

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in  
Highlands County by Francis I Utility, LLC. | DOCKET NO. 110086-SU  
ORDER NO. PSC-11-0477-FOF-SU  
ISSUED: October 21, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

ORDER DISMISSING STAFF-ASSISTED RATE CASE AND CLOSING DOCKET

BY THE COMMISSION:

**Case Background**

Francis I Utility, LLC (Francis I or Utility) is a Class C utility serving Francis Mobile Estates I and II which are mobile home communities of approximately 612 residential and 7 general service wastewater customers in Highlands County. Water service is provided by the City of Sebring. The Utility is in the Highlands Ridge Water Use Caution Area of the Southwest Florida Water Management District.

On March 29, 2011, Francis I filed an application for a staff assisted rate case (SARC) and a docket was opened to process that application. The Florida Public Service Commission (Commission) has jurisdiction pursuant to Section 367.0814, Florida Statutes (F.S.).

**Decision**

Pursuant to Rule 25-30.455, Florida Administrative Code (F.A.C.), a consideration in whether to accept an application for a SACR is whether the utility has filed its annual reports. *Id* at (5-8). On March 24, 2011, the Utility requested a thirty-day extension for filing its 2010 Annual Report (Report), making the Report due on April 30, 2011. We received the Utility's application for a SARC on March 29, 2011.

On April 12, 2011, our staff notified the Utility that its initial \$1,000 filing fee check dated March 20, 2011, was returned because the account the check was drawn on had been closed. On May 2, 2011, the Utility remitted another check for \$1,050 (for the filing fee and a \$50 service charge related to the returned check). With the filing fee paid and a verbal assurance from Francis I that its 2010 Annual Report would be filed very soon, on May 3, 2011, our staff accepted the Utility's SARC application.

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FPSC-COMMISSION CLERK

Upon acceptance of the SARC application, our staff informed the Utility that an audit would be conducted of Francis I's books and records. Such an audit typically takes about 60 to 70 days to complete. However, despite attempting to complete an audit of Francis I for the last 5 months, our staff has not been able to do so because of the Utility has been uncooperative and unresponsive to our staff auditors. While the audit requirements related to rate base, cost of capital, and operating revenues are done, an audit review of the Utility's operating expenses cannot be completed without the Utility's cooperation. Under these circumstances, our staff is unable to calculate a recommended revenue requirement for Francis I.

By letter dated May 19, 2011, our staff informed Francis I that staff was planning an engineering field investigation for June 30, 2011, and needed utility-specific information in conjunction with that inspection. Receiving no response from the Utility, by letter dated June 8, 2011, our staff reiterated both its plan to conduct an engineering field investigation on June 30, 2011, and its need for utility-specific information in conjunction with that inspection. Our staff has received neither a proposal for an alternate inspection date nor any of the needed information that was requested by our staff in its May 19<sup>th</sup> and June 8<sup>th</sup> letters to the Utility.

By certified letters dated May 11, 2011, and June 7, 2011, our staff informed Francis I that the Utility had failed to timely file its 2010 Annual Report; the Utility still has not filed that report.<sup>1</sup>

Absent the Utility's cooperation, it is impossible for our staff to meet the deadlines applicable to SARCs pursuant to Section 367.0814, F.S. On June 29, 2011, based on the Utility's delays in the SARC process, Francis I indicated that it would waive those statutory deadlines for 3 months. However, Francis I has yet to file such a written waiver. Moreover, notwithstanding the statutory time constraints, absent cooperation from the Utility, it is impossible for our staff to complete the SARC process *at all*.

Given the Utility's lack of cooperation in this docket, we find that it is not an appropriate use of resources for our staff to continue attempting to process this SARC. Therefore, this SARC shall be dismissed and the docket closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that as, set forth in the body of this Order, the staff assisted rate case for Francis I Utility, LLC is hereby dismissed and this docket closed.

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<sup>1</sup> This failure by the Utility will be the subject of a separate review.

By ORDER of the Florida Public Service Commission this 21st day of October, 2011.



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ANN COLE  
Commission Clerk  
Florida Public Service Commission  
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CWM

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.