

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 7, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Fletcher, Maurey, Merchant, Willis)
Office of the General Counsel (Jaeger)

RE: Docket No. 030444-WS – Application for Rate Increase in Bay County by
Bayside Utility Services, Inc.
County(ies): Bay

AGENDA: 10/19/04 – Regular Agenda – Participation is at the Discretion of the Commission

CRITICAL DATES: 8-Month Effective Date: 05/13/05

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\030444.RCM.DOC

Case Background

Bayside Utility Services, Inc. (Bayside or utility) is a class C water and wastewater utility currently serving approximately 283 residential customers and 4 general service customers. Bayside is a reseller utility purchasing water and wastewater service from the City of Panama City Beach. Bayside is a wholly-owned subsidiary of Utilities, Inc. (UI). The utility completed its filing of an application for a rate increase on February 17, 2004, and this date was established as the official date of filing.

By Order No. PSC-04-0414-PCO-WS (Interim Order), issued April 22, 2004, in this docket, the Commission suspended the utility's proposed final rates and approved an interim revenue increase of \$42,547 (or 64.57%) for water and \$51,145 (or 55.22%) for wastewater. The Commission also calculated the amount of security for any potential interim refund.

By Order No. PSC-04-0820-PAA-WS (PAA Order), issued August 23, 2004, the Commission proposed to approve a \$31,517 (or 47.83%) water increase and \$39,609 (or 42.77%) wastewater increase. On September 13, 2004, the Office of Public Counsel (OPC) filed

a protest of the Commission's PAA Order. According to Section 367.081(8), Florida Statutes (F.S.), the Commission must render a final decision within 8 months of the date OPC filed its protest. A hearing is scheduled to be held on January 20-21, 2005, in the utility's service area.

Bayside has notified staff that it will maintain its interim rates pending the Commission's final decision. Staff's recommendation addresses the appropriate amount of guarantee required to secure the increased potential refund of revenues collected under interim conditions. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

Discussion of Issues

Issue 1: Should the security to guarantee the approved interim rates be increased, and, if so, what is the appropriate guarantee amount?

Recommendation: Yes. The corporate undertaking for Bayside should be increased by \$55,769 from \$46,964 to \$102,733. This corporate undertaking is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc. (UI), and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states. UI should be required to file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions. UI's total guarantee should be a cumulative amount of \$447,240. Pursuant to Rule 25-30.360(6), Florida Administrative Code (F.A.C.), the utility should continue to provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. (Fletcher, Maurey)

Staff Analysis: By the Interim Order, the Commission calculated the potential refund of revenues and interest collected under interim conditions to be \$46,964. This amount was based on an estimated 6-month time period that interim rates would be in effect. As a result of OPC's protest, the Commission must render its final decision by May 13, 2005. Therefore, the interim rates will remain in effect for seven more months. In accordance with Rule 25-30.360, F.A.C., staff has recalculated the potential refund of revenues and interest collected under the revised interim period to be \$102,733. This amount is based on an estimated thirteen months of revenue being collected from the approved interim rates over the utility's currently authorized rates.

The utility has requested a corporate undertaking from UI to secure the collection of interim rates. UI currently is guaranteeing a total of \$391,471 as a corporate undertaking on behalf of its Florida subsidiaries. This request will bring the total cumulative amount to \$447,240.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Since UI provides all investor capital to its subsidiaries, staff has reviewed the financial statements of the parent

company to determine if UI can support a corporate undertaking on behalf of its subsidiaries. UI's 2001, 2002 and 2003 financial statements were used to determine the financial condition of the company. Staff's analysis shows that UI experienced a significant decline in net income and interest coverage during 2001 and 2002 compared to prior years. The primary reason for this reversal was merger-related charges of \$9.8 million in 2001 and \$9.9 million in 2002. UI stated that merger related costs have been fully recovered and there will be no additional charges levied by the parent. In 2003, UI showed improvement in both profitability and interest coverage. Absent these merger-related charges, UI's financial performance would show a 3-year trend of stable equity capitalization, interest coverage, and profitability. Based upon this analysis, staff recommends that a cumulative amount of \$447,240 is acceptable contingent upon receipt of the written guarantee of UI and written confirmation of its oral attestation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Pursuant to Rule 25-30.360(6), F.A.C., the utility shall continue to provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. In no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the utility's requested rate increase. (Fletcher, Jaeger)

Staff Analysis: The docket should remain open pending the Commission's final action on the utility's requested rate increase.