BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Application of DEL TURA NORTH LIMITED PARTNERSHIP for sewer certificate in Lee County. | ) | DOCKET NO. 890975-SU<br>ORDER NO. 23437<br>ISSUED: 9-5-90 |

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
FRANK S. MESSERSMITH

ORDER APPROVING SETTLEMENT, REVIVING ORDER NO. 22682, AND ESTABLISHING CHARGE FOR TREATED EFFLUENT

BY THE COMMISSION:

BACKGROUND

Del Tura Limited Partnership (Del Tura or utility) will provide wastewater service to the residents of Del Vera Country Club (Country Club) in Lee County. The utility plans to dispose of all of its treated effluent by providing it to the Country Club for spray irrigation of a golf course.

On July 25, 1989, Del Tura filed an application for a wastewater certificate. On November 6, 1989, we granted Certificate No. 456-S to the utility. On March 13, 1990, we issued proposed agency action Order No. 22682, which set rates and charges for the utility including a charge of $.25 per 1,000 gallons for treated effluent.

On April 2, 1990, Del Tura filed a timely protest to Order nO. 22682. The protest requested that we approve rates and charges without a plant capacity or effluent disposal charge. The utility also requested a hearing pursuant to Section 120.57, Florida Statutes.

On July 16, 1990, Del Tura filed an Offer of Settlement that is attached to this order as Attachment A and incorporated herein. Pursuant to this offer, the utility agreed to a charge of $.05 per 1,000 gallons for treated effluent. Additionally, the utility agreed that all issues in its Petition for Administrative Hearing

would be settled if this proposed charge for effluent were approved.

CHARGE FOR TREATED EFFLUENT

Order No. 22682 established a charge of $.25 per 1,000 gallons for treated effluent. In reaching this decision, we considered the fact that both the golf course and the utility will benefit from the use of effluent for spray irrigation. The golf course will avoid the expense of other irrigation alternatives and the utility will avoid the expense of purchasing additional land for percolation ponds. Because the utility had not initially provided us with sufficient information for determining a truly cost-based rate for the effluent, we set a charge of $.25 per 1,000 gallons. This was the same charge established for Marco Island Utilities in Order No. 20257, issued November 4, 1988. Del Tura is similar to Marco Island Utilities in that both utilities benefit from disposing of effluent by spray irrigation, while the recipients of the effluent also benefit.

After the filing of Del Tura's protest of Order No. 22682, the utility provided supplemental information to Commission staff concerning the costs to the utility and to the Country Club of alternatives to the use of treated effluent for spray irrigation. We find that this information supports Del Tura's request for approval of a reduced charge for effluent of $.05 per 1,000 gallons.

By letter dated July 2, 1990, the attorney for Del Tura provided a copy of a consumptive use permit issued by the South Florida Water Management District (SFWMD) that allows the Country Club to drill a well for golf course irrigation. The permit was issued December 14, 1989 and expires April 15, 1992. One of the limiting conditions of this permit is that the Country Club "shall determine the availability, cost and feasibility of obtaining reclaimed water and actively participate in discussions and negotiations with potential suppliers of reclaimed water when the suppliers become available". Other limiting conditions include the right of the SFWMD to curtail withdrawal rates during periods when adverse conditions exist, such as a reduction in well water levels or levels of adjacent water bodies.

The Country Club's irrigation requirement will be a total of approximately 400,000 gallons per day. Since the development to be

served by the utility is under construction, the utility will not be able to supply all of the irrigation needs of the Country Club until the development is in its second phase. Therefore, the Country Club must rely on ground water irrigation in the initial years of development. Additionally, the Country Club's well field will be needed to provide water on an ongoing basis to supplement the spray effluent system during periods of low effluent flows and as a back-up system.

Based on the facts discussed above it appears that the irrigation customer has a viable alternative to using effluent from the utility for irrigation. However, the limiting conditions on the consumptive use permit suggest that the SFWMD expects the Country Club actively to pursue the use of reclaimed water for irrigation. Additionally, water withdrawal rates may be curtailed under certain conditions.

The utility's attorney submitted a letter from the engineering consultant for the Country Club. The engineer indicated that the cost to the Country Club to operate the well for ground water irrigation is approximately $.016 per 1,000 gallons. We believe that this cost analysis is somewhat understated in that it does not contain the cost of maintaining a pump station to withdraw water from the well site. However, we do agree with the utility that a charge of $.05 per 1,000 gallons is closer to the Country Club's cost of ground water irrigation than the $.25 rate previously proposed in this docket.

The utility also submitted an analysis from its engineering consultant that indicated that the cost to the utility of using percolation ponds as a means of effluent disposal is approximately equal to the additional treatment and storage costs of utilizing spray irrigation to dispose of the treated effluent. In addition, the consultant stated that the use of percolation ponds is not considered a cost effective alternative because the high water table in the area would require either additional percolation ponds or extensive buildup to increase the distance between the percolation ponds and the water table. Therefore, it appears that there are essentially no additional costs to the utility to provide the treated effluent to the Country Club.

