

Lakeside Waterworks, Inc.

October 31, 2014

Office of Commission Clerk
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

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14 NOV -5 AM 9:15
COMMISSION
CLERK

Re: Docket No. 130194-WS - Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.– Third Response to OPC Issues and Concerns

Dear Commission Clerk:

Attached please find Lakeside Waterworks, Inc.'s (LWI) response to the Office of Public Counsel's (OPC) request for additional contract information.

Again, it is important to note that the request by OPC is actually to a non-regulated Florida Corporation, U. S. Water Services Corporation and not to the regulated utility LWI. It should be also noted that U.S. Water Services is not subject to the requirement to produce data under Section 367.121(1)(i), Florida Statutes.

However, in response to OPC's additional request, LWI offers its response and the following analysis of its U.S. Water Service Corporation contract. As previously explained to OPC, there are **no** other Operations, Maintenance, Customer Service, and Administrative contracts that are similar and/or comparable to the all inclusive contracts that exist with the "shareholder" private utilities. The scope of comprehensive services provided to these shareholder utilities is far more extensive than other contracts with non-related regulated utilities. LWI has analyzed this existing contract with the regulated utility and offer the following analysis.

First, the other non-related regulated utility has its own employees, staffing, vehicles, accounting services, customer service, etc. According to the 2013 Annual Report, this other regulated utility also has several other "Outside Other" expenses with various outside contractors other than U.S. Water. Again, the shareholder utilities do not have any employees, other than the officers. The following is a listing of services **not provided** in this other existing contract:

Service Not Provided

Meter Reading
System Maintenance
Flushing
Billing / Collection

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Customer Service
Service Orders
Regulatory - PSC, WMD, DEP
Permits
DMRs, MORs - monthly reporting
CCRs - annual
PSC Annual Reports
Accounting - all bookkeeping, record keeping, AR, AP,
etc.
Meter Replacements
Line break repairs
Minor repairs and/or replacements
Locates
Meter calibrations
Backflow preventor testing
Turn Ons/ Turn Offs
Disconnections
Re-reads
Generator Maintenance
Tank inspections
Vehicles
Office (also equipment, phones, ect.)

In addition, the contract also does not include laboratory testing. The same is true with maintenance and/or service orders. If these services are performed, they are billed separately.

Due to the confidential nature of this contract, LWI is requesting confidential treatment of this competitive contract since it would place U.S. Water at a competitive disadvantage in the non regulated operations industry. Since this at-arms length transaction with the national private corporation is competitive in nature it must remain confidential in nature. The request for confidential treatment is attached separately.

However, a general comparison is offered. This contract analyzed was with a national corporation which also owns a manufactured home community in Marion County. The private utility is a PSC regulated entity providing water and wastewater. The date of the contract analyzed was as of May 2006.

There are two separate contracts with this corporation, one for water and one for wastewater. The U.S. Water contracts with this private entity provide basic service of site for the water treatment facility only. The contracts do not provide for lab testing. As of 2006, the monthly contract for this staffing labor is in the amount of \$350/month for water and \$600/month for wastewater. Again, no other services are provided except for the operation of the water and wastewater treatment facilities. As of November 2014, the month amounts have

been escalated for CPI and the monthly amounts are \$456/month for water and \$729/month for wastewater.

In comparison to the Lakeside Waterworks contract, the field staffing at the water utility, including all maintenance, customer service, work orders, etc. is in the amount of \$13,097; while the field staffing for the entire wastewater utility including all maintenance, customer service, work orders, etc. is in the amount of \$13,097. For testing, the water amount is \$1,860 and wastewater is \$1,128 which includes all required testing and laboratory expenses unlike the contracts above.

The remaining amounts are for the additional services as listed below:

- Meter Reading
- System Maintenance
- Flushing
- Billing / Collection
- Customer Service
- Service Orders
- Regulatory - PSC, WMD, DEP
- Permits
- DMRs, MORs - monthly reporting
- CCRs - annual
- PSC Annual Reports
- Accounting - all bookkeeping, record keeping, AR, AP, etc.
- Meter Replacements
- Line break repairs
- Minor repairs and/or replacements
- Locates
- Meter calibrations
- Backflow preventor testing
- Turn Ons/ Turn Offs
- Disconnections
- Re-reads
- Generator Maintenance
- Tank inspections
- Vehicles
- Office (also equipment, phones, etc.)

