

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** November 13, 2014

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Thompson, Daniel, Hudson)  
Division of Accounting and Finance (Mouring)  
Division of Engineering (King, Watts)  
Office of the General Counsel (Barrera)

**RE:** Docket No. 140106-SU – Application for limited proceeding rate increase in Polk County by West Lakeland Wastewater, Inc.  
County(ies): Polk

**AGENDA:** 11/25/14 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** Brisé, Balbis, Brown

**PREHEARING OFFICER:** Balbis

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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CLERK

### Case Background

West Lakeland Wastewater, Inc. (West Lakeland or Utility) is a Class C wastewater utility that serves approximately 300 customers in Polk County. Water service is provided by the City of Lakeland. According to West Lakeland's 2013 annual report, total gross revenues were \$102,514 and total operating expenses were \$146,655, resulting in a net loss of \$44,141.

On March 26, 2009, the Commission received a notice of abandonment from West Lakeland effective June 30, 2009. Mr. Smallridge was appointed receiver and is currently

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operating the system.<sup>1</sup> The Utility's last staff-assisted rate case was in 2012 and was followed up by 2013 and 2014 price indexes.<sup>2</sup>

On May 20, 2014, the Utility filed its application for a limited proceeding in order to recover additional costs for customer billing and for the renewal of its operating permit. The Utility's filing was deficient and a deficiency letter was sent on June 18, 2014. The Utility has since filed its corrections to the deficiencies. The Commission has jurisdiction in this case pursuant to Section 367.0822, Florida Statutes (F.S.).

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<sup>1</sup> See Order No. PSC-09-0607-FOF-SU as amended by PSC-09-0607A-FOF-SU, issued February 16, 2010, in Docket No. 090154-SU, In re: Notice of abandonment of wastewater system for The Village of Lakeland Mobile Home Park in Polk County, by West Lakeland Wastewater, Inc.

<sup>2</sup> See Order No. PSC-13-0327-PAA-SU, issued July 16, 2013, in Docket No. 120270-SU, In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

**Discussion of Issues**

**Issue 1:** What is the appropriate increase in revenues for this utility?

**Recommendation:** The appropriate revenue increase is \$2,379 for wastewater. (Mouring)

**Staff Analysis:** In its application, the Utility requested \$2,263 for the increase in expenses associated with switching from postcard bills to paper bills in envelopes. West Lakeland also requested \$3,300 for the cost of renewing its DEP permit, for a total requested increase of \$5,563. On September 6, 2014, the Utility filed a revised request which reflected \$1,371 for billing, \$3,300 for its DEP permit renewal, and a ten percent "Public Service Tax." Table 1-1 below details the Utility's revised request of \$4,870.

Table 1-1

Utility Request	
Description	Annual Expense
Envelopes (Send and Return)	\$446
Paper	36
Ink	173
Postage	1,852
Post Cards	(1,436)
Labor (Print, Fold, Stuff and Stamp)	<u>300</u>
Sub Total - Billing	\$1,371
RAFs (4.5%)	\$62
County Public Service Tax (10%)	137
DEP Permit Renewal	<u>3,300</u>
Total	<u>\$4,870</u>

Staff has reviewed West Lakeland's application as well as supporting documentation provided by the Utility, and recommends that adjustments be made. In its revised request, West Lakeland included \$1,371 to switch from billing its customers via postcards to paper bills in envelopes. Based on staff's analysis, the billing costs requested should be reduced by \$199 to reflect the appropriate incremental ink and labor expenses. Therefore, staff recommends incremental billing expenses of \$1,172.

Staff also recommends that the Polk County "Public Service Tax" be removed from the Utility's request. Based on staff's analysis and review of the pertinent Polk County Ordinance,<sup>3</sup> the "Public Service Tax" is only assessed on water service provided in undeveloped areas of Polk County. West Lakeland provides only wastewater service.

<sup>3</sup> See Article III of Chapter §11.6 Polk County Code of Ordinances.

West Lakeland also requested recovery of costs to renew its DEP operating permit. The Utility is required to renew its permit every five years, and it is due to expire on or about January 10, 2015. Staff recognizes that this is a recurring expense, but it is only incurred every five years, and thus recommends normalizing the cost over a 5-year period. As such, staff recommends that the DEP permit renewal costs be reduced by \$2,640 ( $\$3,300 \times (4/5)$ ).

Staff also recommends that the \$500 filing fee paid by the Utility in this case, as well as the noticing costs which staff has estimated to be \$435, be amortized over a 4-year period and that the total recommended revenue increase of \$2,066 ( $\$1,172 + \$660 + \$234$ ) should be subject to the ten percent operating margin approved in West Lakeland's last staff-assisted rate case.<sup>4</sup> Table 1-2 below details staffs recommended revenue increase.

