

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-

RECEIVED-PTSC
07 MAY 23 PM 3:17
COMMISSION
CLERK

DATE: May 23, 2007

TO: Office of Commission Clerk (Cole)

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

RE: Docket No. 060258-WS – Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.

AGENDA: 06/05/07 – Regular Agenda –Parties May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 11/27/07 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: Place next to Dockets Nos. 060256-SU, 060260-WS, and 060261-WS

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060258.RCM.DOC

Case Background

Sanlando Utilities Corp. (Sanlando or utility) is a Class A utility providing water and wastewater service to approximately 10,108 water and 8,201 wastewater customers in Seminole County. Water and wastewater rates were last established for this utility in its 1998 earnings investigation.¹

¹ See Order No. PSC-00-1263-PAA-WS, issued July 10, 2000, in Dockets Nos. 971186-SU, In re: Application for approval of reuse project plan and increase in wastewater rates in Seminole County by Sanlando Utilities Corporation., and 980670-WS, In re: Investigation of possible overearnings by Sanlando Utilities Corporation in Seminole County. Order No. PSC-00-2097-AS-WS, issued November 6, 2000, made Order No. PSC-00-1263-PAA-WS final as modified by the settlement agreement.

DOCUMENT NUMBER-DATE

04210 MAY 23 5

FPSC-COMMISSION CLERK

On May 15, 2006, Sanlando filed the Application for Rate Increase at issue in the instant docket. By Order No. PSC-06-0671-FOF-WS, issued August 7, 2006, the Commission approved interim annual revenue increases of \$12,315 or 0.59% for water and \$99,409 or 2.98% for wastewater, which are being secured through a corporate undertaking by UI (Sanlando's parent company). By Order No. PSC-07-0205-PAA-WS ("PAA Order"), issued March 6, 2007, the Commission approved rates that were designed to generate a water revenue requirement of \$2,491,321 and a wastewater revenue requirement of \$3,996,861.

On March 27, 2007, the Office of Public Counsel (OPC) timely filed a protest of the PAA Order. On April 5, 2007, Sanlando timely filed a cross-petition to protest the PAA Order, pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.). By letter dated April 9, 2007, Sanlando stated that it intends to put the PAA Order rates in effect during the pendency of the administrative hearing. At its May 8, 2007, Agenda Conference, the Commission acknowledged Sanlando's implementation of the PAA rates which are held subject to refund and will be secured through either a bond or escrow agreement.

On May 4, 2007, Sanlando and OPC (collectively, "Parties") filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Joint Motion). That motion and settlement agreement are incorporated in this recommendation as Attachment A.

This recommendation addresses the Parties' Settlement Agreement. The Commission has jurisdiction pursuant to Section 367.081 and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Joint Motion Requesting Commission Approval of Settlement Agreement?

Recommendation: Yes. The Joint Motion and Settlement Agreement should be approved. The utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The utility should provide proof that the customers have received notice within 10 days after the date of the notice. (Fletcher, Brubaker)

Staff Analysis: In the Settlement Agreement, the Parties have agreed that the PAA Order should be amended to eliminate the language relating to the determination of the used and usefulness of Sanlando's water and wastewater treatment plants, in order for the PAA Order to have no precedential value as to determining the used and usefulness of the water and wastewater treatment plants. The Commission has previously approved a proposed settlement where the language regarding a used and useful calculation was stricken from a proposed agency action order.² Staff agrees that the language of the PAA Order which the Parties seek to strike can be stricken because each rate case is decided on its own merits.

Notwithstanding the above amendment, the Parties have stipulated to the water and wastewater revenue requirements set forth in the PAA Order. Further, the Parties agree that the stipulated revenue requirement shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue in any subsequent proceeding.

Staff believes that the Parties' Settlement Agreement is a reasonable resolution because it addresses all protested issues. Further, staff believes that it is in the public interest for the Commission to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing. In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings whenever possible,³ staff recommends that the Commission approve the Parties' Settlement Agreement.

The utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff

² Order No. PSC-06-0665-S-WS, issued August 7, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

³ Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.; Order No. PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, In re: Settlement offer for possible overearnings in Marion County by BFF Corp.; and Order No. PSC-00-0374-S-EI, issued February 22, 2000, in Docket No. 990037-EI, In re: Petition of Tampa Electric Company to close Rate Schedules IS-3 and IST-3, and approve new Rate Schedules GSLM-2 and GSLM-3.

Docket No. 060258-WS

Date: May 23, 2007

pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The utility should provide proof that the customers have received notice within 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement. Further, upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amount approved by the Commission for interim rates and the bond or escrow agreement for the implementation of PAA rates should both be released. (Fletcher, Brubaker)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the issuance of the final order approving the Parties' Settlement Agreement. Further, upon the issuance of the final order approving the Parties' Settlement Agreement, staff recommends the corporate undertaking amount approved by the Commission for interim rates and the bond or escrow agreement for the implementation of PAA rates should both be released.

