

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 20, 2009

TO: Office of Commission Clerk (Cole)

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

RE: Docket No. 090170-WU – Application for staff-assisted rate case in Lee County
by Mobile Manor Water Company, Inc.

AGENDA: 06/02/09 – Regular Agenda – Decision on Interim Rates – Participation is at the
Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: 06/05/09 (60-Day Suspension Date)
07/06/10 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\090170.RCM.DOC

Case Background

Mobile Manor Water Company, Inc. (Mobile Manor or Utility) is a Class C utility serving 315 water customers in Lee County. According to Mobile Manor's 2008 Annual Report, total gross revenue was \$50,531 for water. The Utility's operating expenses were \$70,979 for water.

Mobile Manor was granted water Certificate No. 056-W on July 22, 1976. The Utility has never had a rate proceeding before this Commission. Mobile Manor changed its name from Mobile Manor, Inc. to Mobile Manor Water Company, Inc. on November 29, 2004.¹ In the instant docket, the Utility filed a request for a staff-assisted rate case (SARC). Mobile Manor also requested interim rates.

This recommendation addresses the Utility's request for interim rates. The Commission has the authority to consider this rate case and interim rates under Section 367.0814(4), Florida Statutes (F.S.).

¹ See Order No. PSC-04-1104-FOF-WU, issued in Docket No. 040602-WU, In re: Application for name change on Certificate No. 56-W in Lee County from Mobile Manor, Inc. to Mobile Manor Water Company, Inc.

Discussion of Issues

Issue 1: Should Mobile Manor's request for interim water rates be approved?

Recommendation: Yes, Mobile Manor's request for interim water rates should be approved. The Utility should be granted a 47.09 percent interim water rate increase. If the Utility submits revised tariffs reflecting the Commission's decision on interim rates, staff should be given administrative authority to approve the submitted tariffs. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), provided customers have received notice. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission's decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date the notice is provided to the customers. (Crawford)

Staff Analysis: As stated in the case background, on April 6, 2009, the Commission received an application for a staff-assisted rate case from Mobile Manor. The Utility has requested interim water rates. Section 367.0814(4), F.S., provides that:

[t]o establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

Staff has reviewed the Utility's operation and maintenance (O&M) expenses in relation to its revenues. Based on the Utility's 2008 Annual Report and SARC filing, staff has determined that the Utility's wastewater operation and maintenance expenses exceed its revenues.

Mobile Manor recorded \$70,979 for water O&M expenses in its 2008 annual report. Staff has analyzed the O&M expenses reported on the 2008 annual report, compared them to expenses the Commission has allowed in past cases for like-sized utilities, and found them to be reasonable.² Therefore, the Utility should be allowed an interim water revenue increase that will cover the cost of its O&M expenses of \$70,979. In addition, the interim water increase should be grossed up to include regulatory assessment fees (RAFs). The Commission has previously determined that it would be inappropriate to approve an increase in a utility's rates to cover its operating expenses and deny that same utility the funds to pay RAFs.³ Furthermore, by

² See Order No. PSC-07-0385-SC-WS, issued May 1, 2007, in Docket No. 060575-WS, In re: Application for staff-assisted rate case in Lee County by Useppa Island Utility, Inc. (Useppa Island Utility, Inc. had 145 wastewater customers, and the Commission approved O&M expenses of \$108,102.); and Order No. PSC-04-1264-PAA-SU, issued December 21, 2004, in Docket No. 040330-SU, In re: Application for staff-assisted rate case in Volusia County by Timber Creek Utilities. (Timber Creek had 415 customers, and the Commission approved O&M expense of \$148,384.)

³ See Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 010396-WS, In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.

approving an interim rate that allows for the payment of RAFs, the Utility will be able to cover its O&M expenses. The RAFs accrued during the interim period will amount to \$3,345.

Based on the above, Mobile Manor's interim water rates should be established to produce revenues of \$74,324 ($\$70,979 + \$3,345$) in order to cover O&M expenses and RAFs. This is a 47.09 percent increase above the Utility's 2008 revenues of \$50,531. It is Commission practice to apply the interim percentage increase to existing rates. Staff's recommended interim rates are shown on Schedule No. 1.

If the Utility submits revised tariffs reflecting the Commission's decision on interim rates, staff recommends that it be given administrative authority to approve the submitted tariffs. The approved rates should be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C., provided customers have received notice. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission's decision, the proposed customer notice is adequate, and the required security has been filed. The Utility should provide proof of the date notice was given within 10 days after the date the notice is provided to the customers.

Issue 2: What is the appropriate security to guarantee the interim water rate increase?

Recommendation: The Utility should be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenues collected under interim conditions. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund as of the end of the proceeding month. (Crawford)

Staff Analysis: In order to protect the customers in the event that the final rates are less than those authorized as a result of the interim increase, it is recommended that the Utility provide security by placing in escrow the difference in revenues between the interim rates and the previously authorized rates, or by providing a bond or letter of credit. Staff has calculated the amount of potential refunds associated with the interim revenue increase to be \$15,912. Staff has calculated the amount pursuant to Section 367.0814(5), F.S., which specifies that:

The Commission may require that the difference between the interim rates and the previously authorized rates be collected under a bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

If the security provided is an escrow account, said account should be established between the Utility and an independent financial institution pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: that the account is established at the direction of this Commission for the purpose set forth above; that no withdrawals of funds should occur without the prior approval of the Commission through the Commission Clerk, Office of Commission Clerk; that the account should be interest bearing; that information concerning the escrow account should be available from the institution to the Commission or its representative at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

The Utility should deposit 47.09 percent of the interim water rate revenue into the escrow account each month, pending the completion of the rate case proceeding. If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account should revert to the Utility.

If the security provided is a bond or a letter of credit, said instrument should be in the amount of \$15,912. If the Utility chooses a bond as security, the bond should state that it will be released or should terminate upon subsequent order of the Commission addressing the requirement of a refund. If the Utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered addressing the requirement of a refund.

Regardless of the type of security provided, the Utility should keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), F.A.C., the Utility

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should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund as of the end of the proceeding month. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

Under no circumstances should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the Utility.

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Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open pending the final resolution of the Utility's staff-assisted rate case. (Jaeger)

Staff Analysis: This docket should remain open pending the final resolution of the Utility's staff-assisted rate case.

MOBILE MANOR WATER COMPANY, INC.		SCHEDULE NO. 1	
TEST YEAR ENDING 12/31/08		DOCKET NO. 090170-WU	
MONTHLY WATER RATES			
	UTILITY'S EXISTING RATES	STAFF RECOMMENDED RATES	
<u>Residential and General Service</u>			
<u>Base Facility Charge by Meter Size:</u>			
5/8"X3/4"	\$6.94	\$10.21	
<u>Residential Service Gallonage Charge</u>			
Per 1,000 Gallons	\$6.24	\$9.18	
<u>General Service Gallonage Charge</u>			
Per 1,000 Gallons	\$6.24	\$9.18	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$25.66	\$37.75	
5,000 Gallons	\$38.14	\$56.11	
10,000 Gallons	\$69.34	\$102.01	