

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Four Points Utility
Corporation for Staff Assistance for
Alternative Rate Setting

Docket No. 130161-WS

Filed: August 20, 2013

**JOINT MOTION REQUESTING COMMISSION APPROVAL
OF SETTLEMENT AGREEMENT AND THE CLOSURE OF THIS DOCKET**

FOUR POINTS UTILITY CORPORATION (“Utility”) and the OFFICE OF PUBLIC COUNSEL (“OPC”) file this Joint Motion requesting the Florida Public Service Commission (“Commission”) to approve the attached Settlement Agreement. In support of this Joint Motion, the Utility and OPC state:

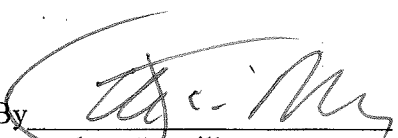
1. Utility, OPC and the ISLAND CLUB WEST HOMEOWNERS ASSOCIATION (“HOA”) have entered into a Settlement Agreement resolving the Utility’s application for Staff Assistance for Alternative Rate Setting filed in this docket, in accordance with the terms of the Settlement Agreement attached hereto as Exhibit “A”.
2. Utility, OPC and HOA have entered into this Settlement Agreement to avoid the time, expense, and uncertainty associated with adversarial litigation, in keeping with the Commission’s long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible. Further, expedited implementation of Polk County’s retail rates will facilitate the pending substitution of FGUA as the Receiver for the Utility. For these reasons and the reasons stated within the proposed Settlement Agreement, the Utility and OPC request the Commission to expeditiously

issue a Final Order approving the Settlement Agreement without modification and closing Docket No. 130161-WS.

Respectfully submitted this 20 day of August, 2013.

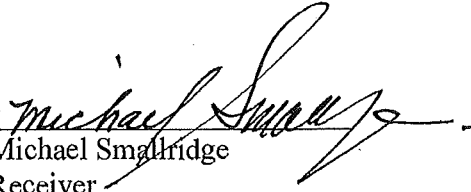
OFFICE OF PUBLIC COUNSEL

By


Stephen C. Reilly
Associate Public Counsel

FOUR POINTS UTILITY CORPORATION

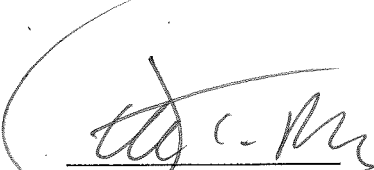
By


Michael Smallridge
Receiver

CERTIFICATE OF SERVICE
DOCKET NO. 130161-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion Requesting Commission Approval of Settlement Agreement and the Closure of this Docket has been furnished by electronic mail to the following party on this 20th day of August, 2013.

Charles Murphy, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



Stephen C. Reilly
Associate Public Counsel

Exhibit "A" to Joint Motion

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Four Points Utility
Corporation for Staff Assistance for
Alternative Rate Setting

Docket No. 130161-WS

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this ^{20th} ~~July~~ ^{August} day of ~~July~~, 2013
by and between MICHAEL SMALLRIDGE, Receiver ("Receiver") of FOUR POINTS
UTILITY CORPORATION ("Utility") and the OFFICE OF PUBLIC COUNSEL ("OPC") and
the ISLAND CLUB WEST HOMEOWNERS ASSOCIATION ("HOA") on behalf of the
customers of the Utility.

WITNESSETH

WHEREAS, the prior owner of the Utility formally filed a Notice of Abandonment on
January 25, 2012, with the Florida Public Service Commission ("Commission") and Polk County
("County") pursuant to Section 367.165, Florida Statutes, and Chapter 25-30.090, Florida
Administrative Code, stating the owner's intention to abandon and cease operation of its utility
system; and

WHEREAS, on March 7, 2012, in accordance with Section 367.165, Florida Statutes, the
County filed a petition in Circuit Court to have a receiver appointed for the Utility; and

WHEREAS, on March 19, 2012, the Circuit Court granted the County's petition and
appointed Michael Smallridge as Receiver of the Utility, effective March 23, 2012; and

WHEREAS, as of March 23, 2012, the effective date of the receivership, the Utility was
indebted to Polk County for approximately \$55,000 for the purchase of bulk water and

SD

MR

wastewater services, and, since that date, an additional delinquency in the amount of approximately \$116,000 has accrued; and

