

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:** December 4, 2008

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

**FROM:** Division of Economic Regulation (Billingslea, Bulecza-Banks, Daniel, Fletcher, Redemann)  
Office of the General Counsel (Sayler)

**RE:** Docket No. 080497-SU – Application for staff-assistance for alternative rate setting for increase in wastewater rates, in Pasco County, by Silver Fox Utility LLC d/b/a Timberwood Utilities.

**AGENDA:** 12/16/08 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Edgar

**CRITICAL DATES:** 12/16/08—90 day deadline pursuant to Rule 25-30.456(13), F.A.C.

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\080497.RCM.DOC

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### Case Background

Silver Fox Utility Company LLC d/b/a Timberwood Utilities (Timberwood or Utility) is a Class C water and wastewater utility serving 159 water and 158 wastewater customers in Pasco County. The Utility is in the Southwest Florida Water Management District (SWFWMD) and is in a critical water use caution area. Timberwood purchases bulk water from Pasco County and resells it to its customers. The Utility's 2007 annual report lists total gross revenues of \$36,534 for water and \$40,025 for wastewater with net operating losses of \$6,147 for water and \$8,385 for wastewater.

In 2005, the Commission approved the transfer of this Utility from Mink Associates II, LLC to Silver Fox Utility Company LLC d/b/a Timberwood Utilities.<sup>1</sup> In 2005, the Utility's rate base was also established in a staff assisted rate case.<sup>2</sup>

On July 14, 2008, Timberwood filed an application for a staff-assisted alternative rate setting (SAARS) increase pursuant to Rule 25-30.456, F.A.C. Under the SAARS rule, water and wastewater utilities whose total gross annual operating revenues are \$150,000 or less for water service or \$150,000 or less for wastewater service, or \$300,000 or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting, pursuant to Rule 25-30.456, Florida Administrative Code (F.A.C). Under this procedure, a utility may not be granted an increase in revenues in excess of 50 percent of its test year operating revenues. If a protest is filed, the maximum increase provision provided by Rule 25-30.456(12), F.A.C., would no longer apply, and at the Utility's discretion, it could seek an increase in rates by filing for a staff assisted rate case pursuant to Rule 25-30.455, F.A.C.

The official filing date for this SAARS case was established as September 14, 2008. On October 15, 2008, the Utility provided, in response to a staff data request, additional support documentation, including invoices showing an increase in sludge removal expenses.

Pursuant to Rule 25-30.456(13), F.A.C., the Commission shall vote on a proposed agency action (PAA) recommendation establishing rates no later than 90 days from the official filing date. The 90-day deadline to process this petition is December 16, 2008. The Commission has jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

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<sup>1</sup> See Order No. PSC-05-0682-FOF-WS, issued June 20, 2005, in Docket 050062-WS, In re: Joint Application for transfer of Mink Associates II, LLC d/b/a Timberwood Utilities, holder of Certificate Nos. 524-W and 459-S to Silver Fox Utility Company LLC d/b/a Timberwood Utilities, in Pasco County.

<sup>2</sup> See by Order No. PSC-05-1218-PAA-SU, issued December 15, 2005, in Docket No. 050274-WS, In re: Application for staff-assisted rate case in Pasco County by Silver Fox Utility Company LLC d/b/a Timberwood Utilities.

### **Discussion of Issues**

**Issue 1:** Should the Commission approve an alternative rate setting increase for Silver Fox Utility LLC d/b/a/ Timberwood Utilities?

**Recommendation:** Yes, the Commission should approve an 11.67 percent revenue increase. (Billingslea, Fletcher)

**Staff Analysis:** Pursuant to Rule 25-30.456(11), F.A.C., the Commission shall, for the purposes of determining the amount of rate increase, if any, compare the operation and maintenance expenses (O&M) of the Utility to test year operating revenues. The Commission shall consider an allowance for return on working capital using the one-eighth of O&M formula approach.

