

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: March 24, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Bruce, Hudson) *[Handwritten initials]*
Office of the General Counsel (Brownless) *[Handwritten initials]*

RE: Docket No. 150102-SU – Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

AGENDA: 04/05/16 – Regular Agenda – Proposed Stipulation Prior to Hearing – Parties May Participate

COMMISSIONERS ASSIGNED: Edgar, Brisé, Patronis

PREHEARING OFFICER: Edgar

CRITICAL DATES: 09/27/16 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2016 MAR 24 AM 10:42
COMMISSION
CLERK

Case Background

On June 4, 2015, Utilities Inc. of Sandalhaven (Sandalhaven) filed its application for the rate increase at issue in the instant docket. A deficiency letter was sent to the utility on July 1, 2015, and corrections to the minimum filing requirements (MFRs) were filed on July 6, 2015, which was established as the official date of filing pursuant to Section 367.083, Florida Statutes (F.S.). The utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the period ended December 31, 2014. The utility's proposed rates were suspended and interim rates were granted subject to refund by Order No. PSC-15-0320-PCO-SU, issued on August 10, 2015.

On January 6, 2016, Order No. PSC-16-0013-PAA-SU was issued granting Sandalhaven's application for a rate increase and establishing PAA rates subject to protest and request for a hearing. On January 27, 2016, the Office of Public Counsel (OPC) timely filed a petition and

request for evidentiary hearing. On February 4, 2016, Sandalhaven timely filed a cross-petition for a formal administrative hearing. On February 10, 2016, Sandalhaven placed the PAA rates into effect subject to refund, with the exception of its Allowance for Funds Prudently Invested (AFPI) charges. The utility maintained the AFPI charges that were in effect when the Commission obtained jurisdiction from Charlotte County. On February 24, 2016, Sandalhaven filed a motion for partial final summary order on the issue of the prudence of constructing an interconnection with the Englewood Water District to serve potential and current customers and its decision to retire its wastewater treatment plant. On March 21, 2016, OPC and Sandalhaven ("Parties") filed a joint motion requesting Commission approval of a stipulation and settlement agreement entered into between the parties on March 21, 2016. This recommendation addresses the Settlement Agreement, which is included as Attachment A in this recommendation. The Commission has jurisdiction over this subject matter pursuant to Sections 367.011, 367.081, 367.101, and 367.121, F.S.

Discussion of Issues

Issue 1: Should the Commission approve the Joint Motion Requesting Commission Approval of Settlement Agreement?

Recommendation: Yes. The Joint Motion and Settlement Agreement should be approved. The protested issues of the PAA Order should have no precedential effect or value and can be raised in any future rate case. Upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amount for interim rates and the implementation of PAA rates be released. Upon approval of the Settlement Agreement by the Commission, the utility should file a proposed customer notice indicating that the Commission has approved a settlement agreement between the Parties and that the PAA rates are final, with the exception of AFPI charges. The utility should continue to collect the AFPI charges in effect when the Commission obtained jurisdiction from Charlotte County. The utility should provide proof of the date notice was given within 10 days of the date of the notice. (Bruce, Brownless)

Staff Analysis: The issues protested by the Parties are set forth in the petition and cross-petition for a formal administrative hearing. In the Settlement Agreement, the Parties agree that the protested issues of the PAA Order should have no precedential effect or value and can be raised in any future rate case. The Parties agree to the PAA Order and its overall revenue requirement. However, the Parties agree that the utility should continue to collect the AFPI charges in effect when the Commission obtained jurisdiction from Charlotte County, in lieu of the AFPI charges set forth in the PAA Order. The Parties also agree that the utility will not seek an increase based upon the 2016 Price Index. In addition, the Parties agree that the utility will not seek to recover any additional rate case expense incurred as a result of the petition and cross-petition for a formal administrative hearing. OPC's petition and Sandalhaven's cross-petition and Sandalhaven's Motion for partial final summary order and OPC's response to the Motion, should be deemed moot in accordance with the terms of this Stipulation and Settlement Agreement.

