

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 920040-SU
assisted rate case in Bay) ORDER NO. PSC-93-0199-FOF-SU
County by PIONEER WOODLAWN) ISSUED: 02/09/93
UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER CLOSING DOCKET

BY THE COMMISSION:

Pioneer Woodlawn Utilities, Inc. (PWU or utility) is a Class C wastewater utility providing service to 193 residential and 20 general service customers in Panama City Beach (PCB), Florida.

The utility was granted a certificate in 1975, and in 1983 was granted a revenue increase as a result of a staff-assisted rate case. On January 21, 1987, the utility filed an application for transfer of majority organizational control and for a staff-assisted rate case. By Order No. 18179, issued September 21, 1987, the Commission approved the transfer from Mr. H. L. Lundy to Mr. Jay Myers (the current owner), and established rates for the utility. On November 28, 1988, the utility filed a petition for a limited proceeding to change its residential rate structure from a metered basis back to a flat rate. By Order No. 20565, issued January 9, 1989, the Commission approved the utility's request to revert to a flat rate structure for its residential customers.

Until recently, the utility disposed of its effluent by discharging into an area of Panama City Bay called West Bay. Subsequent to the utility actually discharging effluent into the bay, the Department of Environmental Regulation (DER) changed its classification of the discharge area to "Class II Protected Waters." The intent of this change in classification was that no effluent, regardless of how well treated, was to be discharged into the bay. However, the utility was afforded the opportunity to continue discharging its effluent into the bay, provided certain improvements to its wastewater treatment system were made. In June

DOCUMENT NUMBER-DATE

01557 FEB-93

FILED-RECORDS/REGISTRATION

1988, the utility entered into a Consent Order with DER, whereby the utility agreed in part to install a dechlorination system and to apply for a renewal of its operating permit.

As of early 1992, the utility had failed to comply with the Consent Order. Therefore, DER filed civil action against the utility. As a result of that suit, in April, 1992, the Circuit Court Judge signed a Partial Final Judgement (PFJ), whereby the utility was ordered to cease both the operation of the wastewater treatment plant and all wastewater discharges to the protected waters within 120 days of the date of the order, i.e., by early August 1992. The utility further was permanently enjoined from operation of the wastewater treatment facility after the 120-day period. In effect, the utility was ordered to interconnect with the City of Panama City Beach (the City).

The utility's application for staff assistance was docketed on January 10, 1992. Our Staff selected the test year ended December 31, 1991. During that period, based on the results of our Staff's audit, the utility recorded wastewater system operating revenues of \$53,446 and operating expenses of \$72,675, resulting in a net operating loss of \$19,229. After the issuance of the PFJ, it was contemplated by the utility that the majority of the additional revenues resulting from the instant case would be used to make the improvements made necessary by the PFJ.

After the issuance of the PFJ, the utility and the City began negotiations regarding the projected costs of the interconnection and the ultimate takeover of the utility's wastewater treatment facility by the City. On May 19, 1992, the Division of Water and Wastewater received a request from the utility's owner to place the instant case in monitor status.

The utility failed to interconnect with the City by the August 1992 deadline as required in the PFJ. However, the City Council of Panama City Beach voted at its July 23, 1992, meeting to take over the utility's lift stations and collection system. As the utility and the City were apparently close to a settlement, the Circuit Court Judge granted the utility an extension of time in which to comply with the terms of the PFJ. The extension was until early November, 1992; therefore, the monitor status in the instant proceeding was extended until mid-November 1992.

In contemplation of the City's takeover of the utility, our Staff has been in contact with the utility and Panama City Beach's City Manager regarding the proper procedure for the utility's

transfer to a governmental entity. Our Staff was assured by both the utility and the City that written confirmation regarding the interconnect and the City's acquisition of the utility would be timely submitted.

On January 5, 1993, our Staff received verbal confirmation from Panama City Beach's City Manager that the City has taken over the utility's collection system and lift stations. The physical interconnection was made on November 6, 1992, and the City has been pumping the utility's influent to the City's treatment facility as of that date. Therefore, effluent is no longer being discharged into the bay. The City has notified all customers of the utility that the City, rather than the utility, will begin billing those customers effective January 1, 1993.

Our Staff has received verbal confirmations from both the utility and the City that these events have taken place. Once the acquisition has been finalized, the utility will not be subject to this Commission's jurisdiction, in accordance with Chapter 367.022(2), Florida Statutes.

If the utility and the City are unable to reach an agreement regarding the ultimate acquisition of the utility, the City would continue to bill the utility, rather than directly bill the customers, for purchased sewage treatment. The utility, in turn, would bill the customers. In effect, the utility's sole function would be that of a billing and collection agent.

However, regardless of whether the utility is ultimately acquired by the City, we find that the staleness of the test period data alone is justification to close this docket, as this data is not representative of the utility's financial requirements on a forward-going basis. The end of the test period for the instant case is December 31, 1991, more than one year ago. When the staleness of the test year data is considered, coupled with the expenses associated with the interconnection and the resulting purchased sewage treatment costs, we find that the data contained in the audit is not representative for setting rates on a prospective basis.

Therefore, based on the foregoing, we hereby find that this docket should be closed. As discussed above, our Staff has performed the necessary audit and completed its engineering investigation. In addition, our Staff has spent a considerable amount of time in discussions with the utility, officials of the City of Panama City Beach, and DER. Based on the amount of time

ORDER NO. PSC-93-0199-FOF-SU
DOCKET NO. 920040-SU
PAGE 4

our Staff has devoted to this case, we find that the filing fee should not be refunded.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that this docket shall be closed and that the filing fee shall not be refunded to Pioneer Woodlawn Utilities, Inc.

By ORDER of the Florida Public Service Commission this 9th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

KAC

ORDER NO. PSC-93-0199-FOF-SU
DOCKET NO. 920040-SU
PAGE 5

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: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.