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| State of Florida  pscSEAL | | 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: | June 1, 2023 | | |
| TO: | Office of Commission Clerk (Teitzman) | | |
| FROM: | Division of Economics (Bruce, Bethea, Hudson)  Division of Accounting and Finance (Haddix, Higgins, Richards)  Division of Engineering (Davis, Ellis)  Office of the General Counsel (Sparks, Harper) | | |
| RE: | Docket No. 20220185-WS – Application for limited alternative rate increase in Hardee, Manatee, Marion, Polk, and Pasco Counties, by Charlie Creek Utilities, LLC, Crestridge Utilities, LLC, East Marion Utilities, LLC, Heather Hills Utilities, LLC, Holiday Gardens Utilities, LLC, Lake Yale Utilities, LLC, McLeod Gardens Utilities, LLC, Orange Land Utilities, LLC, Sunny Shores Utilities, LLC, Sunrise Water, LLC and West Lakeland Wastewater, LLC. | | |
| AGENDA: | 06/13/23 – Regular Agenda – Proposed Agency Action – Except for Issue No. 3 – Interested Persons May Participate | | |
| COMMISSIONERS ASSIGNED: | | | All Commissioners |
| PREHEARING OFFICER: | | | La Rosa |
| CRITICAL DATES: | | | Waived through the June 13, 2023 Commission Conference |
| SPECIAL INSTRUCTIONS: | | | None |

Case Background

On November 4, 2022, Florida Utility Services 1, LLC (FUS1) filed an application for a limited alternative rate increase (LARI) pursuant to Rule 25-30.457, Florida Administrative Code (F.A.C.) for the following systems: Charlie Creek Utilities, LLC (Charlie Creek); Crestridge Utilities, LLC (Crestridge); East Marion, LLC (East Marion); Heather Hills Utilities, LLC (Heather Hills); Holiday Gardens Utilities, LLC (Holiday Gardens); Lake Yale Utilities, LLC (Lake Yale); McLeod Gardens, LLC (McLeod Gardens); Orange Land Utilities, LLC (Orange Land); Sunny Shores Utilities, LLC (Sunny Shores); Sunrise Water, LLC (Sunrise); and West Lakeland Wastewater, LLC (West Lakeland).

On November 7, 2022, FUS1 filed a petition pursuant to Section 120.542, Florida Statutes (F.S.), for temporary waiver of Rule 25-30.020(2)(f), Florida Administrative Code (F.A.C.), requesting that the Commission waive the $13,000 in filing fees required by the rule and enable FUS1 to instead pay a single filing fee of $1,000. At the January 10, 2023 Commission Conference, the Commission voted to deny FUS1’s request to waive the above-mentioned rule pertaining to filing fees and its request to pay $1,000.[[1]](#footnote-1) On the same day, FUS1 filed an amendment to the application to include Leighton Estates Utilities, LLC (Leighton), which increased the filing fee from $13,000 to $13,500. On January 26, 2023, FUS1 paid a filing fee of $13,500, which was deemed as the official filing date.

On April 14, 2023, FUS1 revised its application to reflect updated schedules, which are based on 2022 financial information rather than 2021 financial information as contained in the original filing. On May 4, 2023, FUS1 withdrew its application for Leighton due to potential overearnings and requested a refund of the filing fee for that utility.[[2]](#footnote-2) Staff has started the process for refunding the filing fee. The other utilities remain in this proceeding. The following two tables reflect the number of customers, 2022 Annual Report gross revenues and operating expenses, and the rate proceedings in which rates were last established for the remaining utilities, and the number of complaints by utility.

