

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930072-SU
Certificate to Provide) ORDER NO. PSC-93-1026-FOF-SU
Wastewater Service in Brevard) ISSUED: July 13, 1993
County by PINE LAKE MOBILE HOME)
ESTATES, 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

FINAL ORDER GRANTING CERTIFICATE NO. 486-S
AND
NOTICE OF PROPOSED AGENCY ACTION ORDER
ESTABLISHING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein establishing rates and charges is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Pine Lake Mobile Home Estates, Inc. (Pine Lake or applicant) is a Class C wastewater utility located in Brevard County, Florida, which provides wastewater service to approximately 158 leased mobile home sites in a mobile home park and 45 connections in an adjacent area in which the customers own their individual mobile homes. The applicant previously came under our jurisdiction for water and wastewater service in 1970 pursuant to Order No. 5010, effective December 17, 1970. The service to the 45 individually owned mobile home sites was the only portion which was determined

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FILED IN BREVARD COUNTY

to be jurisdictional; the mobile home park was granted a landlord/tenant exemption in accordance with Section 367.022(5), Florida Statutes. Subsequently, the water system was transferred to the City of Melbourne and in Order No. 12624 we cancelled the water certificate effective October 20, 1983. Then on December 29, 1983, we issued Order No. 13068, effective March 8, 1984, granting a small system exemption for wastewater service to the 45 individually owned mobile home sites pursuant to Section 367.022(6), Florida Statutes. Since then, Pine Lake has been providing wastewater service under the combined landlord/tenant and small system exemptions. The utility is in a designated critical use area. Its component parts are a wastewater collection system and a treatment and disposal system.

In the fall of 1992 we received numerous customer and legislator inquiries regarding this utility. Consequently, we reexamined the utility and determined that the utility served considerably more than 100 persons on a continuing basis and had a plant with a rated capacity of 30,000 gallons. Average daily wastewater plant flows were well in excess of Section 367.022(6), Florida Statutes, limit of 10,000 gallons for a small system. On November 10, 1992, we advised Pine Lake that it no longer qualified for a small system exemption and furnished the utility with an application package for an original certificate for an existing utility charging for service.

APPLICATION

On May 21, 1993, Pine Lake filed an application for an original wastewater certificate to provide service in Brevard County. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for an original certificate for an existing utility currently charging for service. The application contains a check in the amount of \$150.00, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence, by a quit-claim deed which is supported by a legal opinion, that the utility owns the land upon which its facilities are located. We find this to be sufficient evidence of ownership as required by Rule 25-30.034(1)(e), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.034(1)(h),(i) and (j), Florida Administrative Code. A description of the territory requested by the applicant, is appended to this memorandum as Attachment A.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed territory. Although objections to the notice of application had been received from several customers of the utility, they were all withdrawn subsequent to a customer meeting held in the service territory on April 30, 1993.

The applicant has been providing wastewater service in the requested territory since 1970. We contacted the Florida Department of Environmental Regulation (DER) and found that the system has operated and continues to be operated in accordance with environmental regulations. There has been no growth of any consequence over the past several years and the service territory will not likely expand beyond the current approximately 205 connections. The applicant has demonstrated that it possesses sufficient financial ability to continue to operate the system in accordance with regulatory requirements.

Based on the above information, we believe it is in the public interest to grant Pine Lake's application for an original certificate. Accordingly, we find that Pine Lake Mobile Home Estates, Inc. is granted Wastewater Certificate No. 486-S to serve the territory described in Attachment A.

RATES AND CHARGES

The utility's present rates and charges are a flat rate of \$21.50 per month. This service rate has been in effect for some time and was set by the applicant while exempt from Commission jurisdiction. The wastewater service provided for the 158 leased sites is included in the rent and is not separately stated or billed. Because of the unusual dual method of collecting revenues, annual revenues could not be readily ascertained. In addition, the net operating income of the utility was not readily determinable due to the present commingling of expenses.

The customer meeting held in the utility's service territory on April 30, 1993, was attended by several dozen residents of Pine Lake Mobile Home Estates. Some of the concerns voiced by the customers were that they had to pay for wastewater service even when they were away for extended periods of time, that their flat rate was excessive compared to the City of Melbourne, and that they believed that bill payment and collection methods were not in accordance with proper procedures. In addition, one customer complained about a \$100 reconnection charge he was required to pay after he moved into his mobile home.

When metered flows are readily determinable, unless there are compelling reasons to do otherwise, we generally require a metered rate for water and wastewater. In this instance we find no compelling reasons to continue a flat rate to customers of this wastewater utility. Metered flows are readily determinable from the City of Melbourne which provides metered water service. Therefore, based on the aforementioned concerns, the fact that all but seven sites have water meters, and the fact that the City of West Melbourne charges wastewater rates based on a similar metered rate structure, we find that the rates should be changed to a base facility charge (BFC)/gallage rate structure.

