

REQUEST FOR CHANGE TO COMMISSION CONFERENCE

Request Date 12/2/2015 Requested by AFD

Conference Date 12/3/2015 Item No 8 Docket No 150137 Title West Lakeland

ACTION REQUESTED (see APM 2.11)

- Defer Item to Conference Scheduled for (date) January 5, 2016
- Change Order of Item or Take Up at Time Certain (state reason) _____
- Withdraw Item
- Late Filed Recommendation (due no later than 3 p.m. on date approved for late filing). By noon on regular filing date, provide an electronic copy of the front page of recommendation to the Clerk, as a place-holder.
- File Revised Recommendation
- Add Item to Published Agenda (see s. 120.525, F.S.) – issue Addendum and provide Notice

Provide explanation: On December 1, 2015, OPC emailed suggested modifications to staff's recommendation. (See attached email). In order to fully review these modifications, staff requests this item be deferred.

SIGNATURES

Technical Kerry L. Smith II Director [Signature]
Legal [Signature] General Counsel CB

EXECUTIVE DIRECTOR

Approved Disapproved Signature [Signature] Date 12/2/15

CHAIRMAN

Approved Disapproved Signature [Signature] Date 12/2/15

The Executive Suite will scan and email approved form to CLK, CLK-Agenda Staff, OPR Director, ED, DEA, DET, Docket Manager, General Counsel, Legal Services Director, CAO Director, Commissioners' offices, and assigned attorney.

Bart Fletcher

From: Merchant, Tricia <MERCHANT.TRICIA@leg.state.fl.us>
Sent: Tuesday, December 01, 2015 3:51 PM
To: Bart Fletcher; Curt Mouring
Cc: Rehwinkel, Charles
Subject: Docket No. 150137-SU- West Lakeland Wastewater, Inc. Legal Fee Deferral Request
Attachments: West Lakeland Land Easement.docx

Docket No. 150137-SU- Petition for approval to defer legal expenses associated with the resolution of land use issues for utility treatment facilities that are located in Polk County by West Lakeland Wastewater, Inc.

Bart and Curt,

Attached is OPC's recommended language modification for Item 8 at the December 3, 2015 Agenda Conference. Please let me know if you have any questions.

Thanks so much!

Tricia

December 3, 2015 Agenda Conference – Item 8

RE: Docket No. 150137-SU- Petition for approval to defer legal expenses associated with the resolution of land use issues for utility treatment facilities that are located in Polk County by West Lakeland Wastewater, Inc.

Type and Strike Suggestions From OPC

Issue 1: Should the Commission approve West Lakeland Wastewater, Inc.'s petition to defer expenses related to obtaining an easement to its clearing ponds and spray fields?

Recommendation: Yes. The Commission should approve the petition by West Lakeland to defer the legal expenses associated with obtaining an easement to its ponds and spray field, pending a final determination of whether the prudent costs incurred should be capitalized as a long-term asset or amortized over a shorter period of time. (Smith)

Staff Analysis: – Last two paragraphs

The concept of deferral accounting allows companies to defer costs due to events beyond their control and seek recovery through rates at a later time. The alternative would be for the company to seek a rate case each time it experiences an exogenous event. To allow ensure that the utility is ~~given~~ the opportunity to earn a reasonable return or recover the reasonable costs associated with the process of obtaining an easement, staff recommends that the Commission approve the utility's petition to defer expenses the costs related to obtaining an easement to its ponds and spray fields.

The expenses costs in the instant docket relate to legal fees incurred by the utility in trying to obtain an easement to property which contain the ponds and spray field. Since this situation is still ongoing, ~~creating-allowing recovery of~~ a regulatory asset is not possible at this time. Upon completion of a fully executed easement, long-term lease, or purchase of the land, the Commission can determine the appropriate accounting and recovery methodology for obtaining legal rights to the land on which the treatment facilities are located. ~~Mr. Smallridge would will be able to file for the establishment and recovery of the deferred legal fees through a regulatory asset.~~ Therefore, staff recommends the Commission approve the petition by West Lakeland to defer the legal expenses fees associated with obtaining an easement to its ponds and spray field, pending a final determination of whether the prudent costs incurred should be capitalized as a long-term asset or amortized over a shorter period of time.

Issue 2: Should West Lakeland file a transfer application within 90 days from the date the utility obtains the legal rights to the land on which the treatment facilities are located ~~of a fully executed easement?~~

Recommendation: Yes. (Smith)

Staff Analysis: In Docket Nos. 140174-WU and 140176-WU, the Commission imposed conditions on any new purchases of Commission-regulated utilities by Mr. Smallridge. Condition number 5 states, "If Michael Smallridge purchases, either directly or indirectly, any other Commission-regulated utilities prior to December 31, 2017, an application for transfer shall be submitted within 90 days of such purchase." Despite the fact that Mr. Smallridge was already

appointed receiver of West Lakeland when the Commission rendered its decision, staff believes the underlying reasons for this condition apply in this case. Therefore, staff is recommending Mr. Smallridge be required to file for a transfer within 90 days from the date the utility obtains the legal rights to the land on which the treatment facilities are located ~~of a fully-executed easement.~~