

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: September 9, 2013

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

The Office of Public Counsel (“OPC”) requests the Florida Public Service Commission (“Commission”) to approve the Amended Settlement Agreement resolving Four Points Utility Corporation’s (“Utility”) application for Staff Assistance for Alternative Rate Setting filed in this docket, and states:

1. On August 20, 2013, the Utility and OPC filed a Joint Motion to Approve the Settlement Agreement that was entered into by and between the Utility, OPC and the Island Club West Homeowners Association (“HOA”).
2. Since filing the Settlement Agreement on August 20, 2013, the parties to the Agreement desire to amend Exhibit “B,” which provides the “modified” Polk County rates that have been agreed to by the parties to the Settlement.
3. The Polk County commercial wastewater rates do not have a gallonage cap. The amended Exhibit “B” eliminates the 7,000 gallon cap to the commercial wastewater monthly service rates that was included in the originally filed Exhibit “B”.
4. The amended page 3 makes no substantive changes, but merely rewords the description of the usage blocks.

5. OPC has been authorized by all of the parties to the original Settlement Agreement to file this Motion requesting the Commission to approve the original Settlement Agreement as amended by amended page 3 and amended Exhibit "B." This authorization was given on September 6, 2013, and is memorialized by each party's initial to amended page 3 and amended Exhibit "B." The amended page 3 and amended Exhibit "B" with initials and dates are attached to this motion as Appendix "A." The Amended Settlement Agreement without original signatures or initials, but with amended page 3 and amended Exhibit "B," is attached as Appendix "B."

Respectfully submitted this 9th day of September, 2013.

OFFICE OF PUBLIC COUNSEL

By 
Stephen C. Reilly
Associate Public Counsel

CERTIFICATE OF SERVICE
DOCKET NO. 130161-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion Requesting Commission Approval of Amended Settlement Agreement and the Closure of this Docket has been furnished by electronic mail to the following party on this 9th day of September, 2013.

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

Michael Smallridge, Receiver
Four Points Utility Corporation
1902 Barton Park Road, Suite 201
Auburndale, FL 33823-3941

Michelle Ramos, President
Island Club West Homeowners Association
3100 Sand Mine Rd
Davenport, FL 33897



Stephen C. Reilly
Associate Public Counsel

APPENDIX "A"

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 water rates are "modified" because the inclining rates for usage blocks stop at 20,000 gallons for residential customers and 30,000 gallons for the three commercial meters serving the Club House. Both the residential and commercial rates

Amended 3

<u>wp</u>	<u>9/6/13</u>
Initial	Date
<u>SCR</u>	<u>9/6/13</u>
Initial	Date
Initial	Date

Modified Polk County Residential Water Monthly Service Rates 5/8" x 3/4" Meters		Current Rates
Base Facility Charge		\$8.79
<u>Gallonge 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>Gallonge Charge, per 1,000 Gallons</u>		
0 - 15,000 gallons		\$2.22
over 15,000 gallons		\$4.41
<u>Typical Commercial 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>Gallonge 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>Gallonge Charge, per 1,000 Gallons</u>		
		\$5.88
<u>Typical Commercial Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$66.80
5,000 Gallons		\$78.56
10,000 Gallons		\$107.86

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		\$62.35
<u>Modified Commercial Bills 5/8" x 3/4" Meter</u>		
3,000 Gallons		\$86.65
5,000 Gallons		\$102.85
10,000 Gallons		\$143.35

Amended Exhibit "B"

WJR 9/6/13
 Initial Date
 SCR 9/6/13
 Initial Date

 Initial Date

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

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Amended 3

Initial

Initial

Initial

Date

Date

Date

9/16/13

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
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0 - 15,000 gallons		\$2.22
15,001 - 30,000 gallons		\$4.41
over 30,000 gallons		\$8.83
<u>Typical Commercial Bills 5/8" x 3/4" Meter</u>		
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Amended Exhibit "B"

Initial MA
 Initial _____
 Initial _____

Date 9/6/13
 Date _____
 Date _____

APPENDIX “B”

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

AMENDED SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 6th September 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

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.
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are subject to a 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

FOUR POINTS UTILITY CORPORATION

By s/Stephen C. Reilly
Stephen C. Reilly
Associate public Counsel

By s/Michael Smallridge
Michael Smallridge
Receiver

ISLAND CLUB WEST HOMEOWNERS
ASSOCIATION

By s/Michelle Ramos
Michelle Ramos
President

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: Bimial 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 Bimial 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

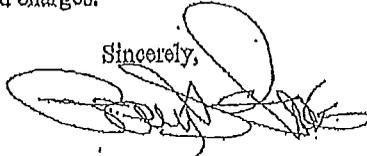
MAY 13 2013

Exhibit "A"

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,

A handwritten signature in black ink, appearing to read "Gary D. Fries", written over a circular stamp or seal.

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

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