BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

|  |  |
| --- | --- |
| In re: 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. | DOCKET NO. 20220185-WS  ORDER NO. PSC-2023-0192-PAA-WS  ISSUED: June 30, 2023 |

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman

ART GRAHAM

GARY F. CLARK

MIKE LA ROSA

GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING RATE INCREASE FOR 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;

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.).

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), 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. Tables 1 and 2 below 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.

**Table 1**

**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 |

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.

**Table 2**

**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 |

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**

I. Approval of Application for Limited Alternative Rate Increase

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.

We analyzed FUS1’s filing based on the criteria listed in Rule 25-30.457(2), F.A.C., and find that the utilities qualify for staff assistance pursuant to subsection (1) of this Rule. We 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 3, a 15 percent increase for the utilities included in Table 4, and a 20 percent increase for the utilities included in Table 5. 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 3**

**Recommended 5 Percent Increase**

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

**Table 4**

**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 |

**Table 5**

**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 |

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, our 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 this 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 we determine 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.

II. Appropriate Monthly Service Rates

Based on our approval of the utilities’ revenue increase LARI discussed above, the existing service rates for the utilities should be increased by the individual percentage rate increases shown in Table 6, which are in accordance with Rule 25-30.457, F.A.C.

**Table 6**

**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% |

We calculated rates by applying the percentage rate increases across-the-board to the existing base facility and gallonage charges for each utility. The appropriate service rates are shown on Schedule No. 1. Our approved rates are the same as the utilities’ requested rates; however, we rounded up to the nearest tenth. The utilities should file tariff sheets and proposed customer notices to reflect these Commission-approved rates.

The approved rates shall 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 shall not be implemented until our 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.

III. Temporary Nature of Approval, Subject to Refund

The rates are 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. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue for the utility. Pursuant to Rule 25-30.457(9), F.A.C., in the event of a protest of this Order by a substantially affected person other than the utilities, the utilities are authorized to implement the rates established within this 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 shall file revised tariff sheets and proposed customer notices to reflect the approved rates. The rates shall 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 shall not be implemented until our staff has approved the proposed notice, and the notice has been received by the customers. The incremental increases collected by the utilities are 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Utility Services 1, LLC’s application for limited rate increase is granted as set forth herein. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the schedules appended hereto are incorporated herein by reference. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of this Order, a Consummating Order shall be issued. The docket shall remain open for our staff’s verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by our staff. Once these actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 30th day of June, 2023.

|  |  |
| --- | --- |
|  | /s/ Adam J. Teitzman |
|  | ADAM J. TEITZMAN  Commission Clerk |

Florida Public Service Commission

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

TPS

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our actions are preliminary in nature, except for (1) the reduction of rates after four years based upon the recovery of rate case expense, (2) the granting of temporary rates in the event of protest, and (3) the requirement for proof of adjustment of books and records. 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, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 21, 2023. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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

Any party adversely affected by the Commission's action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.





























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)