WHEREAS, on May 8, 2013, Polk County Utilities ("PCU") sent the Receiver a letter identifying this significant payment deficiency and advising the Receiver that services would be terminated if payment or payment arrangements were not made expeditiously. A copy of PCU's letter is attached as Exhibit "A"; and

WHEREAS, the Utility is regulated by the Commission. The Receiver previously filed an application for a 2012 Index and Pass-Through Adjustment for the Utility pursuant to Section 367.081, Florida Statutes, which was approved by the Commission and effective March 23, 2013; and

WHEREAS, on June 12, 2013, the Utility filed an application with the Commission for Staff Assistance for Alternative Rate Setting pursuant to Section 367.0814, Florida Statutes. This application is currently pending before the Commission in Docket No. 130161-WS; and

WHEREAS, Florida Governmental Utility Authority ("FGUA") is a statewide governmental water and wastewater utility, created by Chapter 163, Florida Statutes, governed by inter-local agreements among member local governments. FGUA is a public authority that can be invited by member local governments to acquire, operate, renovate, if necessary, and ultimately sell utilities at cost to member local governments; and

WHEREAS, FGUA recently purchased six separate utility operations in Polk County that were previously owned and operated by Aqua Utilities, Florida, a division of Aqua America, Inc.; and

WHEREAS, FGUA is currently engaged in investigations and negotiations to purchase up to three additional utilities located in Polk County; and

WHEREAS, the County believes that FGUA assuming operation as the Receiver of the Utility would bring more economical, efficient and effective services to the Utility's customers; and

WHEREAS, on July 15, 2013, the County requested FGUA to become the new Receiver to operate the Utility. In its letter to FGUA, the County committed to file a motion with the Circuit Court, with the concurrence of the current Receiver, to substitute FGUA as the receiver for the Utility; and

WHEREAS, since the Chairman of the Board for FGUA is the Assistant County Manager for Polk County, and was consulted by County staff prior to the County sending the request, FGUA staff believes that FGUA's board will look favorably upon this request, particularly if the County's retail rates can be implemented as soon as possible; and

NOW THEREFORE, for and in consideration of the mutual covenants set forth below, the sufficiency of which is hereby acknowledged, the Utility, OPC and HOA hereby agree as follows:

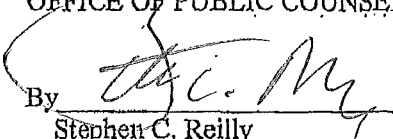
1. The foregoing recitations are true and correct and incorporated herein.
2. In order to facilitate the substitution of FGUA as Receiver for the Utility, the Commission should abate further proceedings in Docket 130161-WS and approve the imposition of modified current County residential rates for residential customers of the Utility and modified County commercial rates for the three 5/8" x 3/4" meters serving the Club House. The rates are "modified" because the inclining rates for usage blocks stop at 10,000 gallons for residential customers and 15,000 gallons for the three commercial meters serving the Club House. Both the residential and commercial rates are subject to a

SCP
AA
MR

5% increase effective October 1, 2013. A copy of the modified current County residential and commercial rates is attached as Exhibit "B".

3. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void, and neither Party may use this attempted agreement in this or any other proceeding.
4. Immediately after executing this Settlement Agreement for Docket No. 130161-WS, the Utility and OPC will file a Joint Motion with the Commission to approve the Settlement Agreement and close Docket No. 130161-WS on an expedited basis.

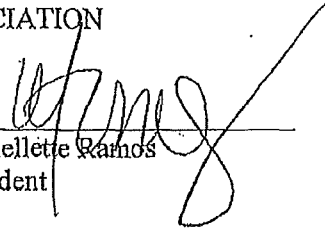
OFFICE OF PUBLIC COUNSEL

By 
Stephen C. Reilly
Associate public Counsel

FOUR POINTS UTILITY CORPORATION

By 
Michael Spallridge
Receiver

ISLAND CLUB WEST HOMEOWNERS
ASSOCIATION

By 
Michelle Ramos
President

SCR
AR

POLK COUNTY
UTILITIES DIVISION
Gary D. Fries, P.E.
Director



1011 Jim Keehe Blvd., SR 540
Winter Haven, Florida 33880
Telephone: (863) 298-4100
Fax: (863) 298-4292

Board of County Commissioners

May 8, 2013

Mr. Michael Smallridge
Receiver
9539 E. Southgate Dr.
Inverness, FL 34450

Re: Bimini Bay Utility Corporation
Customer No.: 263823-159686 Balance of \$136,643.40

Four Points Utility Corporation
Customer No.: 263823-135530 Balance of \$96,742.16

Dear Mr. Smallridge:

Pursuant to section 3.5.3 of the Utilities Administration Manual contained in Polk County Ordinance No. 10-081 and applicable policies and procedures, this letter is formal notification that Bimini Bay Utility Corporation and Four Points Utility Corporation, both of which are wholesale water and wastewater customers of Polk County ("County"), are and have been delinquent in the payment of fees and charges for many months.

