

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited proceeding rate increase in Polk County by West Lakeland Wastewater, Inc. | DOCKET NO. 070466-SU
ORDER NO. PSC-08-0083-PAA-SU
ISSUED: February 13, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING INCREASED WASTEWATER RATES
AND

FINAL AGENCY ACTION APPROVING TEMPORARY RATES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, except for the temporary rates in the event of protest which is final agency action, 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 (F.A.C.).

Background

West Lakeland Wastewater, Inc. (West Lakeland or utility) is a Class C wastewater utility located in Polk County serving approximately 300 customers. West Lakeland is located in a water use caution area as determined by the Southwest Florida Water Management District. The utility's customers receive water service from the City of Lakeland. The utility's 2006 annual report reflects operating revenues of \$67,521 and an operating loss of (\$34,442).

The utility, previously known as ABCA, Inc., has been providing service to customers in Polk County since 1972. On January 9, 1990, the Polk County Commission granted a franchise to Ameribanc Investors Group (Ameribanc) for a system known as Village Lakeland. Polk County came under our jurisdiction on July 11, 1996. In 1998, we granted the utility its grandfather Certificate No. 515-S for wastewater.¹ ABCA's Certificate was transferred to West Lakeland in 2001.²

¹ By Order No. PSC-98-0752-FOF-SU, issued June 1, 1998, in Docket No. 971531-SU.

² By Order No. PSC-01-1576-FOF-SU, issued July 30, 2001, in Docket No. 010382-SU.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The utility has never had a rate proceeding while under our jurisdiction. The utility's rates were last reviewed by us upon transfer of the utility's system from ABCA, Inc. to West Lakeland.

On July 20, 2007, the utility filed its application for a limited proceeding pursuant to Section 367.0822, Florida Statutes (F.S.). The utility filed for a limited proceeding in order to recover additional costs for customer billing. On January 7, 2008, the utility filed an amendment to its original application requesting the recovery of additional expense to cover meter reading. Our staff determined that the filing of the utility on July 21, 2007, met the filing requirements of Rule 25-30.445, F.A.C. We have jurisdiction under Section 367.0822, F.S.

Appropriate Revenue Increase

In October 1999, the City of Lakeland (City) through its electric utility, Lakeland Electric, entered into an agreement with ABCA, Inc, now West Lakeland, to provide contract billing services for its wastewater services. As stated above, the City provides water service to West Lakeland's wastewater customers. In the past, the City both read the water meters and included the utility's wastewater charges in the customers' bills. Customers would pay the City, which maintained all customer accounts and billing records for West Lakeland. In addition to meter reading, the City's services included billing, record keeping, accounting and collection. After deducting delinquent charges and an \$0.85 per month per customer charge for its services, the City would send, on a monthly basis, the remaining wastewater amounts collected to West Lakeland. As a result, West Lakeland did not require any staff to read meters, or maintain a billing or accounting system for its customer accounts.

On January 13, 2006, Lakeland Electric notified West Lakeland that it would discontinue the contract billing service effective 90 days after notification. At the expiration of the 90-day period, the City indicated that, for \$1.00 per month per customer, it would be willing to provide the monthly wastewater meter readings. The utility, however, would still be responsible for billing, accounting, and collection of the customer charges.

The utility chose not to pay the City for the monthly meter readings, and from mid-April 2006 to the present, the utility paid the owner's son \$500 per month to perform the billing, accounting, and collection functions. Also, the utility paid \$100 a month each to two part-time meter readers.

After filing its application for a limited proceeding, the utility asked the City if it was still willing to provide meter reading services. The City replied in writing that it would no longer be interested in providing meter reading services for the utility's customers. Therefore, the utility continued to utilize the services of its two part-time meter readers. In its Petition filed on July 21, 2007, the utility indicated that five different meter readers had been used in the past 21 months and that none had been willing to continue long-term at the salary the utility was paying. The utility indicated that its meter reading and billing functions require a high degree of effort for short periods of time, and that it was not financially able to offer a part-time employee to

perform these functions at a competitive salary, given the prevailing wage rates in the Lakeland area.

At the customer meeting held on November 5, 2007, several customers alleged that some customers were not being billed for wastewater service, and that meters were either not being read or were being read on an irregular basis. Other customers alleged that there were numerous overbillings. The utility indicated to our staff that it is not aware of any meters that are not read on a monthly basis. The utility acknowledges, however, that there have been customer concerns over meter reading and collection, and that the present arrangement the utility uses is not sustainable in the long term. Some customers indicated that it would be easier, simpler, and more cost efficient for the utility to bill on a flat rate basis.

The utility believes that it must utilize the services of a professional entity in order to provide a high level of service to its customers. The utility proposes to use the firm of Severn Trent Environmental Services, Inc. to take over the customer billing and collection functions for the utility. The utility has received a non-binding proposal of \$3.60 per month per customer from Severn Trent to perform these functions for the utility. The utility indicated that it was not aware of entities other than Severn Trent willing to undertake record keeping, billing, and collection functions. Further, the utility indicated it had contacted other firms and has not received any responses. In its request for recovery of these expenses, the utility correctly netted the new charge against the former \$0.85 per month charge it had been paying the City.

