

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: June 9, 2005

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

FROM: Division of Economic Regulation (Redemann)
Office of the General Counsel (Jaeger)

RE: Docket No. 050028-WU – Application for amendment of Certificate No. 539-W to extend territory in Lake County by Raintree Utilities, Inc., and for modification of service availability policy.

AGENDA: 06/21/05 – Regular Agenda – Proposed Agency Action for Issue 2 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

CRITICAL DATES: 07/12/05 (60-Day Suspension Date for Tariff)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050028.RCM.DOC

Case Background

Raintree Utilities, Inc. (Raintree or utility) is a Class C utility serving approximately 119 residential customers in the Raintree Harbor subdivision. Septic tanks provide wastewater service to its customers. The proposed area is in the St. Johns River Water Management District and is included in a water use caution area.

On January 11, 2005, Raintree filed an application for authority to transfer a non-regulated system called Silver Oaks to Raintree, for a limited proceeding to implement Raintree's existing rates and charges in the Silver Oaks subdivision, and for an amendment to extend its territory to include the proposed Bentwood subdivision. Eight objections to the

application for transfer were filed by home owners in the Silver Oaks subdivision. On March 11, 2005, Raintree amended the application to proceed only with the amendment of territory in the proposed Bentwood subdivision, and on March 16, 2005, Raintree withdrew the application for transfer of the Silver Oaks subdivision and the request for a limited proceeding to implement their rates. Consequently, the Silver Oaks home owners are no longer affected by the application. In conjunction with the amendment application, on April 6, 2005, the utility filed a developer agreement with the Commission. On April 7, 2005, the utility filed tariffs revising its service availability policy and charges. On May 13, 2005, the utility filed revised tariffs requesting a plant capacity charge along with the cost justification for the proposed plant capacity charges.

This recommendation addresses the application for amendment and proposed changes in the utility's service availability policy and charges. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve Raintree Utilities, Inc. application to amend Certificate No. 539-W?

Recommendation: Yes, the Commission should approve Raintree Utilities, Inc.'s amendment application to add the Bentwood subdivision. The proposed territory is described in Attachment A. The utility should file an executed and recorded copy of the warranty deed for the land for the water facilities within 30 days of the issuance date of the Order granting the amendment. The utility should charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by the Commission. The appropriate service availability policy and charges are discussed in Issue 2. (Redemann)

Staff Analysis: As discussed in the Case Background, on March 11, 2005, Raintree amended its application to include additional territory in a new area in Lake County, pursuant to Rule 25-30.036(3), Florida Administrative Code. The application complies with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. Adequate service territory and system maps and a territory description have been provided. A description of the territory requested to be added by the utility is appended to this recommendation as Attachment A.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. As mentioned previously, objections to the transfer application were received and Raintree withdrew the application for transfer and the request for a limited proceeding to implement Raintree's existing rates in Silver Oaks. Consequently, the Silver Oaks home owners are no longer affected by the application. The local planning agency was provided notice of the application to extend service to the Bentwood subdivision and did not file a protest to the amendment. The Department of Community Affairs has identified no growth management concerns with the proposed expansion of the utility. The utility states that the provision of service will be consistent with the utility section of the local comprehensive plan. The utility plans to serve about 99 single-family homes in the proposed Bentwood subdivision.

Staff has contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation issued for the utility's existing water treatment plant. In order to serve the Bentwood subdivision the utility intends to construct a new water treatment facility that will provide fire protection. Initial plans include a new vertical turbine well pump with a capacity of 1,100 gallons per minute, disinfection with sodium hypochlorite, aeration and a 15,000 gallon hydropneumatic tank. The utility has provided a copy of a proposed warranty deed which provides for the continued use of the land for the new water treatment plant as required by Rule 25-30.036(3)(d), Florida Administrative Code. The utility should file an executed and recorded copy of the warranty deed for the land for the water facilities within 30 days of the issuance date of the Order granting the amendment.

Regarding the financial impact of the proposed amendment, the utility proposed to modify its service availability policy. If modified, the utility believes the impact would not

affect Raintree's monthly rates. Based on the above information, staff recommends that Raintree Utilities, Inc.'s amendment application to add the Bentwood territory should be granted. The proposed territory is described in Attachment A. The utility should file an executed and recorded copy of the warranty deed for the land for the water facilities within 30 days of the issuance date of the Order granting the amendment. The utility should charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by the Commission. The appropriate service availability policy and charges are discussed in Issue 2.