We calculated the rates on a revenue neutral basis, by estimating the annual revenues, given that there is a change of occupancy level on a seasonal basis, and estimating the average customer connected load and annual plant flows based upon recent DER monthly operating reports (MORs) for the wastewater plant. A nominal BFC of \$8.35 per month was determined and average per capita flows of 6,000 gallons per month resulted in a gallage charge of \$2.00 per 1,000 gallons. Meter readings from the City of Melbourne, the potable water provider, shall be utilized to determine the individual customer's flows for billing each month. The standard residential cap of 10,000 gallons was used in our determination of the appropriate rate structure. Seven customers in the area have individual private water wells. Because there is no reasonable way to measure their wastewater flows, their charge will remain a flat \$21.50 per month. The following schedule shows the current rate and our approved rates. The approved rates will result in no increase to the customers when compared with the existing flat rate. All customers of the utility, at both the individual homeowner sites and the mobile home park leased sites, shall now be separately billed. The inclusion of wastewater service non-specifically in the monthly rent shall be discontinued.

This decision, in effect, nullifies the landlord/tenant exemption previously held by the mobile home park.

RESIDENTIAL

	<u>Current</u> <u>Monthly Rate</u>	<u>Approved</u> <u>Monthly Rate</u>
Base Facility Charge		\$8.35
Charge per 1,000 gal. (10,000 gal. maximum per month)		\$2.00
Flat Rate	\$21.50	\$21.50*

*Only customers with private water wells will continue to be billed at the current flat rate.

This system is fully built out and therefore, we find that no service availability charges are necessary.

MISCELLANEOUS SERVICE CHARGES

Miscellaneous service charges with respect to disconnection/reconnection of service, will comply with Staff Advisory Bulletin No. 13, 2nd Revised. Pine Lakes has not charged customer deposits and none have been requested. Currently, the utility charges a late fee of \$5.00 for payment after the 21st of the current month if a bill becomes delinquent. The utility is authorized to charge a late payment fee of \$3.00, pursuant to Rule 25-30.335(4), Florida Administrative Code.

The utility shall file tariff sheets which reflect these rates and charges within 30 days of the effective date of this Order. The effective date of the tariffs shall be the stamped approval date thereon. The tariffs will be stamped approved upon our staff's verification that they are consistent with our decision herein and that the proposed customer notice is appropriate and that there has been no protest to this proposed agency action. The utility shall provide written notice to its customers of the rates and charges approved in this docket, which notice shall be approved by our staff.

If a substantially affected person does not request a formal proceeding concerning the rates and charges established herein

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within twenty-one days of the issuance of this Order, this Order will become final and the docket shall be closed

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Pine Lake Mobile Home Estates, Inc. is hereby granted Wastewater Certificate No. 486-S to serve the territory described in Attachment A. It is further

ORDERED that Pine Lake Mobile Homes Estates, Inc. shall file tariff sheets which reflect the appropriate rates and charges as specified in the body of this Order within 30 days of the effective date of this Order. It is further

ORDERED that Pine Lake provide written notice to its customers of the new rates. The effective date of the rates shall be the stamped approval date of the tariff. It is further

ORDERED that Pine Lake shall be authorized to collect the appropriate rates and charges 30 days from the tariffs' stamped approval date. It is further

ORDERED that the provisions of this Order establishing rates and charges are issued as proposed agency action and shall become final unless an appropriate petition is filed with the Director of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on date set forth in the Notice of Further Judicial Proceedings or Judicial Review. It is further

ORDERED that, if no protests are received, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 13th day of July, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
SLE

by: Kay Hagan

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.

As identified in the body of this order, our action establishing rates and charges is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 3, 1993. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.

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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 wastewater 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

Pine Lake Mobile Home Estates, Inc.

TERRITORY DESCRIPTION

The following described lands located in portions of Section 18, Township 28 South, Range 37 East, Brevard County, Florida:

From the West one-quarter corner of Section 18, Township 28 South, Range 37 East, Brevard County, Florida, run N 89 57' 12" E a distance of 1,359.7 feet to the Point of Beginning of the herein described parcel; thence continue N 89 57' 12" E a distance of 2,719.4 feet; thence run S 0 40' 54" W a distance of 1,227.73 feet; thence run S 89 51' 29" W a distance of 1,340.84 feet; thence run S 0 08' 31" E a distance of 90.0 feet; thence run S 89 51' 29" W a distance of 1,299.81 feet; thence run N 54 47' 11" W a distance of 80.58 feet; thence run N 0 03' 56" E a distance of 1,275.52 feet to the Point of Beginning. Containing 79.37 acres, more or less.

LESS AND EXCEPT the following described property:

From the West one-quarter corner of Section 18, Township 28 South, Range 37 East, Brevard County Florida, run N 89 57' 12" E along the quarter section line a distance of 4,079.1 feet; thence S 0 40' 54" W a distance of 81 feet to the Point of Beginning of the herein described parcel; thence continue S 0 40' 54" W a distance of 1,146.73 feet; thence S 89 51' 29" W a distance of 998.05 feet; thence run N 1 07' 37" W a distance of 260.67 feet; thence run N 84 51' 41" E a distance of 50.03 feet; thence run N 0 42' 47" W a distance of 675.3 feet; thence N 89 17' 13" E a distance of 231.9 feet; thence run N 0 17' 17" W a distance of 205.29 feet; thence N 89 57' 12" E a distance of 744.61 feet to the Point of Beginning. Containing 24.59 acres, more or less.