

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for ) DOCKET NO. 940231-WU  
Clarification of Certain Service ) ORDER NO. PSC-94-0699-FOF-WU  
Availability Charges in ) ISSUED: June 8, 1994  
Highlands County by PLACID LAKES )  
UTILITIES, INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ELIMINATING MAIN EXTENSION CHARGE AND  
AUTHORIZING REFUNDABLE ADVANCE AGREEMENT

BY THE COMMISSION:

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

Background

Placid Lakes Utilities, Inc. (Placid Lakes or utility) is a Class C water utility located in Highlands County. By Order No. 16238, issued June 16, 1986, we approved rates and service availability charges for this utility. By that same Order, we established a negative rate base for this utility since the utility had an 86 percent contributions-in-aid-of-construction (CIAC) level. Since the utility's rate base had a negative balance, we did not consider return on investment, depreciation expense or income tax expense in setting rates. The rates approved by Order No. 16238 allowed the utility to recover operation and maintenance expenses and taxes other than income only. This Commission also discontinued a \$600 system capacity charge to prevent further over-contribution and approved meter installation charges of \$175 for a 5/8" x 3/4" meter and actual cost for meters larger than 5/8" x 3/4".

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In 1986, a developer filed a formal complaint against the utility for refusing to provide service to two of his lots in the utility's service area. The customer's complaint was settled. However, the complaint led to an investigation which resulted in a deletion in the utility's certificated service area. By Order No. 17372, issued April 7, 1987, this Commission found that the utility could only bring service to undeveloped parts of its territory by a considerable outlay of funds, which it did not have, or by requiring developers to install and contribute the mains which would continue or increase the utility's already over-contributed posture. Therefore, we found that it was in the public's best interest to delete the undeveloped portion of the utility's territory from its certificated service area.

Following the review of the utility's 1987 annual report, it appeared that the utility was overearning. The 1988 annual report, along with preliminary analysis, showed that the utility was overearning by approximately \$12,000 to \$13,000 per year based on operating expenses only. By Order No. 21851, issued October 2, 1989, we required the utility to refund \$7,500 plus 8 percent simple interest to customers who received September 1989 bills. The utility was also ordered to reduce its existing rates at that time by 11.7 percent. Those rates are currently in effect.

Between June 1990 and January 1992, this Commission has received approximately three phone calls from developers that owned lots asserting that the utility refused to provide service to lots in the utility's certificated area. The utility has represented to us that service has not been provided because the Commission substantially reduced the utility's service availability charges and prohibited it from accepting contributed lines. The utility has also stated that it did not have sufficient funds to further extend water service to those persons within its service area who are not adjacent to existing water lines.

On August 1, 1990, our Staff engineer, during a field visit, discovered that the utility did connect those customers that had lines available to their lots, but refused to connect those customers where lines were not available. During the engineering investigation, it was also discovered that the utility's parent company, Lake Placid Holding Company (LPHC), was collecting from developers an unauthorized \$575 CIAC charge in addition to a \$175 meter installation charge authorized by the Commission.

On February 11, 1992, the utility submitted an application requesting a review of service availability charges. By Order No. PSC-92-0632-FOF-WU, issued July 7, 1992, we approved service availability charges for this utility. The utility was also

ordered to show cause why it should not be fined for failure to provide service to new customers in its certificated area and for collecting unauthorized service availability charges. By Order No. PSC-93-0524-AS-WU, issued April 7, 1993, the Commission accepted the utility's offer to pay \$5,000 in settlement of the show cause.

In February 1994, our Staff was notified by one lot owner that the utility was requiring him to pay a connection charge in excess of the Commission approved charge. He also represented that the utility would not provide him service until after the requested amount was paid. Upon investigating this matter, we have discovered that the utility's interpretation of the Commission approved service availability policy differed from the Commission's original intent. By letter dated February 28, 1994, the utility attempted to address the lot owner's complaint. The information provided in the February 28, 1994, letter and our findings with respect to the utility's service availability policy are addressed below.

#### Service Availability Policy

As we stated earlier, on numerous occasions since 1986, Placid Lakes has refused service when the applicant was unwilling to pay the cost of the line extension. Each time the utility represented to us that service was not provided because the Commission substantially reduced the utility's service availability charges and prohibited it from accepting contributed lines. Upon reviewing the utility's service availability charges in Docket No. 920118-WU, we discovered that a lengthy engineering study was required to locate and determine the number of lots where lines were already installed. Therefore, we determined the number of future connections the existing plant could accommodate and an estimated cost for extending lines. We used an estimated cost of \$108,480 for extending lines to 339 future connections. The cost divided by the number of future connections resulted in a cost of \$320 per connection. Thus, this Commission approved a main extension charge of \$240 per connection by Order No. PSC-92-0632-FOF-WU, issued July 7, 1992. This charge represents 75 percent of the total estimated cost per connection.

It should be noted that although the utility did not need to collect a charge where lines already exist, the \$240 main extension charge was to be collected from all future connections whether or not lines were already available. We believed that this would provide the utility positive cash flow to meet future demand and would eliminate any future claims of insufficient cash flow.

In February 1994, we received the latest complaint from one of the lot owners in the utility's service area. The lot owner complained that he was denied service because he refused to pay the cost of the line extension to his property. The utility estimated the cost of the line extension to be between \$4,300 and \$4,700.