Staff believes that the Parties' Settlement Agreement is a reasonable resolution because it addresses all protested issues. Staff also believes that it is in the public interest for the Commission to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing. In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings whenever possible, staff recommends that the Commission approve the Parties' Settlement Agreement.

The Joint Motion and Settlement Agreement should be approved. The protested issues of the PAA Order should have no precedential effect or value and can be raised in any future rate case. Upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amount for interim rates and the implementation of PAA rates be released. Upon approval of the Settlement Agreement by the Commission, the utility should file a proposed customer notice indicating that the Commission has approved a settlement agreement between the Parties and that the PAA rates are final, with the exception of AFPI charges. The utility should continue to collect the AFPI charges in effect when the Commission obtained jurisdiction from Charlotte County. The utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement. (Bruce, Brownless)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement.

FILED MAR 21, 2016
DOCUMENT NO. 01491-16
FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater)
rates in Charlotte County by Utilities, Inc.)
of Sandalhaven.)
_____ /

Docket No. 150102-SU

Filed: March 21, 2016

**JOINT MOTION REQUESTING COMMISSION APPROVAL OF
STIPULATION AND SETTLEMENT AGREEMENT**

Utilities, Inc. of Florida as successor to Utilities, Inc. of Sandalhaven (“Sandalhaven” or “Utility”), and the Office of Public Counsel (“OPC”) file this Joint Motion requesting the Florida Public Service Commission (“Commission”) approve the attached Stipulation and Settlement Agreement. In support of this Joint Motion, Sandalhaven and OPC state:

1. Sandalhaven and OPC have entered into a Stipulation and Settlement Agreement resolving OPC’s Petition protesting portions of the proposed agency action and request for a formal administrative hearing and Sandalhaven’s Cross-Petition concerning Proposed Agency Action (PAA) Order No. PSC-16-0013-PAA-SU, issued January 6, 2016 (“PAA Order”). A copy of the Stipulation and Settlement Agreement is attached hereto as Exhibit “A”.

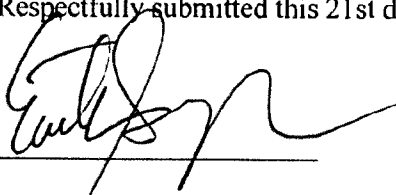
2. Sandalhaven and OPC have entered into the Stipulation and Settlement Agreement to avoid the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission’s long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible. For these reasons, Sandalhaven and OPC request the Commission to expeditiously issue a final order approving the Stipulation and Settlement Agreement without modification and close Docket No. 150102-SU.

3. Pending Commission consideration of the Stipulation and Settlement Agreement, Sandalhaven and OPC request the Commission to suspend and abate all discovery, decisions on

other pending motions, and all events currently scheduled in the CASR for this Docket until such time as the Commission acts on this Joint Motion.

WHEREFORE, Sandalhaven and OPC respectfully request the Commission to approve without modification the attached Stipulation and Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a final order is issued closing this docket.

Respectfully submitted this 21st day of March, 2016.



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Public Counsel

Erik L. Sayler
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Attorney for Utilities, Inc. of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 150102-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion
Requesting Commission Approval of Stipulation and Settlement Agreement has been furnished
by electronic Mail to the following parties on this 21st day of March, 2016.

Suzanne Brownless, Esquire
Jennifer Crawford, Esquire
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Florida Public Service Commission
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SAYLER.ERIK@leg.state.fl.us

Martin S. Friedman

Martin S. Friedman
Attorney for Utilities, Inc. of Florida

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|---|-----------------------|
| In re: Application for increase in wastewater) | Docket No. 150102-SU |
| rates in Charlotte County by Utilities, Inc. of) | |
| Sandalhaven.) | Filed: March 21, 2016 |
| _____) | |

STIPULATION AND SETTLEMENT AGREEMENT

THIS STIPULATION AND SETTLEMENT AGREEMENT is made and entered into this 21st day of March, 2016, by and between Utilities, Inc. of Florida as successor to Utilities, Inc. of Sandalhaven (Sandalhaven or Utility), and the Office of Public Counsel on behalf of the customers of Sandalhaven (OPC).

