

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: May 23, 2007

TO: Office of Commission Clerk (Cole)

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

RE: Docket No. 060256-SU – Application for increase in wastewater rates in Seminole County by Alafaya Utilities, Inc.

AGENDA: 06/05/07 – Regular Agenda – Parties May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 11/8/07 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: Place next to Dockets Nos. 060258-WS, 060260-WS, and 060261-WS.

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060256.RCM.DOC

Case Background

Alafaya Utilities, Inc. (Alafaya or utility) is a Class A utility providing wastewater service to approximately 7,100 wastewater customers and 1,200 reuse customers in Seminole County. The utility is a wholly-owned subsidiary of Utilities, Inc. (UI). Water service is provided in the area by the City of Oviedo. Wastewater rates were last established for this utility in its 2002 rate proceeding.¹

On May 15, 2006, Alafaya filed the Application for Rate Increase at issue in the instant docket. By Order No. PSC-06-0664-FOF-SU, issued August 7, 2006, the Commission approved

¹ See Order No. PSC-04-0363-PAA-SU, issued April 5, 2004, in Docket No. 020408-SU, In re: Application for rate increase in Seminole County by Alafaya Utilities, Inc.

Docket No. 060256-SU

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an interim annual revenue increase of \$539,070 or 18.86%. This interim amount is being secured through a corporate undertaking by UI. By Proposed Agency Action Order No. PSC-07-0130-SC-SU (PAA Order), issued February 15, 2007, the Commission approved rates that were designed to generate a wastewater revenue requirement of \$3,508,843.

On March 8, 2007, the Office of Public Counsel (OPC) timely filed a protest of the PAA Order. On March 16, 2007, Alafaya timely filed a cross-petition to protest the PAA Order pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.). By letter dated March 14, 2007, Alafaya stated that it intended to put the PAA Order rates in effect during the pendency of the administrative hearing.

By Order No. PSC-07-0381-PCO-SU, issued April 30, 2007, the Commission acknowledged Alafaya's implementation of the PAA rates which are being held subject to refund and secured through a corporate undertaking by UI (Alafaya's parent company). On May 4, 2007, Alafaya and OPC (collectively, "Parties") filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Joint Motion). That motion and Settlement Agreement are incorporated in this recommendation as Attachment A.

This recommendation addresses the Parties' Settlement Agreement. The Commission has jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Joint Motion Requesting Commission Approval of Settlement Agreement?

Recommendation: Yes. The Joint Motion and Settlement Agreement should be approved. The final rates produced by the Settlement Agreement are shown in Attachment B. Attachment B also shows the four-year rate reduction to the settlement rates. The utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission's 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), F.A.C., after staff has verified that the proposed customer notice is adequate and the 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. Pursuant to the Settlement Agreement, the refund amount to be credited to CIAC should be 0.427% of revenues collected from April 12, 2007, through the day before the settlement rates become effective. The refund amount should include interest in accordance with Rule 25-30.360(4), F.A.C. (Fletcher)

Staff Analysis: In the Settlement Agreement, the Parties have agreed that the PAA Order should be amended to eliminate the language relating to the determination of the used and usefulness of Alafaya's wastewater treatment plant, in order for the PAA Order to have no precedential value as to determining the used and usefulness of the wastewater treatment plant. The Commission has previously approved a proposed settlement where the language regarding a used and useful calculation was stricken from a proposed agency action order.² Staff agrees that the language of the PAA Order which the Parties seek to strike can be stricken because each rate case is decided on its own merits.

The Parties also stipulated to a reduction in Alafaya's revenue requirement in the amount of \$15,000. The Settlement Agreement states that any refund caused by the utility's implementation of PAA rates shall be accounted for on the books of Alafaya as contributions-in-aid-of-construction (CIAC). Further, the Parties agree that the stipulated revenue requirement shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue in any subsequent proceeding.