As County representatives have discussed with you since you were appointed receiver of these utilities by the Circuit Court of the Tenth Judicial Circuit, the County is not authorized to provide water and wastewater services to any customers without payment. You have informed us that the two utilities at issue are not charging rates sufficient to pay the applicable County fees and charges, thus the money owed to the County continues to increase. A schedule identifying the accrued outstanding balances of fees and charges owed to the County by each utility is attached to this letter.

Please be advised that pursuant to applicable County ordinances, policies and procedures, the County shall terminate water and wastewater services to each utility seven (7) days from the date of this letter, or May 20, 2013, if payment in full of the outstanding balance owed is not received. It may be possible to enter a payment plan sufficient to pay the County the entire balance of delinquent payments owed by each utility if you, as receiver, can provide satisfactory evidence of each utility's ability to render the payments which would be required under such payment plan.

The County regrets the necessity to issue this notice and terminate services if payment is not received or payment arrangements have not been made in the manner

Certified Mail Receipt #7007 0220 0001 1022 8053

County Attorney

MAY 13 2013

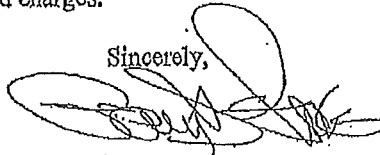
Exhibit "A"

SEP
MR

Mr. Michael Smallridge
May 8, 2013
Page 2 of 2

indicated in this letter. However, the County cannot continue to provide services without a reasonable expectation that the utilities will make the same payments as are required of all other customers of the County. Please contact Charles Richards, Customer Service/Finance Manager at 863-298-4135 to discuss these very serious matters and arrange payment of the delinquent fees and charges.

Sincerely,



Gary D. Fries, P.E.
Director, Utilities Division

SCP

MR

Modified Polk County Residential Water Monthly Service Rates 5/8" x 3/4" Meters		Current Rates
Base Facility Charge		\$8.79
<u>Gallage Charge, per 1,000 Gallons</u>		
0 - 3,000 gallons		\$1.67
3,001 - 10,000		\$2.22
over 10,000		\$4.41
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$13.80
5,000 Gallons		\$18.24
10,000 Gallons		\$29.34

Modified Polk County Commercial Water Monthly Service Rates 5/8" x 3/4" Meters		Current Rates
Base Facility Charge		\$13.19
<u>Gallage Charge, per 1,000 Gallons</u>		
0 - 15,000 gallons		\$2.22
over 15,000 gallons		\$4.41
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$19.85
5,000 Gallons		\$24.29
10,000 Gallons		\$35.39

Modified Polk County Residential Wastewater Monthly Service Rates		Current Rates
Base Facility Charge		\$32.78
<u>Gallage Charge, per 1,000 Gallons</u>		
All gallons (7,000 kgal cap)		\$5.88
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$60.42
5,000 Gallons		\$62.18
10,000 Gallons		\$73.94

Modified Polk County Commercial Wastewater Monthly Service Rates		Current Rates
Base Facility Charge		\$49.16
<u>Gallage Charge, per 1,000 Gallons</u>		
All gallons (7,000 kgal cap)		\$5.88
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$66.80
5,000 Gallons		\$78.56
10,000 Gallons		\$107.98

Modified Polk County Residential Combined Bill		Current Rates
Combined Base Facility Charge		\$41.57
<u>Modified Typical Residential Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$64.22
5,000 Gallons		\$80.42
10,000 Gallons		\$103.28

Modified Polk County Commercial Combined Bill		Current Rates
Combined Base Facility Charge		\$82.35
<u>Modified Commercial Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$86.66
5,000 Gallons		\$102.85
10,000 Gallons		\$143.35

Handwritten initials/signature
AR