Order No. 22682 provided that because both the golf course and the utility will receive a benefit from the use of effluent for spray irrigation, the utility's ratepayers and the irrigation

customer should share in the costs associated with providing this service. As mentioned previously, the utility had not provided sufficient information for us to establish a truly cost-based rate for treated effluent. Therefore, the charge of $.25 per 1,000 gallons was established as a reasonable one based on the charge established in a previous case. However, upon consideration of the additional information provided by the utility since Order No. 22682 was issued, we agree with the utility that a charge of $.25 per 1,000 gallons for spray effluent to the Country Club is excessive. The utility has shown that the Country Club has a viable, low-cost alternative for irrigation. The utility has also demonstrated that spray effluent is a cost effective means of effluent disposal. The provision of effluent to the Country Club for spray irrigation compares favorably with the alternative means of percolation ponds since the capital costs for improved levels of effluent treatment are offset by the savings of not installing percolation ponds. In addition, it appears that the use of percolation ponds may not be a practical or successful means of effluent disposal in the area.

While we believe that the cost provided by the Country Club's engineering consultant of $.016 per 1,000 gallons for ground water irrigation is understated, we find a charge of $.05 per 1,000 gallons for treated effluent to be reasonable in this case. This position is consistent with our reasoning in the PAA order because both the Country Club and the ratepayers will share in the costs of providing the treated effluent for irrigation. Additionally, this charge is consistent with our policy of encouraging the use of spray irrigation as a means of effluent disposal since the proposed charge represents the approximate cost of the irrigation customer's alternative. Based upon the facts discussed above, it is appropriate to approve the Offer of Settlement since it is a reasonable resolution of the matter before us. Accordingly, we will set a charge of $.05 per 1,000 gallons for treated effluent.

REVIVAL OF ORDER NO. 22682

Del Tura had objected to the plant capacity charge as well as the charge for effluent provided for in Order No. 22682. In its Offer of Settlement, the utility agreed to a complete settlement of all issues raised in its Petition for Administrative Hearing. Thus, Order No. 22682 is hereby revived and modified to the extent that the agreed upon charge for effluent used for spray irrigation impacts on the original order.

Because the initial rates included in Order No. 22682 were based on an irrigation rate of $.25 per 1,000 gallons, the rates for wastewater service must be recalculated to take into account the reduction in the irrigation rate from $.25 to $.05 per 1,000 gallons. According to our calculations, the gallonage charge for wastewater service should be increased from $1.76 to $1.96 due to the reduction in the irrigation rate. Because there are currently no utility customers, there will be no impact on customers due to this change.

It is therefore,

ORDERED by the Florida Public Service Commission that the offer of settlement proposed by Del Tura North Limited Partnership, Inc. which is appended hereto as Attachment A, is hereby approved as set forth in the body of this order. It is further,

ORDERED that Order No. 22682, issued March 13, 1990, is hereby revived and declared to be final and effective, subject to the modifications set forth in the body of this order. It is further

ORDERED that Docket No. 890975-SU be and is hereby closed.

By ORDER of the Florida Public Service Commission this 5th day of SEPTEMBER, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

( S E A L )

ASD

by: Kay Flynn
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

LAW OFFICES
ROSE, SUNDSTROM & BENTLEY
A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS
2548 BLAIRSTONE PINES DRIVE
TALLAHASSEE, FLORIDA 32301
(904) 877-6555

W. DOUGLAS BEASON
CHRIS H. BENTLEY P.A.
F. MARSHALL DETERDING
MARTIN S. FRIEDMAN, P.A.
JOHN R. JENKINS
ROBERT M. C. ROSE, P.A.
WILLIAM E. SUNDSTROM, P.A.
DIANE D. TREMOR
JOHN L. WHARTON

MAILING ADDRESS
POST OFFICE BOX 1567
TALLAHASSEE, FLORIDA 32302-1567
TELECOPIER (904) 656-4029

July 16, 1990

Mr. Steve Tribble, Director
Division of Records & Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Re: Docket No. 890975-SU
Del Tura North Limited Partnership;
Original Certificate Application
Our File No. 26087.01

Dear Mr. Tribble:

This is to follow-up my recent meetings with the Staff during which we discussed the issues and positions of the parties in the above-referenced docket. As a result of those discussions, the Utility is willing to make this formal settlement offer in lieu of a final hearing in this case. Specifically, the Applicant agrees to an effluent disposal charge of $.05 per 1,000 gallons of effluent. If this charge is approved by the Commission, the Applicant agrees to a complete settlement of all issues raised in its Petition for Administrative Hearing.

It is my understanding that the Staff will now take this settlement offer to a regularly scheduled agenda conference for consideration by the full Commission. We will be available at that time to support the settlement, and, if necessary, to explain our position should this matter go to hearing. During the time period necessary to bring this issue back before the Commission certain deadlines contained in the CASR, including the time for filing prefiled written testimony, will have passed. It is my understanding that in the event the Commission fails to approve this settlement, the Applicant will be entitled to file prefiled written testimony, and to reasonably meet any other deadlines which may have passed as we proceed to hearing.

I appreciate your cooperation in this matter. Should you have any questions or comments, please feel free to call.

Sincerely,

John R. Jenkins
For the Firm

JRJ/ss
cc: Mr. Richard Jacobson
Robert C. Nixon, CPA
Ron Kerfoot, P.E.
Ms. JoAnn Chase