**Customers, Revenues, Operating Expenses, and Last**

**Proceedings Establishing Rates**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Utility | Customers | Gross Revenues | Operating Expenses | Order | Issuance Date |
| Charlie Creek | 159 | $73,443 | $86,852 | PSC-2017-0144-PAA-WU | 4/27/17 |
| Crestridge | 614 | $215,368 | $227,457 | PSC-2017-0042-PAA-WU | 2/01/17 |
| East Marion - w | 116 | $37,526 | $40,806 | PSC-2020-0393-PAA-WU | 10/22/20 |
| East Marion - ww | 116 | $48,925 | $63,774 | PSC-2020-0393-PAA-WU | 10/22/20 |
| Heather Hills -w | 351 | $80,918 | $88,698 | PSC-2020-0119-PAA-WS | 4/20/20 |
| Heather Hills - ww | 351 | $127,219 | $131,205 | PSC-2020-0119-PAA-WS | 4/20/20 |
| Holiday Gardens | 457 | $139,460 | $156,660 | PSC-2017-0041-PAA-WU | 2/01/17 |
| Lake Yale - w | 388 | $92,916 | $84,475 | PSC-2021-0106-PAA-WS | 3/17/21 |
| Lake Yale - ww | 300 | $98,750 | $112,025 | PSC-2021-0106-PAA-WS | 3/17/21 |
| McLeod Gardens | 100 | $61,761 | $57,862 | PSC-2021-0107-PAA-WU | 3/19/21 |
| Orange Land | 74 | $29,625 | $29,295 | PSC-2018-0439-PAA-WU | 8/28/18 |
| Sunny Shores | 261 | $108,002 | $115,203 | PSC-2021-0320-PAA-WU | 8/23/21 |
| Sunrise | 263 | $107,274 | $96,398 | PSC-2016-0126-PAA-WU | 3/28/16 |
| West Lakeland | 317 | $147,043 | $168,997 | PSC-2019-0503-PAA-SU | 11/25/19 |

Source: 2022 Annual Report and the Case Management system

In each of the utilities’ last rate cases, the Commission found the overall quality of service to be satisfactory, with the exception of Sunrise. In its 2014 rate case, the Commission found the overall quality of service to be unsatisfactory and ordered a 25 percent penalty to be applied to the officer’s salary.[[3]](#footnote-3) Subsequent to its last rate case, Sunrise was transferred to its current owner in June 2018.[[4]](#footnote-4) Staff has identified a total of 10 complaints received by the Commission regarding secondary water quality standards for the utilities since their last rate case or limited alternative rate increase.[[5]](#footnote-5) The complaints address bad odors and/or discoloration. Eight of the 10 complaints are for McLeod Gardens, which passed its most recent Department of Environmental Protection (DEP) secondary water standard test results in June 2021. Staff has identified 6 secondary water quality complaints filed with the DEP. The complaints address the odor, taste, discoloration or particulate matter in the water for Charlie Creek, Crestridge, Holiday Gardens, Lake Yale and Orange Land facilities. The aforementioned utilities passed their most recent DEP secondary water standard test during calendar year 2022.

A Notice for the Solicitation of Comments (Notice) was sent to customers on May 16, 2023, and 41 comments were received through noon on May 31, 2023. These comments included 10 which address secondary water quality standards, and 15 which address other water quality issues, such as water pressure or boiled water notices. The table below summarizes the complaints/comments received by each utility.

**Customer Comments by Utility Regarding Water Quality**

|  |  |  |  |
| --- | --- | --- | --- |
| Utility | Commission | DEP | Notice |
| Charlie Creek Utilities, LLC | - | 1 | - |
| Crestridge Utilities, LLC | 1 | 2 | 2 |
| East Marion Utilities, LLC | - | - | 3 |
| Heather Hills Utilities, LLC | - | - | 3 |
| Holiday Gardens Utilities, LLC | - | 1 | 3 |
| Lake Yale Utilities, LLC | - | 1 | 2 |
| McLeod Gardens Utilities, LLC | 8 | - | 4 |
| Orange Land Utilities, LLC | 1 | 1 | 3 |
| Sunny Shores Utilities, LLC | - | - | 2 |
| Sunrise Water, LLC | - | - | 1 |
| West Lakeland Wastewater, LLC | - | - | 2 |

Source: Consumer Activity Tracking System/DEP/Commission Docket File

In its revised application, FUS1 selected the test year ended December 31, 2022, for this proceeding. The Commission has jurisdiction pursuant to Section 367.0814(9) and 367.121(1), F.S.

Discussion of Issues

Issue 1:

 Should the Commission approve FUS1's application for a limited alternative rate increase for its systems?

Recommendation:

 Yes. The Commission should approve FUS1’s application for a LARI for the subject utilities. Pursuant to Rule 25-30.457(7), F.A.C., the utilities are required to hold any revenue increase granted subject to refund with interest. To ensure overearnings will not occur due to the implementation of these rate increases, Commission staff will conduct earning reviews of the 12-month period following the implementation of the revenue increases. If Commission staff determines that a utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund. (Richards, Haddix, Davis)

Staff Analysis:

  Pursuant to Rule 25-30.457, F.A.C., any utility eligible to file for a staff-assisted rate case (SARC) may petition the Commission for a limited alternative rate increase. A limited alternative rate case allows a system to receive up to 20 percent applied to metered or flat recurring rates as an alternative to a SARC filed pursuant to Rule 25-30.455, F.A.C. Rule 25-30.457, F.A.C., was designed as an alternative to traditional SARCs in order to stream-line the rate review process for qualifying water or wastewater companies by establishing an abbreviated procedure for a limited rate increase that is less time consuming and less costly for utility customers. Rule 25-30.457, F.A.C., is similar to the rules governing “price index” and “pass-through” increases, in that neither an engineering review nor a financial audit of the utility’s books and records are required.