WITNESSETH

WHEREAS, the Florida Public Service Commission (Commission) issued Proposed Agency Action (PAA) Order No. PSC-16-0013-PAA-SU, in this docket on January 6, 2016 (PAA Order); and

WHEREAS, on January 27, 2016, OPC timely filed a Petition protesting portions of the proposed agency action and request for formal administrative hearing (Petition); and

WHEREAS, on February 4, 2016, Sandalhaven timely filed a Cross-Petition for a formal administrative hearing and protesting specific issues in the PAA Order (Cross-Petition); and

WHEREAS Sandalhaven has indicated – and OPC acknowledges this indication – that Utilities, Inc. of Florida (UIF) intends to file a rate case for its consolidated systems (including Sandalhaven) by October 2016; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission's long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible, Sandalhaven and OPC hereby enter into this Agreement to settle this case in accordance with the terms and conditions contained herein.

Exhibit "A"

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, Sandalhaven and OPC (Parties) agree as follows:

1. The Parties agree to the overall revenue requirement in the PAA Order. It is the intent of the Parties that the protested issues in the PAA Order shall have no precedential effect or value in any future rate case. It is the intent of the Parties that all issues protested by the Parties in the PAA Order can be raised in a subsequent rate case. The issues protested by the Parties are set forth in their Petition and Cross-Petition for a formal administrative hearing and incorporated herein by reference. Notwithstanding anything herein to the contrary, Sandalhaven shall continue to collect the Allowance for Funds Prudently Invested (AFPI) Charges in effect when the Commission obtained jurisdiction from Charlotte County, in lieu of the AFPI Charges set forth in the PAA Order, and Sandalhaven agrees not to seek an increase based upon the 2016 Price Index.

2. The Parties agree UIF will be entitled only to rate case expense approved in the PAA Order. UIF agrees it will not seek to recover any additional rate case expense incurred as a result of the OPC and UIF Protests of the PAA Order in this proceeding or any other future rate case.

3. The Parties agree that all issues decided by the PAA Order, except those preserved subject to the terms of this Stipulation and Settlement Agreement, shall become final upon the Commission's acceptance and approval of this Stipulation and Settlement Agreement without modification.

4. If this Stipulation and Settlement Agreement is not accepted and approved without modification by the Commission, then this Stipulation and Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

5. The Parties expressly agree that all activity relating to this docket should be suspended and abated until the Commission disposes of the Joint Motion Requesting Commission Approval of this Stipulation and Settlement Agreement.

Exhibit "A"

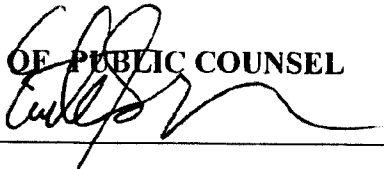
6. This Stipulation and Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving this Stipulation and Settlement Agreement, OPC's Petition and Sandalhaven's Cross-Petition, and Sandalhaven's Motion for partial final summary order and OPC's Response to that Motion, shall be deemed moot in accordance with the terms of this Stipulation and Settlement Agreement.

7. The Parties have evidenced their acceptance and agreement with the provisions of this Stipulation and Settlement Agreement by their signatures, and personally represent that they have authority to execute this Stipulation and Settlement Agreement on behalf of their respective Parties.

8. The Parties each agree that the Stipulation and Settlement Agreement is in the best interest of Sandalhaven's customers and is in the public interest.

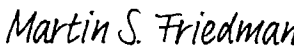
OFFICE OF PUBLIC COUNSEL

By: _____


Erik L. Saylor
Associate Public Counsel
On behalf of the Customers of
Utilities, Inc. of Florida

UTILITIES, INC. OF FLORIDA

By: _____


Martin S. Friedman
Attorney for Utilities, Inc. of Florida