As stated previously, it should be noted that the Commission has previously considered this approach by OPC at analyzing affiliated transactions of related parties (which has been attempted twice before by OPC) and stated the following in Order No. PSC-12-0102-FOF-WS, issued March 5, 2012:

In evaluating whether and how much affiliate costs should be included in rates, we are aware of the relevant statutes and cases on rates and affiliate transactions. Section 367.081(2)(a)1., F.S., sets forth our responsibility in rate setting, and specifically states:

The commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. In every such proceeding, the commission shall consider the value and quality of the service and the cost of providing the service, which shall include, but not be limited to, debt interest; the requirements of the utility for working capital; maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property used and useful in the public service. . . .

As reflected in the statute cited above, we are required to set reasonable rates, but we must also set rates that are compensatory. The provisions in the statute require that we consider the cost of providing service, which includes operating expenses incurred in the operation of all property used and useful in the public service, as well as a fair return on the investment of the Utility in property used and useful in the public service. In conducting our analysis of the appropriate operating expenses to be included, we are mindful of two Florida Supreme Court cases. In the case of Keystone Water Co v. Bevis, 278 So. 2d 606 (Fla. 1973), the Court held that a utility is entitled to a fair rate of return on property used or useful in public service. In Keystone, the Court further found that rates which do not yield a fair rate of return are unjust, unreasonable, and confiscatory and their enforcement deprives a utility of due process.¹ Additionally, in GTE v. Deason, 642 So. 2d 545 (Fla. 1994), the Florida Supreme Court laid out the standard of review for affiliate transactions, stating:

The mere fact that a utility is doing business with an affiliate does not mean that unfair or excess profits are being generated, without more. Charles F. Phillips, Jr., *The Regulation of Public Utilities* 254-55 (1988). We believe the standard must be whether the transactions exceed the going market rate or are otherwise inherently unfair. . . . If the answer is “no,” then the PSC may not reject the utility’s position.

GTE v. Deason, 645 So. 2d at 547-548. We have reviewed the record evidence and applied the holdings in Keystone v. Bevis and GTE v. Deason as appropriate. (pages 99 – 100)

The Commission, in arriving at its final decision stated:

While we agree with OPC witness Dismukes that AUF’s Market Based Study does not offer a realistic comparison of market based rates, we also agree with AUF witness Szyzgiel that the peer group analysis presented by witness

¹ See Keystone Water Co. v. Bevis, 278 So. 2d 606, 609 (Fla. 1973).

Dismukes does not provide an adequate comparison. We note that in AUF's 2008 rate case we also disagreed with witness Dismukes' previous recommendation to use a comparison of Commission-regulated utilities to AUF in evaluating affiliate-provided services. In the Utility's 2008 rate case, we specifically found "[t]hat the comparison analysis proposed by witness Dismukes does not provide an appropriate basis to warrant an adjustment being made."² As acknowledged by witness Dismukes, there are complexities associated with determining the reasonableness of affiliate transactions. To that point, we find that witness Dismukes' peer group comparison does not adequately compare the duties, activities, and responsibilities for the Utility's affiliate-provided services.

(Emphasis added)

The Commission further stated:

Moreover, just because the costs to operate a utility are high, this does not necessarily mean that a utility is operating inefficiently. Other factors may influence the costs to provide service to customers. Therefore, we believe a review of this particular Utility's history is helpful in understanding the costs associated with providing service.

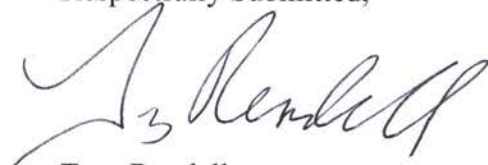
LWI respectfully submits that the comparison any non-related contracts, although useful and informational, should not be the sole basis of any disallowance of prudently incurred operating expenses. Again, these are not like-for-like comparisons due to the fact that these contracts are only for a limited amount of staffing services and are not all-inclusive of all utility services. If LWI was required to establish a stand-alone utility with personnel for maintenance, customer service, accounting, regulatory compliance, etc. the costs would far exceed the amount in the current U.S. Water contract. These all-inclusive services were previously not being provided by the previous owner of the utility.

As previously stated, the Commission staff has thoroughly reviewed the information provided in the above documents and has independently verified that these costs are below the national amounts provided by the third party independent association, AWWA for regulated utilities throughout the United States. In addition, LWI has provided information from another third party independent party hired by one of U.S. Water clients to also verify ongoing costs and compare them to nationwide standards. This was a Governmental Authority who hired the independent third party to analyze the market bases contractual rates of U.S. Water Services. Both of these studies provide third party independent verification that the U.S. Water operation and maintenance costs are well below the market rate.

² See Order No. PSC-09-0385-FOF-WS, p. 78.

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Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Troy Rendell". The signature is fluid and cursive, with a large initial "T" and "R".

Troy Rendell
Manager of Regulated Utilities
// for Lakeside Waterworks, Inc.

Attachments

Cc: Victoria Penick