In Timberwood's application, the Utility requested a return on rate base rather than working capital. In addition, the Utility requested recovery for net depreciation expense and taxes other than income. In accordance with Rule 25-30.456(11), F.A.C., staff only included the return on working capital and the incremental increase to O&M expenses.

Staff analyzed the O&M, including sludge disposal fees, chemical supplies, and purchased power charges for Timberwood. Staff believes three adjustments are necessary. First, upon review of the invoices, staff found that the Utility's requested incremental increase for sludge hauling and disposal did not include the most recent disposal fee assessed by Pasco County. The adjustment is necessary to reflect the current rate of \$106.50 instead of the \$99.40 included in the Utility's application. This results in an increase of \$295 for total sludge disposal fees.

Second, the Utility determined its incremental increase in purchased power expense by applying the three-year average annual increase of 17 percent to its 2007 purchased power expenses of \$3,913. This represents an increase of \$655. In accordance with the purchased power pass-through requirements of Rule 25-30.425, F.A.C., staff believes the incremental increase in purchased power should be determined using the most recent 12 month consumption and the current electric rates. Using the pass-through methodology, staff calculated an incremental increase of \$475.

Third, the Utility determined its incremental increase in chemical expense by applying the three-year average annual increase of 51 percent to its 2007 chlorine expenses of \$1,048. This represents an increase of \$535, yielding an adjusted 2007 amount of \$1,583. Staff believes the Utility's methodology overstates chemical expenses. Chemical expenses increased by 74 percent from 2005 to 2006, but only increased by 25 percent from 2006 to 2007. Given the fact that the chemical expenses over this two year period increased at a decreasing rate, staff believes the Utility's methodology is inappropriate. Because Timberwood's growth level has been static for years, staff recommends that the incremental increase should be determined by applying the Commission's 2008 price index increase of 2.39 percent to the Utility's 2007 chlorine expense of \$1,048.

Based on the above, staff recommends the Commission approve an 11.67 percent revenue increase.

**Issue 2:** What are the appropriate monthly service rates for the Utility?

**Recommendation:** The wastewater service rates for Timberwood in effect as of June 15, 2008, should be increased across-the-board by 11.67 percent. On December 31, 2008, the Utility should mail the staff-approved customer notice of the Commission’s PAA decision, in order to ensure that customers have adequate notice in case any customer wishes to file for a hearing pursuant to Rule 25-22.029, F.A.C. Timberwood should provide proof of the date notice was given no less than 10 days after the date of the notice. The Utility should file revised tariff sheets to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. (Billingslea, Fletcher)

**Staff Analysis:** As discussed in Issue 1, the Utility requested a return on rate base rather than working capital, as well as recovery for net depreciation expense and taxes other than income. This method yielded a revenue requirement of \$55,549, for which the Utility proposed to recover 42 percent from the base facility charge (BFC) and 58 percent from the gallonage charge. In addition, the Utility proposed that its entire incremental revenue increase be recovered through the gallonage charge. Using its proposed rate structure, Timberwood calculated a BFC of \$12.28 and a gallonage charge of \$10.14.

Consistent with staff’s recommendation in Issue 1, the incremental revenue increase of \$4,759 or 11.67 percent was based only on O&M expenses and a return on working capital allowance in accordance with Rule 25-30.456(11), F.A.C. Staff believes the rate increase can be recovered through either an across-the-board increase or, in the alternative, through the gallonage charges only. However, given the level of staff’s recommended increase, staff believes an across-the-board increase of the Utility’s existing rates is the more appropriate recovery method.

Staff calculated its recommended rates by applying the 11.67 percent revenue increase across-the-board to the current base facility and gallonage charges. A schedule of the Utility’s current rates, the Utility’s proposed rates, and staff’s recommended rates are as follows:

	<u>Current Rates</u>	<u>Timberwood’s Proposed Rates</u>	<u>Staff’s Across-the-Board Recommended Rates</u>
<b><u>Residential Service</u></b>			
BFC - All Meter Sizes	\$12.28	\$12.28	\$13.71
Gallonage Charge, per 1,000 gallons (6,000 Gallonage Cap)	\$5.49	\$10.14	\$6.26