Staff analyzed FUS1’s filing based on the criteria listed in Rule 25-30.457(2), F.A.C., and recommends that the utilities qualify for staff assistance pursuant to subsection (1) of this Rule. Staff also verified that the utilities are current on their regulatory assessment fees and annual report filings. Each of the 14 systems have had rates established within the last seven years, pursuant to Rule 25-30.457(2)(l), F.A.C., and are not overearning based on information provided in their 2022 Annual Reports. Additionally, the utilities’ books and records are organized consistent with Rule 25-30.110, F.A.C. The filing by FUS1 contained additional relevant information in support of its application.

On May 16, 2023, the utilities sent their customers the Notice that provided a summary of the rate request, the current and proposed rates, detailed instructions on how comments may be filed with the Commission prior to the Commission Conference, and instructions if a customer wished to comment at the Commission Conference. Also attached to the Notice was a customer comment card that customers could complete and mail to the Commission. As of noon on May 31, 2023, 41 customers submitted comments. Of these comments, 10 expressed concerns regarding secondary water standards such as issue with odor, discoloration, or particulates in the water, and 15 expressed concerns other water quality issues, such as low water pressure or frequency of boiled water notices.

FUS1 requested a 5 percent increase for the utilities included in Table 1-1, a 15 percent increase for the utilities included in Table 1-2, and a 20 percent increase for the utilities included in Table 1-3. Based on FUS1’s calculations, the requested increase amounts are needed to prospectively bring each utility within its range of authorized return on equity.

**Table 1-1**

**Recommended 5 Percent Increase**

|  |  |
| --- | --- |
| **System** | **Amount ($)** |
| Lake Yale Utilities (water) | $4,591 |
| Sunrise Utilities (water) | 5,167 |
| Total | $9,758 |

Source: FUS1 Application.

**Table 1-2**

**Recommended 15 Percent Increase**

|  |  |
| --- | --- |
| **System** | **Amount ($)** |
| Heather Hills Utilities (wastewater) | $19,251 |
| McLeod Gardens Utilities (water) | 9,278 |
| Orange Land Utilities (water) | 4,323 |
| Total | $32,851 |

Source: FUS1 Application.

**Table 1-3**

**Recommended 20 Percent Increase**

|  |  |
| --- | --- |
| **System** | **Amount ($)** |
| Charlie Creek Utilities (water) | $14,214 |
| Crestridge Utilities (water) | 42,193 |
| East Marion Utilities (water) | 7,481 |
| East Marion Utilities (wastewater) | 9,919 |
| Holiday Gardens (water) | 26,901 |
| Heather Hills Utilities (water) | 16,050 |
| Lake Yale Utilities (wastewater) | 20,046 |
| Sunny Shores Utilities (water) | 21,594 |
| West Lakeland Utilities (wastewater) | 28,428 |
| Total | $186,826 |

Source: FUS1 Application.

**Conclusion**

The data presented in the application was based on annualized revenues by customer class and meter size for the period ended December 31, 2022.

Pursuant to Rule 25-30.457(7), F.A.C., the utility is required to hold any revenue increase granted subject to refund with interest in accordance with Rule 25-30.360(4), F.A.C.

To ensure overearnings do not occur due to the implementation of these rate increases, staff will conduct earning reviews of the 12-month period following the implementation of the revenue increases. At the end of the 12-month period, each utility will have 90 days to complete and file Form PSC 1025 (03/20), titled: “Limited Alternative Rate Increase Earnings Review.” In the event a utility needs additional time to complete the form, it may request an extension of time supported by a statement of good cause that must be filed with the Commission within seven days prior to the 90-day deadline. If the earning reviews demonstrate that the utility exceeded the range of its last authorized rate of return on equity, such overearnings, up to the amount held subject to refund, with interest, shall be disposed of for the benefit of the customers. If staff determines that the utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund.

Issue 2:

 What are the appropriate monthly service rates for the utilities?

Recommendation:

 The appropriate staff recommended service rates are shown on Schedule No. 1. The utilities should file tariff sheets and proposed customer notices 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 sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The utilities should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bethea, Bruce)

Staff Analysis:

 Based on staff’s recommended approval of the utilities’ revenue increase LARI in Issue 1, the existing service rates for the utilities should be increased by the individual percentage rate increases shown in Table 2-1, which are in accordance with Rule 25-30.457, F.A.C.