Staff believes that the Parties' Settlement Agreement is a reasonable resolution because it addresses all protested issues. Further, staff believes that it is in the public interest for the Commission to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing. In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings whenever possible,³ staff

² Order No. PSC-06-0665-S-WS, issued August 7, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

³ Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.; Order No. PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, In re: Settlement offer for possible overearnings in Marion County by BFF Corp.; and Order No. PSC-00-0374-S-EI, issued February 22, 2000, in Docket No. 990037-EI, In re: Petition of Tampa Electric Company to close Rate Schedules IS-3 and IST-3, and approve new Rate Schedules GSLM-2 and GSLM-3.

recommends that the Commission approve the Parties' Settlement Agreement. The final rates produced by the Settlement Agreement are shown in Attachment B. Attachment B also shows the four-year rate reduction to the settlement rates.

If the Commission approves the Settlement Agreement, staff recommends that the utility 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), F.A.C., after staff has verified that the proposed customer notice is adequate and the 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.

As stated in the Case Background, the Commission acknowledged Alafaya's implementation of the PAA rates which became effective April 12, 2007. The \$15,000 stipulated revenue reduction represents 0.427% of the PAA Order revenue requirement of \$3,508,843. Pursuant to the Settlement Agreement, the refund amount to be credited to CIAC should be 0.427% of revenues collected from April 12, 2007, through the day before the settlement rates become effective. The refund amount should include interest in accordance with Rule 25-30.360(4), F.A.C.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement. Further, upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amounts approved by the Commission for interim and PAA rates should be released. (Fletcher, Jaeger)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, staff recommends this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement. Further, upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amounts approved by the Commission for interim and PAA rates⁴ should be released.

⁴ Orders Nos. PSC-06-0664-FOF-SU, p. 4-5. and PSC-07-0381-PCO-SU, p. 3.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ALAFAYA
UTILITIES, INC., for an increase
in wastewater rates in Seminole County

Docket No. 060256-SU

ORIGINAL

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COMMISSION
CLERK

JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT

ALAFAYA UTILITIES, INC. ("Alafaya" or "Utility"), and the OFFICE OF PUBLIC
COUNSEL ("OPC") file this Joint Motion requesting the Florida Public Service Commission
("Commission") to approve the attached Settlement Agreement. In support of this Joint
Motion, Alafaya and OPC state:

1. Alafaya and OPC have entered into a Settlement Agreement resolving OPC's
Petition on Proposed Agency Action Order No. PSC-07-0130-SC-SU, in accordance with the
terms of the Settlement Agreement. A copy of the Settlement Agreement is attached hereto
as Exhibit "A".

2. Alafaya and OPC have entered into the Settlement Agreement to avoid the
the time, expense and uncertainty associated with adversarial litigation, in keeping with the
Commission's long-standing policy and practice of encouraging parties in protested

CMP _____
COM _____ proceedings to settle issues whenever possible. For these reasons, Alafaya and OPC request
CTR _____ the Commission to expeditiously issue a Final Order approving the Settlement Agreement
ECR _____ without modification and close Docket No. 060256-SU.

GCL _____
OPC _____ 3. Pending Commission consideration of the Settlement Agreement, Alafaya and
RCA _____ OPC request the Commission to suspend discovery and all events currently scheduled in the
SCR _____

SGA _____

SEC _____ RECEIVED & FILED

OTH _____ *AVN*

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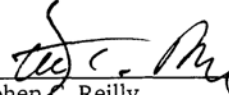
03797 MAY-4 6

FPSC-COMMISSION CLERK

CASR for this Docket until such time as the Commission acts on this Motion.

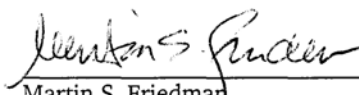
WHEREFORE, ALAFAYA UTILITIES, INC., and OFFICE OF PUBLIC COUNSEL respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a Final Order is issued closing this docket.

Respectfully submitted this 4th day of May, 2007.



Stephen C. Reilly
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
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PHONE: (407) 830-6331

Attorney for Alafaya Utilities, Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application of ALAFAYA UTILITIES, INC., for an increase in wastewater rates in Seminole County

Docket No. 060256-SU

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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 4th day of May, 2007,

by and between Alafaya Utilities, Inc. ("Alafaya" or "Utility"), and the Office of Public Counsel on behalf of the customers of Alafaya ("Citizens").

