

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to defer legal expenses in Marion County, by East Marion Utilities, LLC.

DOCKET NO. 20200215-WS
ORDER NO. PSC-2021-0029-PAA-WS
ISSUED: January 11, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
JULIE I. BROWN
MIKE LA ROSA
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PETITION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (Commission) that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Case Background

East Marion Utilities, LLC (East Marion or Utility) is a Class C water and wastewater utility that serves approximately 106 water customers and 96 wastewater customers in Marion County. According to East Marion's 2019 Annual Report, total gross revenue was \$76,109 and total operating expense was \$85,515, resulting in a net loss of \$9,406.

On September 14, 2020, East Marion filed a petition for approval to defer legal costs incurred in 2020. The total legal costs associated with this petition are \$6,594. All legal costs were associated with a settlement agreement with the Florida Department of Environmental Protection (FDEP).

The Commission has jurisdiction in this case pursuant to Section 367.011, Florida Statutes.

Review and Decision

On September 14, 2020, East Marion filed a petition seeking approval to defer legal expenses incurred in 2020. All legal expenses were associated with a settlement agreement with the FDEP. The total cost to date of all legal expenses is \$6,594.

The concept of deferral accounting allows companies to defer costs due to events beyond their control and to 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. The costs in this docket are related to legal fees incurred by the Utility in trying to resolve possible violations alleged by FDEP and negotiating a settlement agreement to resolve the possible violations. This Commission has previously allowed legal expenses from defending fines and violations from FDEP to be recovered by utilities.¹ We have previously recognized that these types of legal expenses can serve to avoid or reduce fines, or eliminate or postpone large system improvements.² Upon review, we shall approve the petition by East Marion to defer these legal expenses for consideration in the utility's next rate proceeding. Approval to defer legal expenses is not an approval of the actual expenses.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition by East Marion Utilities, LLC to defer legal expenses for consideration in the utility's next rate proceeding is hereby approved. Approval to defer legal expenses is not an approval of the actual expenses. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

¹ Order No. PSC-97-0618-FOF-WS, issued May 30, 1997, in Docket No. 960451-WS, *In re: Application for rate increase in Duval, Nassau, and St. Johns Counties by United Water Florida Inc.*

² Order No. PSC-93-0301-FOF-WS, issued February 25, 1993, in Docket No. 911188-WS, *In re: Application for a Rate Increase in Lee County by Lehigh Utilities, Inc.*

By ORDER of the Florida Public Service Commission this 11th day of January, 2021.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 1, 2021.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.