	<u>Current Rates</u>	<u>Timberwood's Proposed Rates</u>	<u>Staff's Across-the-Board Recommended Rates</u>
<b>General Service</b>			
5/8" x 3/4'	\$12.28	\$12.28	\$13.71
3/4"	\$18.41	\$18.41	\$20.56
1'	\$30.69	\$30.69	\$34.27
1 1/2'	\$61.38	\$61.38	\$68.54
2"	\$98.19	\$98.19	\$109.65
3"	\$184.12	\$184.12	\$205.61
4"	\$306.86	\$306.86	\$342.67
6"	\$613.71	\$613.71	\$685.33
Gallage Charge, per 1,000 gallons	\$6.61	\$10.14	\$7.38

Since the driving factors for this rate increase relate to O&M expenses that normally would be recovered solely from gallage charges, staff has calculated alternative rates which maintains the Utility's existing BFC charges and recovers the recommended 11.67 percent revenue increase through the gallage charges only. The alternative rate recovery would result in residential and general service gallage charges of \$6.99 and \$8.11, respectively. Staff notes that its recommended across-the-board rates generate lower residential monthly bills than the alternative rates.

Based on the above rates, the following table reflects estimated residential service wastewater monthly billings for the consumptions shown below:

	<u>Current Rates</u>	<u>Timberwood's Proposed Rates</u>	<u>Staff's Across-the-Board Recommended Rates</u>	<u>Alternative Rate Design Increase Recovered from the Gallage Charges</u>
3,000 Gallons	\$28.75	\$42.70	\$32.11	\$33.24
5,000 Gallons	\$39.73	\$62.98	\$44.37	\$47.21
8,000 Gallons	\$45.22	\$73.12	\$50.50	\$54.19

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On December 31, 2008, the Utility should mail the staff-approved customer notice of the Commission's PAA decision, in order to ensure that customers have adequate notice in case any customer wishes to file for a hearing pursuant to Rule 25-22.029, F.A.C. Timberwood should provide proof of the date notice was given no less than 10 days after the date of the notice. The Utility should file revised tariff sheets to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rates may be prorated. The old charge should be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge should be prorated based on the number of days in the billing cycle on or after the effective date of the new rates. In no event should the rates be effective for service rendered prior to the stamped approval date.

**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. Pursuant to Rule 25-30.456(15), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected party, the rates established in the PAA Order may be implemented on a temporary basis. The temporary rates should be held subject to refund. Moreover, if a protest is filed, the Utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-30.455, F.A.C. In addition, the maximum increase of up to 50 percent of revenues provided by Rule 25-30.456(12), F.A.C., shall no longer apply in the event of a protest. Further, pursuant to Rule 25-30.456(18), F.A.C., if the Utility fails to comply with the dates established in the procedural order, or to timely file a request for extension of time for good cause shown, may result in dismissal of the staff assisted alternative rate setting application and closure of the docket. (Billingslea, Fletcher)

**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, pursuant to Rule 25-30.456(15), F.A.C., in the event of a protest of the PAA Order by a substantially affected party, the rates established in the PAA Order may be implemented on a temporary basis. The temporary rates should be held subject to refund. Moreover, if a protest is filed, the Utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-30.455, F.A.C. In addition, the maximum increase of up to 50 percent of revenues provided by Rule 25-30.456(12), F.A.C., shall no longer apply in the event of a protest. Further, pursuant to Rule 25-30.456(18), F.A.C., if the Utility fails to comply with the dates established in the procedural order, or to timely file a request for extension of time for good cause shown, may result in dismissal of the staff assisted alternative rate setting application and closure of the docket.

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

**Recommendation:** Yes, if no timely protest is filed by a substantially affected person within 21 days of the Order, a Consummating Order should be issued and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the docket should remain open pending resolution of the protest. (Sayler, Billingslea, Fletcher)

**Staff Analysis:** If no timely protest is filed by a substantially affected person within 21 days of the Order, a Consummating Order should be issued and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the docket should remain open pending resolution of the protest.