Issue 2: Should the tariff filing to modify the service availability policy by Raintree Utilities, Inc. be approved?

Recommendation: Yes. Staff recommends the utility's proposed \$800 plant capacity charge, meter installation charge of \$125, and revised service availability policy requiring donated on-site and off-site lines should be approved. The tariffs should become effective for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. In the event a timely protest is filed by a substantially affected person, the tariff should remain in effect and any increased charges collected should be held subject to refund pending resolution of the protest. (Redemann)

Staff Analysis: Section 367.091(6), Florida Statutes, states that the Commission may withhold consent to the operation of any or all portions of new rate schedules by a vote to that effect within 60 days giving a reason or statement of good cause for withholding its consent. The Commission shall render its final decision on the application within 8 months after the official date of filing.

On April 7, 2005, and May 13, 2005, the utility filed tariff sheets revising their service availability policy and charges. The utility proposes to require developers to construct and donate the on-site and off-site facilities of the water distribution system to the utility. In addition, the utility requested an \$800 plant capacity charge and a meter installation charge of \$125. The new policy and proposed charges will only apply to Bentwood and future developments, because the Raintree Harbour development is built out.

The utility currently has a \$250.00 system capacity charge that was approved in 1991. It was designed to recover the customers' share of the cost of the existing water treatment plant, lines and meter installation. The utility estimates that the new water treatment plant will cost approximately \$185,729. Pursuant to Rule 25-30.580(1)(b), Florida Administrative Code, at a minimum the cost of the lines should be contributed to the utility. Pursuant to Rule 25-30.580(1)(a), Florida Administrative Code, the maximum utility contribution level is 75 percent. According to the calculations provided by the utility, the proposed policy will result in a 73 percent contribution level on a total company basis. With contributed lines and no plant capacity charge, the contribution level will be only 54 percent.

Staff believes that the utility's proposed \$800 plant capacity charge, meter installation charge of \$125, and revised service availability policy requiring donated on-site and off-site lines are reasonable and recommends that they be approved. The tariffs should become effective for connections made on or after the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code. In the event a timely protest is filed by a substantially affected person, the tariff should remain in effect and any increased charges collected should be held subject to refund pending resolution of the protest.

Issue 3: Should this docket be closed?

Recommendation: Yes , this docket should be closed after issuance of a consummating order, if no timely protests are filed by a substantially affected person to the utility's revised service availability tariff. If a protest is filed, the docket should remain open pending resolution of the protest. (Jaeger)

Staff Analysis: This docket should be closed after issuance of a consummating order, if no timely protests are filed by a substantially affected person to the utility's revised service availability tariff. If a protest is filed, the docket should remain open pending resolution of the protest.

Raintree Utilities, Inc.

Water Service Area in Lake County

Bentwood

The Southwest 1/4 of the Southeast 1/4 Section 2, Township 19 South, Range 25 East, and the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 2, Township 19 South, Range 25 East, Lake County, Florida, as recorded in Official Records Book 832, Page 745, Public Records of Lake County, Florida, subject to an easement for ingress, egress and utilities over, upon and across the real property described as follows:

Begin at a point on the East line of the Southwest 1/4 of the Southeast 1/4 of Section 2, Township 19 South, Range 25 East, Lake County, Florida, said point being 5 feet North of the Southeast corner of the Southwest 1/4 of the Southeast 1/4 of said Section 2, said point being the POINT OF BEGINNING; thence run northerly along the East line of said Section a distance 25 feet; thence run westerly and parallel to the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 2, a distance of 223.59 feet; thence South a distance of 30 feet more or less to the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 2, said line also being the North line of the Northwest 1/4 of the Northeast 1/4 of Section 11, Township 19 South, Range 25 East; thence East along the South line of the Southwest 1/4 of the Southeast 1/4 of Section 2 a distance of 25 feet; thence North a distance of 5 feet; thence East and parallel to the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 2 to the POINT OF BEGINNING.

Less right-of-way for Poe Street per ORB 749, Page 347. Containing 50.44 acres, more or less.