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed Agency Action Order No. PSC-07-0130-SC-SU in this docket on February 15, 2007, ("PAA Order"); and

WHEREAS, on March 8, 2007, the Citizens filed a timely protest to the PAA Order; and

WHEREAS, on March 16, 2007, Alafaya timely filed a Cross-Petition; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial

litigation, and in keeping with the Commission's long-standing policy and practice of encouraging

parties in protested proceedings to settle issues whenever possible, the Citizens and Alafaya hereby

enter into this Agreement to settle this case in accordance with the terms and conditions contained

ECR 2 herein.

OPC

RCA

SCR

SGA

SEC

OTH

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the

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FPSC-COMMISSION CLERK

Citizens and Alafaya agree as follows:

1. The PAA Order shall be amended to eliminate the language relating to the determination of the used and usefulness of Alafaya's wastewater treatment plant. It is the intent of Alafaya and the Citizens that the PAA shall have no precedential value as to determining the used and usefulness of the wastewater treatment plant.

2. Alafaya and Citizens stipulate to a reduction in Alafaya's revenue requirement in the amount of Fifteen Thousand Dollars (\$15,000.00). Any refund required because of Alafaya's implementation of PAA rates shall be accounted for on the books of Alafaya as contributions-in-aid-of-construction (CIAC). Further, approval by Alafaya and the Citizens of the above stipulated revenue requirements shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue that might be in controversy in any subsequent proceeding.

3. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

4. Alafaya and the Citizens expressly agree that all activity relating to this docket should be suspended until the Commission disposes of the Joint Motion Requesting Commission Approval of Settlement Agreement.

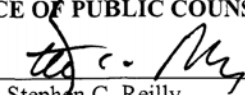
5. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving

this Settlement Agreement, the Citizens Petition on Proposed Agency Action and Alafaya's Cross-Petition shall be deemed resolved, in accordance with the terms of this Settlement Agreement.

6. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures, and personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

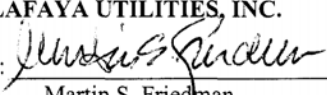
OFFICE OF PUBLIC COUNSEL

By: _____


Stephen C. Reilly
Associate Public Counsel
On behalf of the Customers
of Alafaya Utilities, Inc

ALAFAYA UTILITIES, INC.

By: _____


Martin S. Friedman
Attorney for Alafaya Utilities, Inc.

Alafaya Utilities, Inc.		Attachment B	
Docket No. 060256-SU			
	<u>PAA Rates</u>	<u>Settlement Rates</u>	<u>Four-Year Rate Reduction</u>
<u>Residential Service</u>			
Base Facility Charge All Meter Sizes:	\$20.54	\$20.44	\$0.17
Gallonge Charge - Per 1,000 gallons (10,000 gallon cap)	\$2.73	\$2.72	\$0.02
<u>General Service</u>			
Base Facility Charge by Meter Size:			
5/8" x 3/4"	\$20.54	\$20.44	\$0.17
1"	\$51.34	\$51.11	\$0.43
1-1/2"	\$102.68	\$102.22	\$0.86
2"	\$164.28	\$163.54	\$1.37
3"	\$328.56	\$327.09	\$2.74
4"	\$513.38	\$511.08	\$4.29
Gallonge Charge, per 1,000 Gallons	\$3.28	\$3.26	\$0.03
<u>Reuse Irrigation Service</u>			
Residential Flat Rate	\$8.24	\$8.24	N/A
Residential Availability Fee	\$0.00	\$0.00	N/A
Residential Base Charge	\$3.65	\$3.65	N/A
Residential Gallonge Charge	\$0.39	\$0.39	N/A
General Service Gallonge Charge	\$0.60	\$0.60	N/A
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>			
3,000 Gallons	\$29.02	\$28.60	
5,000 Gallons	\$34.54	\$34.04	
10,000 Gallons	\$48.34	\$47.64	
(Wastewater Gallonge Cap - 10,000 Gallons)			