The utility believes that it acted within the provisions of its tariff which mirrored the provisions of Order No. PSC-92-0632-FOF-WU in refusing to serve the lot owner. As stated above, the \$240 main extension charge was to be collected from all connections, whether or not lines were already available. Although the utility already had a negative rate base, we found that the \$240 main extension charge was appropriate to provide cash flow to meet future demand in hopes that the utility would no longer refuse service where lines were not available.

Order No. PSC-92-0632-FOF-WU states that the \$240 charge was 75 percent of the total estimated cost to run additional extensions. It was the Commission's intent that the utility provide 25 percent of the funding for those extensions. Although this clearly shows that the Commission intended for the utility to provide future line extensions, the Order then states:

This charge shall be collected for all future connections where lines are already available. Placid Lakes is also authorized to accept donated lines from developers/customers, in lieu of the main extension charges where lines are not already available.

Although the above language may suggest otherwise, the Commission did not intend to give the utility the option of not serving if a customer refused to donate a needed line extension. The utility interprets the Order to mean that it can require customers to donate lines. We believe that the utility's interpretation is reasonable given the ambiguity of the Order. Therefore, we believe that the utility acted within the provisions of its tariff.

In the instant proceeding, the utility argues that it generates insufficient cash flow to make further line extensions. We believe the utility could have made some line extensions over the last few years. A desk audit of the utility's annual reports for the years 1987 - 1992 reveals a positive cash flow in at least five of those six years. However, we believe that current cash flow is not the utility's main problem. The utility's more critical problem is that it will likely never recover its investment if it is forced to make future line extensions.

Out of approximately 5,600 unconnected lots in the utility's territory, only 3,000 have service lines available. Most of the 2,600 lots without service lines are not adjacent to existing water mains. Consequently, a significant investment would be required to serve those lots. Additionally, the utility has grown at an average rate of only 46 connections per year over the last five years. This low growth rate coupled with the size of the territory makes any future investment in lines extremely risky. If it is required to extend lines to all applicants the utility could end up with large amounts of stranded investment, thus putting the utility's financial stability at risk.

In order to serve this one lot owner, a line almost 900 feet in length would need to be extended past nine other lots to reach this one customer. The cost of this line is estimated as high as \$4,700. Such service requests requiring lengthy line extensions are common for this utility. Presently, this utility is allowed to charge only break even rates, which includes no depreciation or return on investment. Even if the utility seeks recovery of its future investment in a rate case, it would be allowed to recover only the used and useful portion of its investment. Thus, the wide expanse of its territory and low customer growth may preclude the utility from ever recovering any additional investment in line extensions.

The dilemma we have had to face in this case is finding a way for customers to obtain service without jeopardizing the utility's financial condition. A substantial investment will be needed to extend lines to 2,600 connections. Moreover, since there are 5,600 unconnected lots in the utility's territory, the utility will be required in future years to invest a substantial amount of its resources in additional pumping and treatment facilities.

In light of above facts, it appears unreasonable on the one hand to require the utility to extend lines without some customer contribution. On the other hand, further contributions will only exacerbate the utility's over-contributed condition. We believe that eliminating the utility's \$240 main extension charge and allowing the utility to enter refundable advance agreements would be the most viable solution. This will prevent the utility from collecting for connections where line costs have already been recovered. Moreover, in order to increase the utility's own contribution level, the utility should be prohibited from accepting donated lines except as provided under refundable advance agreements.

At present, there are no prohibitions to the installation of private wells in the utility's territory, and many residents have utilized that option. Additionally, it has been our practice to allow utilities to enter into refundable advance agreements with customers in order to provide funding for line extensions. Should those requesting service not wish to fund the line extension, they can opt for a private well.

Therefore, considering the alternative of private wells and the utility's recurring problem of extending service lines, we find it appropriate to eliminate the utility's \$240 main extension charge and authorize the utility to engage in refundable advance agreements. However, the utility shall fund no less than 25 percent of the total cost of the line extension covered in each refundable advance agreement. Thus, as future connections are made, the utility shall collect 75 percent of the line's cost from each connection on a pro rata basis and refund 100 percent of the pro rata cost to the developer/customer who funded the line extension. The term of each refundable advance shall be ten years after which time the utility shall cease collecting from future connections.

In addition, the utility shall file revised tariff sheets modifying its service availability charges to the extent set forth above. The tariffs shall be filed for our Staff's approval within 14 days of the effective date of this Order, and this docket shall be closed if a timely protest is not received.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Placid Lakes Utilities, Inc.'s main extension charge is hereby eliminated. It is further

ORDERED that Placid Lakes Utilities, Inc. is hereby authorized to engage in refundable advance agreements to the extent and under the terms set forth above. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

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ORDERED that Placid Lakes Utilities, Inc., shall file revised tariff sheets modifying its service availability charges to the extent set forth above within 14 days of the effective date of this Order. It is further

ORDERED that in the event this Order becomes final, this docket should be closed. It is further

By ORDER of the Florida Public Service Commission, this 8th day of June, 1994.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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.

The action proposed herein 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 June 29, 1994.

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In the absence of such a petition, this order shall become effective on the day 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 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.