Table 1-2

Staff Recommended Increase			
Expense	Per Utility	Adjustment	Per Staff
Envelopes (Send and Return)	\$446	\$ 0	\$446
Paper	36	0	36
Ink	173	(87)	87
Postage	1,852	0	1,852
Post Cards	(1,436)	0	(1,436)
Labor (Print, Fold, Stuff and Stamp)	<u>300</u>	<u>(112)</u>	<u>188</u>
Sub Total - Billing	\$1,371	(\$199)	\$1,172
Rate Case Expense	\$ 0	\$234	\$234
RAFs (4.5%)	62	45	107
County Public Service Tax (10%)	137	(137)	0
Operating Margin	0	207	207
DEP Permit Renewal	<u>3,300</u>	<u>(2,640)</u>	<u>660</u>
Total	<u>\$4,870</u>	<u>(\$2,491)</u>	<u>\$2,379</u>

<sup>4</sup> See Order No. PSC-13-0327-PAA-SU, issued July 16, 2013, in Docket No. 120270-SU, In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

**Issue 2:** What are the appropriate wastewater rates for West Lakeland?

**Recommendation:** The appropriate monthly wastewater rates are shown on Schedule No. 1. The recommended rates should be designed to produce additional service revenues of \$2,379 or a 1.98 percent increase. The percent increase should be applied as an across-the-board increase to the existing rates. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C). In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Thompson)

**Staff Analysis:** Staff recommends that wastewater rates be designed to produce additional service revenues of \$2,379 or a 1.98 percent increase. The calculation is as follows:

Table 3

<u>Wastewater</u>	
1 Test Year Revenues from Service Rates	\$119,957
2 Revenue Increase	<u>\$2,379</u>
3 % Service Rate Increase (Line 2/Line 1)	1.98%

The percent increase should be applied as an across-the-board increase to the existing rates. The appropriate monthly wastewater rates are shown on Schedule No. 1. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

**Issue 3:** Should the recommended rates be approved for West Lakeland on a temporary basis, subject to refund, in the event of a protest filed by a substantially affected person?

**Recommendation:** Yes. The recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a substantially affected person. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Clerk's Office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. (Thompson, Mouring)

**Staff Analysis:** This recommendation proposes an increase in rates to recover additional costs for customer billing and operating permit renewal. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, in the event of a protest filed by a substantially affected person, staff recommends that the recommended rates be approved as temporary rates. The Utility should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$1,587. Alternatively, the Utility could establish an escrow agreement with an independent financial institution. The recommended rates collected by the Utility should be subject to the refund provisions discussed below.

If the Utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it should contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect, and,
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) No monies in the escrow account may be withdrawn by the Utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;

- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments;
- 8) The Commission Clerk must be a signatory to the escrow agreement; and
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The Utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission Clerk's office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

**Issue 4:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** The wastewater rates should be reduced as shown on Schedule No. 1, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. West Lakeland should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Thompson, Mouring)

**Staff Analysis:** Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of revenue associated with the amortization of rate case expense, the associated operating margin, and the gross-up for RAFs. The total reduction is \$257.

The wastewater rates should be reduced as shown on Schedule No. 1, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. West Lakeland should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.



**Issue 5:** Should this docket be closed?

**Recommendation:** No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively. (Barrera)

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively.

<b>West Lakeland Wastewater, LLC Monthly Wastewater Rates</b>		<b>Schedule No. 1 Docket No. 140106-SU</b>	
	<b>UTILITY'S EXISTING RATES</b>	<b>STAFF RECOMMENDED RATES</b>	<b>4 YEAR RATE REDUCTION</b>
<b><u>Residential</u></b>			
Base Facility Charge - All Meter Sizes	\$14.92	\$15.22	\$0.03
Charge per 1,000 gallons 6,000 gallon cap	\$5.54	\$5.65	\$0.01
<b><u>General Service</u></b>			
Base Facility Charge by Meter Size			
5/8"X3/4"	\$14.92	\$15.22	\$0.03
1"	\$37.33	\$38.07	\$0.08
1-1/2"	\$74.64	\$76.12	\$0.17
2"	\$119.43	\$121.79	\$0.27
3"	\$238.87	\$243.60	\$0.54
4"	\$373.23	\$380.62	\$0.84
6"	\$746.45	\$761.23	\$1.67
8"	\$1,194.33	\$1,217.98	\$2.68
Charge per 1,000 gallons	\$6.65	\$6.78	\$0.01
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
3,000 Gallons	\$31.54	\$32.17	
6,000 Gallons	\$48.16	\$49.12	
10,000 Gallons	\$48.16	\$49.12	