**Table 2-1**

**Staff Recommended Percentage Rate Increase**

|  |  |
| --- | --- |
| **Utility** | **% Rate Increase** |
| Lake Yale (water) | 5% |
| Sunrise | 5% |
| Heather Hills (wastewater) | 15% |
| McLeod Gardens | 15% |
| Orange Land | 15% |
| Charlie Creek | 20% |
| Crestridge | 20% |
| East Marion (wastewater) | 20% |
| East Marion (water) | 20% |
| Heather Hills (water) | 20% |
| Holiday Gardens | 20% |
| Lake Yale (wastewater) | 20% |
| Sunny Shores | 20% |
| West Lakeland | 20% |

Staff calculated rates by applying the percentage rate increases across-the-board to the existing base facility and gallonage charges for each utility. The appropriate staff recommended service rates are shown on Schedule No. 1. Staff’s recommended rates are the same as the utilities’ requested rates; however, staff rounded up to the nearest tenth. The utilities should file tariff sheets and proposed customer notices 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 sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notices. The utilities should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 3:

 Should the recommended rates be approved for the utilities on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utilities?

Recommendation:

 Yes. The recommended rates should be approved for the utilities on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utilities. Pursuant to Rule 25-30.457(9), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected person other than the utilities, the utilities should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon filing a SARC application within 21 days from the date the protest is filed. The utilities should file revised tariff sheets and proposed customer notices to reflect the Commission-approved rates. The rates should be effective for services 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 temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(9), F.A.C., if the utility fails to file a SARC application within 21 days in the event there is a protest, the application for a LARI will be deemed withdrawn. (Richards, Haddix)

Staff Analysis:

 Through its recommendation, staff has proposed an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue for the utility. Therefore, pursuant to Rule 25-30.457(9), F.A.C., the utilities should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon filing a SARC application within 21 days from the date the protest is filed. Each utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The 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 temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(9), F.A.C., if the utility fails to file a SARC application within 21 days in the event there is a protest, the application for a LARI will be deemed withdrawn.***Issue 4***:

 Should this docket be closed?

Recommendation:

 No. In the event of a protest, the utilities may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the utility’s filing of a SARC application within 21 days of the date the protest is filed. If the utilities fail to file a SARC within 21 days, the utility’s petition for a LARI will be deemed withdrawn pursuant to Rule 25-30.457(9), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. The docket should remain open for staff’s verification that the revised tariff sheets which reflect the Commission-approved rates, and the customer notices, have been filed by the utilities and approved by staff, and so that staff may conduct an earnings review of the utilities pursuant to Rule 25-30.457(8), F.A.C. Upon staff’s approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(8)(a), F.A.C., this docket should be closed administratively. (Sparks)

Staff Analysis:

 In the event of a protest, the utilities may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the utility’s filing of a SARC application within 21 days of the date the protest is filed. If the utilities fail to file a SARC within 21 days, the utility’s petition for a LARI will be deemed withdrawn pursuant to Rule 25-30.457(9), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. The docket should remain open for staff’s verification that the revised tariff sheets which reflect the Commission-approved rates, and the customer notices, have been filed by the utilities and approved by staff, and so that staff may conduct an earnings review of the utility pursuant to Rule 25-30.457(8), F.A.C. Upon staff’s approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(8)(a), F.A.C., this docket should be closed administratively.





























1. Order No. PSC-2023-0064-PAA-WS, issued January 30, 2023, in the instant docket. [↑](#footnote-ref-1)
2. Document No. 03079-2023, filed on May 4, 2023. [↑](#footnote-ref-2)
3. Order No. PSC-2016-0126-PAA-WU, issued March 28, 2016, in Docket 20140220-WU, *In re: Application for staff-assisted rate case in Polk County by Sunrise Utilities, L.L.C.* [↑](#footnote-ref-3)
4. Order No. PSC-2019-0303-PAA-WU, issued July 29, 2019, in Docket No. 20180174-WU, *In re: Application to transfer facilities and Certificate No. 627-W in Polk County from Sunrise Utilities, LLC to Sunrise Water, LLC.* [↑](#footnote-ref-4)
5. Section 367.0812, F.S., states, in part, “In fixing rates that are just, reasonable, compensatory, and not unfairly discriminatory, the commission shall consider the extent to which the utility provides water service that meets secondary water quality standards as established by the [DEP].” [↑](#footnote-ref-5)