuse rate. AUF has continued to provide SSIR with effluent water during this non-payment period, as the only currently viable option for effluent disposal is the SSIR golf course located adjacent to the WWTP. Accordingly, AUF's petition asks the Commission to reset the tariffed rate to zero because alternative disposal costs would outweigh the cost of setting the reuse rate to zero. In addition, AUF's continued failure to charge and collect the currently approved tariff rate puts AUF in violation of its tariff. If AUF's request is approved, SSIR would accept the effluent and AUF could avoid having to find alternative, more costly, disposal sources.

SSIR holds Water Use General Permit No. 36-00109-W from the South Florida Water Management District (SFWMD) issued on November 21, 2005. This permit allows SSIR to use ground water from the Mid-Hawthorn Aquifer "in the event that reclaimed water is unavailable." During the application process for the petition, SSIR requested a back-up allocation in the event reclaimed water is not available. SFWMD advises that the least quality water suitable for irrigation be used first; in this case, the effluent water supplied by AUF is the best alternative to drawing from the aquifer. Staff notes that the SSIR arrangement is more than adequate to meet AUF's current effluent disposal needs.

Generally, reuse rates cannot be determined in the same fashion as other water and wastewater rates set by this Commission. Reuse rates based on rate base and revenue

² Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

requirement would typically be so high that it would be impractical to use reuse at all due to the revenue needed to supply the service. Staff recognizes the need to promote reuse and that reuse is a valuable water source which should not be wasted. In setting reuse rates, the Commission must consider the type of customer being served, and balance the disposal needs of a utility with the consumption needs of the customer. In this case, AUF's only reuse customer is SSIR and AUF does not plan to expand its reuse service in the near future.

In Order No. PSC-99-0513-FOF-WS, the Commission stated, "[w]e believe from a policy standpoint that reclaimed water should be regarded as a valuable resource for which a charge should apply when possible."³ In this case, it is clear that AUF views SSIR as a disposal site rather than a reuse customer. Having a reliable, readily available disposal site clearly benefits AUF. Staff also believes that there are some benefits to SSIR, such as those associated with obtaining future consumptive use permits and a reduction in pumping costs to SSIR.

AUF's current monthly reuse rate is \$3,053. This is a flat rate and is available only to SSIR. The WWTP is permitted for a maximum capacity of 264,000 gallons per day on an annual average basis. On a monthly basis this equates to about 7,920,000 gallons or about \$0.39 per kgal. This rate offsets the wastewater costs for all AUF customers, including residential customers. Thus, if the Commission approves the reduced reuse rate, the lost revenue will have to be built into the residential wastewater rates during AUF's next rate case proceeding.

Events in January (ten days) and May (twelve days) of 2010 interrupted the treated wastewater irrigation supply (reuse) to the golf course. Both of these occurrences resulted from biological upsets of the wastewater treatment process which caused treated effluent to be diverted to "Reject" storage tanks, instead of going to the reclaimed storage tank to be used for golf course irrigation. During both of the Reject events the largest tank being filled ruptured at the seams. This tank, which was repaired in January, failed again in May. With the main tank failure, the flows were diverted to smaller tanks. Because of inadequate storage space during the biological recovery period, effluent had to be hauled offsite for additional treatment. During the Reject events, AUF incurred expenses of approximately \$15,893 for January and \$16,822 for May. If SSIR were to discontinue receiving the effluent, AUF's customers would be responsible for the disposal costs. On an annual basis, this is approximately \$545,878 (at an average of \$1,496 per day) compared to the annual reuse revenue of \$36,639 (at an average of \$100 per day). Accordingly, it is more cost efficient for AUF to provide the effluent to SSIR at no cost than to incur expenses to create another viable option for disposal.

In additional support of its request, AUF cited Order No. PSC-97-0280-FOF-WS⁴ in its petition. This Order addressed Aloha Utilities' request for approval of a Reuse Project Plan and an increase in wastewater rates in Pasco County. In that case, the Commission approved a zero rate for effluent water because the customer had alternative irrigation sources. In the instant case, SSIR also has an alternative irrigation source, specifically, the Mid Hawthorne Aquifer.

³ Order No. PSC-99-0513-FOF-WS issued March 12, 1999, in Docket No. 980214-WS, In re: Application for rate increase in Duval, St. Johns and Nassau Counties by United Water Florida Inc., at p. 68.

⁴ Order No. PSC-97-0280-FOF-WS issued March 12, 1997, in Docket No. 950615-WS, In re: Application for approval of Reuse Project Plan and increase in wastewater rates in Pasco County by Aloha Utilities, Inc.

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Thus, staff believes that in order to keep the customer/utility relationship favorable for both parties, a similar zero rate is appropriate.

For reasons stated above, staff recommends that the Commission should approve a special reuse rate which would allow for AUF to provide the effluent to SSIR at no cost. AUF's proposed tariff sheet reflecting the revised reuse rate should be approved. The Utility should file a proposed customer notice to reflect the Commission-approved tariff sheet. The new rate should be effective for service rendered as of the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest. (Crawford)

Staff Analysis: Yes. If no timely protest to the order is filed by a substantially affected person within 21 days, a Consummating Order should be issued and the docket should be closed. In the event there is a timely protest, this docket should remain open pending resolution of the protest.