

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-

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**DATE:** January 16, 2008

**TO:** Office of Commission Clerk (Cole)

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

**RE:** Docket No. 070466-SU – Application for limited proceeding rate increase in Polk County by West Lakeland Wastewater, Inc.  
County: Polk

**AGENDA:** 01/29/08 – Regular Agenda – All Issues Proposed Agency Action Except Issue 3 - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** McMurrian

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\070466.RCM.DOC

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### Case Background

West Lakeland Wastewater, Inc. (West Lakeland or utility) is a Class C wastewater utility located in Polk County serving approximately 300 customers. West Lakeland is located in a water use caution area as determined by the Southwest Florida Water Management District. The utility's customers receive water service from the City of Lakeland. The utility's 2006 annual report reflects operating revenues of \$67,521 and an operating loss of (\$34,442).

The utility, previously known as ABCA, Inc., has been providing service to customers in Polk County since 1972. On January 9, 1990, the Polk County Commission granted a franchise to Ameribanc Investors Group (Ameribanc) for a system known as Village Lakeland. Polk

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County came under the Commission's jurisdiction on July 11, 1996. In 1998, the Commission granted the utility its grandfather Certificate No. 515-S for wastewater.<sup>1</sup> ABCA's Certificate was transferred to West Lakeland Wastewater, Inc. in 2001.<sup>2</sup>

The utility has never had a rate proceeding while under the Commission's jurisdiction. The utility's rates were last reviewed by the Commission upon transfer of the utility's system from ABCA, Inc. to West Lakeland Wastewater, Inc.

On July 21, 2007, the utility filed its application for a limited proceeding pursuant to Section 367.0822, Florida Statutes (F.S.). The utility has filed for a limited proceeding in order to recover additional costs for customer billing. On January 7, 2008, the utility filed an amendment to its original application requesting the recovery of additional expense to cover meter reading. Staff has determined that the utility met the filing requirements of Rule 25-30.445, Florida Administrative Code, and established an official filing date of July 21, 2007. The Commission has jurisdiction under Section 367.0822, F.S.

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<sup>1</sup> By Order No. PSC-98-0752-FOF-SU, issued June 1, 1998, in Docket No. 971531-SU.

<sup>2</sup> By Order No. PSC-01-1576-FOF-SU, issued July 30, 2001, in Docket No. 010382-SU.

### **Discussion of Issues**

**Issue 1:** What is the appropriate increase in revenues for this utility?

**Recommendation:** The appropriate wastewater increase in revenues should be \$12,880, or 17.40%. (Revell)

**Staff Analysis:** In October 1999, the City of Lakeland (City) through its electric utility, Lakeland Electric, entered into an agreement with ABCA, Inc, now West Lakeland Wastewater, Inc., to provide contract billing services for its wastewater services. As stated above, the City provides water service to West Lakeland's wastewater customers. In the past, the City both read the water meters and included the utility's wastewater charges in the customers' bills. Customers would pay the City, which maintained all customer accounts and billing records for West Lakeland. In addition to meter reading, the City's services included billing, record keeping, accounting and collection. After deducting delinquent charges and an \$0.85 per month per customer charge for its services, the City would send, on a monthly basis, the remaining wastewater amounts collected to West Lakeland. As a result, West Lakeland did not require any staff to read meters, or maintain a billing or accounting system for its customer accounts.

On January 13, 2006, Lakeland Electric notified West Lakeland that it would discontinue the contract billing service effective 90 days after notification. At the expiration of the 90-day period, the City indicated that, for \$1.00 per month per customer, it would be willing to provide the monthly wastewater meter readings. The utility, however, would still be responsible for billing, accounting and collection of the customer charges.

The utility chose not to pay the City for the monthly meter readings, and from mid-April 2006 to the present, the utility has paid the owner's son \$500 per month to perform the billing, accounting, and collection functions, and \$100 a month each to two part-time meter readers.

After filing its application for a limited proceeding, the utility asked the City if it was still willing to provide meter reading services. The City replied in writing that it would no longer be interested in providing meter reading services for the utility's customers. Therefore, the utility has continued to utilize the services of its two part-time meter readers. The utility indicated that five different meter readers have been used by the utility in the past 21 months and that none are willing to continue long-term at the rates the utility is paying. The utility indicated that its meter reading and billing functions require a high degree of effort for short periods of time and that it was not financially able to offer a part-time employee to perform these functions at a competitive salary, given the prevailing wage rates in the Lakeland area.

At the customer meeting held on November 5, 2007, several customers alleged that some customers were not being billed for wastewater service, and that meters were either not being read or were being read on an irregular basis. Other customers alleged that there were numerous over billings. The utility indicated to staff that it is not aware of any meters that are not read on a monthly basis. The utility acknowledges, however, that there have been customer concerns over meter reading and collection and that the present arrangement the utility uses is not sustainable in the long term. Some customers indicated that it would be easier, simpler, and more cost efficient for the utility to bill on a flat rate basis.