We find that contracting with Severn Trent is the only option open to the utility given the small customer base and the financial condition of West Lakeland. The utility's quality of service related to meter reading and billing needs to be improved, but given the financial constraints of the utility, it is unlikely to be improved if the utility continues to use its present arrangement for meter reading, billing, and collection. The utility's quality of service should improve when using a professional entity such as Severn Trent.

Additionally, the utility now indicates that it is paying \$200 per month as contract labor to a meter reader to read all of the utility's meters on a monthly basis. By letter dated January 7, 2008, the utility requested that it be allowed to recover these expenses in addition to the cost recovery requested in its original application because the services provided by Severn Trent do not cover meter reading. The utility's customers stated that there have been numerous billing errors under the current arrangement. The utility believes that the allowance of this expense will improve the utility's meter reading ability and should reduce customer concerns. We find this \$200 additional expense for meter reading is prudent and shall be allowed.

Based on the above, we find the resulting net revenue increase of \$12,880, or 17.40%, is appropriate and shall be granted.

Appropriate Wastewater Rates

The rates requested by the utility are designed to allow the utility the opportunity to generate additional revenues of \$12,880 for wastewater service. This results in a wastewater

increase of \$3.58 per month, or approximately 17.40%, for the average residential customer. The approved rates are shown on Schedule 1.

The utility shall file revised tariff sheets and a proposed customer notice to reflect the appropriate rates. The approved rates shall 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., provided the notice has been approved by our staff. Within 10 days of the date the order is final, the utility shall provide notice of the tariff changes to all customers. The utility shall provide proof the customers have received notice within 10 days after the date that the notice was sent.

Temporary Rates in the Event of a Protest

This Order proposes an increase in wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility.

Therefore, in the event of a protest filed by a party other than the utility, the approved rates shall be approved as temporary rates. Any increase collected by the utility as a result of the temporary rates shall be subject to the refund provisions discussed below.

The utility shall be authorized to collect the temporary rates upon our staff's approval of appropriate security for the potential refund and the proposed customer notice. Security shall be in the form of a bond or letter of credit in the amount of \$8,858. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect, and.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No funds in the escrow account may be withdrawn by the utility without the express approval of the Commission;

- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments;
- 8) The Commission Clerk must be a signatory to the escrow agreement; and
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as a result of the rate increase shall be maintained by the utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund.

Based on the foregoing, it is

ORDERED that the petition of West Lakeland Wastewater, Inc. for a limited proceeding is granted and the utility shall be allowed to increase its wastewater rates as set forth in the body of this Order. It is further

ORDERED that the approved rates shall be designed to allow the utility the opportunity to generate additional revenues of \$12,880 for wastewater service, for an approximate 17.4% increase. It is further

ORDERED that West Lakeland Wastewater, Inc. shall file revised tariff sheets and a proposed customer notice to reflect the appropriate rates. It is further

ORDERED that the approved rates shall 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., provided the notice has been approved by our staff. It is further

ORDERED that within 10 days of the date the order is final, the utility shall provide notice of the tariff changes to all customers. It is further

ORDERED that the utility shall provide proof the customers have received notice within 10 days after the date that the notice was sent. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, except for the provision for temporary rates in the event of a protest which is final agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that the approved rates shall be approved for the utility on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the utility. It is further

ORDERED that prior to implementation of any temporary rates, the utility shall provide appropriate security in either the form of a bond, letter of credit, or an escrow agreement as set forth in the body of this Order. It is further

ORDERED that after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. It is further

ORDERED that the report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund. It is further

ORDERED that if a protest is not received from a substantially affected person within 21 days of issuance of the Proposed Agency Action Order, a Consummating Order shall be issued. It is further

ORDERED that if a Consummating Order is issued, the docket shall be closed upon its issuance and upon our staff's approval of the revised tariff sheets.

By ORDER of the Florida Public Service Commission this 13th day of February, 2008.



ANN COLE
Commission Clerk

(S E A L)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, except for the provision for temporary rates in the event of protest which is final agency action, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 5, 2008. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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.

Any party adversely affected by the Commission's final action providing for temporary rates in the event of a protest in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 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 Office of Commission Clerk 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.

West Lakeland Wastewater, Inc.
 Schedule of Present and Approved Rates

Schedule 1

	<u>Present Rates</u>	<u>Increase</u>	<u>Approved Rates</u>
<u>Residential</u>			
<u>Base Facility Charges</u>			
5/8" x 3/4"	\$9.81	\$3.58	\$13.39
Gallonge Charge-per 1,000 gallons	\$3.26	-	\$3.26
<u>General Service</u>			
<u>Base Facility Charges</u>			
5/8" x 3/4"	\$9.81	\$3.58	\$13.39
1"	\$14.71	\$3.58	\$18.29
1 1/2"	\$24.51	\$3.58	\$28.09
2"	\$49.03	\$3.58	\$52.61
3"	\$78.44	\$3.58	\$82.02
4"	\$156.87	\$3.58	\$160.45
6"	\$245.13	\$3.58	\$248.71
8"	\$490.24	\$3.58	\$493.82
Gallonge Charge-per 1,000 gallons	\$3.89	-	\$3.89