Date: May 23, 2007

ATTACHMENT A, PAGE 1 OF 5

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application of
SANLANDO UTILITIES CORP.
for an increase in water and wastewater
rates in Seminole County, Florida

DOCKET NO. 060258-WS

RECEIVED
07 MAY -4 PM 4:32
COMMISSION
CLERK

JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT

SANLANDO UTILITIES CORP. ("Sanlando" or "Utility"), and the OFFICE OF PUBLIC COUNSEL ("OPC") file this Joint Motion requesting the Florida Public Service Commission ("Commission") to approve the attached Settlement Agreement. In support of this Joint Motion, Sanlando and OPC state:

1. Sanlando and OPC have entered into a Settlement Agreement resolving OPC's Petition on Proposed Agency Action Order No. PSC-07-0205-PAA-WS, in accordance with the terms of the Settlement Agreement. A copy of the Settlement Agreement is attached hereto as Exhibit "A".

2. Sanlando and OPC have entered into the Settlement Agreement to avoid the CMP time, expense and uncertainty associated with adversarial litigation, in keeping with the COM Commission's long-standing policy and practice of encouraging parties in protested CTR proceedings to settle issues whenever possible. For these reasons, Sanlando and OPC ECR request the Commission to expeditiously issue a Final Order approving the Settlement OPC Agreement without modification and close Docket No. 060258-WS.
RCA
SCR
SGA
SEC
OTH

3. Pending Commission consideration of the Settlement Agreement, Sanlando

RECEIVED & FILED

REC'D OF REC

-1-

DOCUMENT NUMBER-DATE

03795 MAY-4 5

FPSC-COMMISSION CLERK

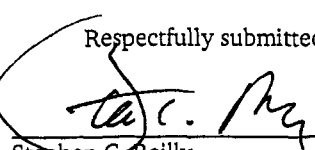
Date: May 23, 2007

ATTACHMENT A, PAGE 2 OF 5

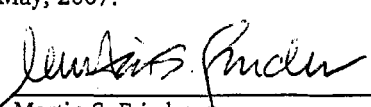
and OPC request the Commission to suspend discovery and all events currently scheduled in the CASR for this Docket until such time as the Commission acts on this Motion.

WHEREFORE, SANLANDO UTILITIES CORP., and OFFICE OF PUBLIC COUNSEL respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a Final Order is issued closing this docket.

Respectfully submitted this 4th day of May, 2007.


Stephen C. Reilly
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
PHONE: (850) 488-9330

Attorney for Citizens of the State of Florida


Martin S. Friedman
Rose, Sundstrom & Bentley, LLP
2180 W. State Road 434
Suite 2118
Longwood, FL 32779
PHONE: (407) 830-6331

Attorney for Sanlando Utilities Corp.

MAI ALTAMONTE\UTILITIES INC\SANLANDO\116) 2005 RATE CASE\MOTION APPROVAL OF SETTLEMENT AGR (5-2-07).wpd

Date: May 23, 2007

ATTACHMENT A, PAGE 3 OF 5

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
SANLANDO UTILITIES CORP.
for an increase in water and wastewater
rates in Seminole County, Florida

DOCKET NO. 060258-WS

RECEIVED
07 MAY - 4 PM 4:31
COMMISSION
CLERK

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 4th day of May, 2007,
by and between Sanlando Utilities Corp. ("Sanlando" or "Utility"), and the Office of Public Counsel
on behalf of customers of Sanlando ("Citizens").

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed
Agency Action Order No. PSC-07-0205-PAA-WS in this docket on March 6, 2007 ("PAA Order");
and

WHEREAS, on March 27, 2007, the Citizens filed a timely protest to the PAA Order; and

WHEREAS, on April 5, 2007, Sanlando filed a timely Cross-Petition; and

CMP _____
COM _____
CTR _____ litigation, and in keeping with the Commission's long-standing policy and practice of encouraging
ECR 2 parties in protested proceedings to settle issues whenever possible, the Citizens and Sanlando hereby
GCL 2
OPC _____ enter into this Agreement to settle this case in accordance with the terms and conditions contained
RCA _____ herein.
SCR _____

SGA _____ NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the
SEC _____ Citizens and Sanlando agree as follows:

OTH RECEIVED & FILED

R.V.N.

-1-

DOCUMENT NUMBER-DATE

03792 MAY-4 6

FPSC-COMMISSION CLERK

1. The PAA Order shall be amended to eliminate the language relating to the determination of the used and usefulness of Sanlando's water and wastewater plants. It is the intent of Sanlando and Citizens that the PAA Order shall have no precedential value as to the issues of determining the used and usefulness of Sanlando's water and wastewater plants. Notwithstanding this amendment to the PAA Order, the parties stipulate to the revenue requirement as set forth in the PAA Order. Further, approval by Sanlando and the Citizens of the above stipulated revenue requirements shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue that might be in controversy in any subsequent proceeding.

2. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

3. Sanlando and the Citizens expressly agree that all activity relating to this docket should be suspended until the Commission disposes of the Joint Motion Requesting Commission Approval of Settlement Agreement.

4. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving this Settlement Agreement, the Citizens Petition on Proposed Agency Action and Sanlando's Cross-Petition shall be deemed resolved, in accordance with the terms of this Settlement Agreement.

5. The Parties have evidenced their acceptance and agreement with the provisions of this

Settlement Agreement by their signatures, and personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

OFFICE OF PUBLIC COUNSEL

By: 

Stephen C. Reilly
Associate Public Counsel
On behalf of the Customers
of Sanlando Utilities Corp.

SANLANDO UTILITIES CORP.

By: 

Martin S. Friedman
Attorney for Sanlando
Utilities Corp.

M:\1 ALTAMONTE\UTILITIES INC\SANLANDO\116) 2005 RATE CASE\SETTLEMENT AGREEMENT (5-2-07).wpd