The utility believes that it must utilize the services of a professional entity in order to provide a high level of service to its customers. The utility proposes to use the firm of Severn Trent Environmental Services, Inc. to take over the customer billing and collection functions for the utility. The utility has received a non-binding proposal of \$3.60 per month per customer from Severn Trent to perform these functions for the utility. The utility indicated that it was not aware of entities other than Severn Trent willing to undertake record keeping, billing and collection functions. Further, the utility indicated it had contacted other firms and has not received any responses. In its request for recovery of these expenses, the utility correctly netted the new charge against the former \$0.85 per month charge it had been paying the City.

Staff believes that contracting with Severn Trent is the only option open to the utility given the small customer base and the financial condition of West Lakeland. The utility's quality of service related to meter reading and billing needs to be improved, but given the financial constraints of the utility, it is unlikely to be improved if the utility continues to use its present arrangement for meter reading, billing and collection. The utility's quality of service should improve when using a professional entity such as Severn Trent.

Additionally, the utility indicates that it is paying \$200 per month as contract labor to a meter reader to read all of the utility's meters on a monthly basis. By letter dated January 7, 2008, the utility requested that it be allowed to recover these expenses in addition to the cost recovery requested in its original application because the services provided by Severn Trent do not cover meter reading. The utility's customers have stated that there have been numerous billing errors under the current arrangement. The utility believes that the allowance of this expense will improve the utility's meter reading ability and should reduce customer concerns. Staff believes that these additional expenses are prudent and should be allowed.

Based on the adjustments discussed above, the resulting net revenue increase of \$12,880, or 17.40%, should be granted.

**Issue 2:** What are the appropriate wastewater rates for West Lakeland Wastewater, Inc.?

**Recommendation:** The recommended rates should be designed to allow the utility the opportunity to generate additional revenues of \$12,880 for wastewater service. This results in a wastewater increase of \$3.58 per month, or approximately 17.40%, for the average residential customer. The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates. 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, provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent. (Revell)

**Staff Analysis:** The recommended rates requested by the utility are designed to allow the utility the opportunity to generate additional revenues of \$12,880 for wastewater service. This results in a wastewater increase of \$3.58 per month, or approximately 17.40%, for the average residential customer. The proposed rates are shown on Schedule 1.

The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates. 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, provided the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff changes to all customers. The utility should provide proof the customers have received notice within 10 days after the date that the notice was sent.

**Issue 3:** Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

**Recommendation:** Yes. The recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Revell)

**Staff Analysis:** This recommendation proposes an increase in wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility.

Therefore, in the event of a protest filed by a party other than the utility, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the utility should be subject to the refund provisions discussed below.

The utility should be authorized to collect the temporary rates upon staff's approval of appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$8,858. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it should contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect, and.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments; and
- 8) The Commission Clerk must be a signatory to the escrow agreement.
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as a result of the rate increase should be maintained by the utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

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**Issue 4:** Should this docket be closed?

**Recommendation:** If a protest is not received from a substantially affected person within 21 days of issuance of the Proposed Agency Action Order, a Consummating Order will be issued. If a Consummating Order is issued, the docket should be closed upon its issuance and upon staff's approval of the revised tariff sheets. (Jaeger, Revell)

**Staff Analysis:** If a protest is not received from a substantially affected person within 21 days of issuance of the Proposed Agency Action Order, a Consummating Order will be issued. If a Consummating Order is issued, the docket should be closed upon its issuance and upon staff's approval of the revised tariff sheets.



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West Lakeland Wastewater, Inc.  
Schedule of Present and Proposed Rates (Revised)

Schedule 1

	<u>Present Rates</u>	<u>Proposed Revised Increase</u>	<u>Proposed Rates</u>
<u>Residential</u>			
<u>Base Facility Charges</u>			
5/8" x 3/4"	\$9.81	\$3.58	\$13.39
Gallonage Charge-per 1,000 gallons	\$3.26	-	\$3.26
<u>General Service</u>			
<u>Base Facility Charges</u>			
5/8" x 3/4"	\$9.81	\$3.58	\$13.39
1"	\$14.71	\$3.58	\$18.29
1 1/2"	\$24.51	\$3.58	\$28.09
2"	\$49.03	\$3.58	\$52.61
3"	\$78.44	\$3.58	\$82.02
4"	\$156.87	\$3.58	\$160.45
6"	\$245.13	\$3.58	\$248.71
8"	\$490.24	\$3.58	\$493.82
Gallonage Charge-per 1,000 gallons	\$3.89	-	\$3.89