

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: August 25, 2005

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

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

RE: Docket No. 050540-SU – Settlement Offer for Possible Overearnings by BFF Corp. in Marion County.

AGENDA: 09/06/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050540.RCM.DOC

Case Background

BFF Corp. (BFF or utility) is a Class C wastewater utility serving 111 residential customers in Marion County. BFF's wastewater customers receive water service from Utilities, Inc. (UI), and the utility also purchases wastewater treatment from UI.

Rate base was last established for this utility in Order No. PSC-02-0487-PAA-FOF-SU, issued April 8, 2002, in Docket No. 010919-SU, In re: Application for staff-assisted rate case in Marion County by BFF Corp. On July 24, 2004, the Commission approved a 2004 index which represented a \$226 revenue increase. By Order No. PSC-04-0947-PAA-SU, issued September 28, 2004, in Docket No. 040733-SU, In re: Disposition of gain on sale of land held for future use in Marion County by BFF Corp., the Commission ordered the amortization of a \$26,168 gain on

the sale of land over five years, which resulted in a rate reduction of 7.59%. On June 5, 2005, the Commission approved a 2005 index which represented a \$376 revenue increase.

Staff's review of the 2004 annual report for BFF revealed possible overearnings of approximately 7.58% of total revenues. Subsequently, staff engaged in discussions with the utility regarding these possible overearnings. In a letter dated August 4, 2005, BFF proposed a settlement offer to address the possible overearnings and proposed that the reduction for the apparent overearnings be taken completely out of the gallonage charge. (See Attachment A)

The purpose of this recommendation is to present the settlement offer to the Commission for approval. The Commission has jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission accept the settlement offer proposed by BFF Corp.?

Recommendation: Yes. Pursuant to the settlement offer, the gallonage charge for both residential and general service customers should be reduced by \$0.98 per 1,000 gallons. The utility should file a proposed customer notice within 15 days of the Commission vote, which is consistent with its decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The utility should provide proof that the customers have received notice within 10 days after the date of the notice. (Fletcher)

Staff Analysis: As stated in the Case Background, staff reviewed the utility's 2004 annual report, which revealed possible overearnings. Staff notes that this amount represents possible overearnings because the annual report analysis is unaudited and the utility's books and records have not been examined by staff auditors for the 2004 year-end. Based on discussions with the utility, staff discovered that Utilities, Inc. began charging BFF a reduced amount for wastewater treatment services in 2004.

By letter dated August 4, 2005, BFF proposed a settlement for these possible overearnings. Specifically, the utility agreed to a reduction of \$0.98 per 1,000 gallons for its residential and general service gallonage charges and submitted revised tariff sheets reflecting these reductions. This settlement represents a residential service gallonage charge reduction of approximately 16.39% and represents a general service gallonage charge reduction of 13.67%, for a reduction in total revenues of approximately 7.76%.

Staff believes that BFF's proposed settlement is a reasonable resolution because it will address the possible overearnings on a prospective basis. Further, staff believes that it is in the public interest for the Commission to approve the settlement proposal because this settlement offer promotes administrative efficiency and avoids the time and expense of a formal earnings investigation which possibly could result in the Commission finding a lesser amount of overearnings. In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings whenever possible, staff recommends that the Commission approve the settlement offer.

Staff also recommends that the utility should file a proposed customer notice within 15 days of the Commission vote, which is consistent with its decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customers. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed by a substantially affected party, this docket should be closed upon the issuance of a consummating order. (Jaeger, Fletcher)

Staff Analysis: If no timely protest is filed by a substantially affected party, this docket should be closed upon the issuance of a consummating order.

BFF Corp
P.O. Box 5220
Ocala, FL 34478
352-622-4949

August 4, 2005

Mr. Troy Rendell
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Re: BFF Corp. Rate Adjustment

Dear Mr. Rendell,

Per our conversation on this day, we will agree to a reduction of \$.98 per 1000 gallons as resolution to our over-earnings in 2004. The new rate schedules are attached for commission approval.

I would appreciate a copy of the order we discussed as our CPA and we were using the staff analysis from the rate case in 2001.

Sincerely,


Charles deMenzes
AVP