

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in  
water/wastewater rates in Polk County by  
Cypress Lakes Utilities, Inc.

DOCKET NO. 130212-WS  
ORDER NO. PSC-13-0673-FOF-WS  
ISSUED: December 19, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

ORDER SUSPENDING PROPOSED FINAL RATES AND  
APPROVING INTERIM REVENUE INCREASE AND INTERIM RATES

**Background**

Cypress Lakes Utilities (Utility) is a Class B utility providing service to 1,264 water and 1,161 wastewater customers in Polk County. Water and wastewater rates were last established for this utility in 2010. On September 30, 2013, Cypress Lakes Utilities filed its application for a rate increase at issue in the instant docket. The Utility's application has met the minimum filing requirements (MFRs) and the test year established for interim and final rates is the simple average period ended December 31, 2012. Cypress Lakes Utilities requested interim rate relief of \$85,052 (26.80 percent) for its water system only. The Utility requested final revenue increases of \$100,603 (31.71 percent) for water and \$26,350 (3.95 percent) for wastewater.

This Order addresses the suspension of Cypress Lakes' requested final rates and the Utility's requested interim rates. This Commission has jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

**Decision**

Suspension of Proposed Final Rates

Section 367.081(6), F.S., provides that this Commission may, for good cause, withhold consent to the implementation of requested rates within 60 days after the date the rate request is filed. Further, Section 367.081, F.S., permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months from the official date of filing if: (1) we have not acted upon the requested rate increase; or (2) if our PAA action is protested by a party other than the Utility.

We have reviewed the filing and considered the information filed in support of the rate application and the proposed final rates. We find that it is necessary to require further investigation of this information, including on-site investigations by Commission staff accountants and engineers. To date, Commission staff has initiated an audit of the Utility's books and records, as well as an audit of Utilities, Inc. (UI, Parent, or Company), the Utility's parent, to examine allocated investment and operating expenses. Commission staff sent its first data request on November 12, 2013. The Utility responded on December 13, 2013. We find additional requests will be necessary to process this case. Based on the foregoing, we approve suspension of the Utility's proposed final rate increases.

#### Interim Revenue Increases

On September 30, 2013, Cypress Lakes filed its rate base, cost of capital, and operating statements to support its requested interim increase in water rates. The Utility did not request an interim increase for its wastewater operations. Pursuant to Section 367.082(1), F.S., in order to establish a prima facie entitlement for interim relief, the utility shall demonstrate that it is earning outside the range of reasonableness on its rate of return. Pursuant to Section 367.081(2)(a), F.S., in a proceeding for an interim increase in rates, this Commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return. Based on the Utility's filing and the approved adjustments below, we find that Cypress Lakes has demonstrated a prima facie entitlement in accordance with Section 367.082(1), F.S.

Pursuant to Section 367.082(5)(b)1, F.S., the achieved rate of return for interim purposes must be calculated by applying appropriate adjustments consistent with those made in a utility's most recent rate proceeding. Order No. PSC-07-0199-PAA-WS, issued March 5, 2007 in Docket No. 060257-WS, is the order from the last rate case in which this Commission established water and wastewater rates for the Utility. Order No. PSC-10-0682-PAA-WS, issued November 15, 2010, in Docket No. 090349-WS, is the Order from the limited proceeding in which this Commission last established water and wastewater rates for the Utility. We have reviewed both orders and our approved adjustments are discussed below. Accounting schedules are attached to this Order to illustrate the approved rate base, capital structure, and test year operating income amounts. Rate base is labeled as Schedule No. 1 and capital structure is labeled as Schedule No. 2. Operating income for water is labeled as Schedule No. 3-A, with the adjustments shown on Schedule No. 3-B.

#### RATE BASE

Pursuant to Rule 25-30.433(2), Florida Administrative Code (F.A.C.), working capital for class B utilities shall be calculated using the formula method which is one-eighth of operation and maintenance (O&M) expense. Based on our approved adjustments to water O&M expense discussed below, we reduced working capital by \$6. Thus, we approve an interim working capital allowance of \$27,225 and a total rate base of \$715,894. Rate base is shown on Schedule No. 1.

### COST OF CAPITAL

Cypress Lakes utilized our 2013 leverage formula for its requested return on equity (ROE) of 10.22 percent. Pursuant to Section 367.082(5)(b)3., F.S., the Utility should have used the last authorized ROE from its last rate case. In the last rate case, we established an ROE of 11.45 percent with a range of plus or minus 100 basis points.

Pursuant to Section 367.082(2)(a), F.S., in a proceeding for an interim increase in rates, this Commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with Section 367.082(5)(b)2, F.S. When the lower authorized ROE limit of 10.45 percent is used, it results in a rate increase for water.

Based on the above and using the minimum ROE of 10.45 percent, we calculated an interim weighted average cost of capital of 8.37 percent. This calculation is shown on Schedule No. 2.

### NET OPERATING INCOME

Pursuant to Section 367.082(5)(b)1., F.S., the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with adjustments made in the Utility's most recent rate proceeding and annualized for any rate changes. To obtain the appropriate amount of interim test year operating revenues, we removed the requested interim revenue increase of \$85,052 for water. Based on our review, adjustments are necessary for interim purposes.

First, Cypress Lakes included an adjustment to increase the expense for Salaries and Wages by \$1,529 for water related to the annualization of salaries. We find that the Utility's proposed adjustment for annualizing salaries is pro forma because it is outside the interim test year. As such, we find that this adjustment shall be reversed for purposes of calculating the interim net operating income, thus decreasing Salaries and Wages expense by \$1,529.

Second, the Utility reduced the expense for Pension and Benefits by \$1,327 for water related to the annualization of benefits. We find that the Utility's proposed adjustment for annualizing benefits is pro forma because it is outside the interim test year. As such, we find that this adjustment shall be removed from the interim net operating income calculation, thus increasing Pensions and Benefits expense by \$1,327.

Third, in its MFRs, the Utility included annual amortization of rate case expense of \$10,077 for water. In its last rate proceeding, this Commission approved annual amortization of rate case expense of \$10,226 for water. As such, consistent with the Utility's last rate case, we find that O&M expense shall be increased by \$149. Operating Income is shown on Schedule No. 3-A, and the approved adjustments are shown on Schedule No. 3-B.

REVENUE REQUIREMENT

To calculate the interim revenue requirement, the above net operating income adjustments to the Utility's proposed interim request were incorporated and an 8.37 percent overall rate of return was applied. However, this resulted in a revenue requirement for the water system that is greater than the level requested by the Utility. Our practice is to limit the approved interim revenue requirement to the amount requested.<sup>1</sup> We find that the appropriate interim revenue requirement shall be \$402,356 for water. This represents an interim increase in revenues of \$85,052 (or 26.80 percent). This increase will allow the Utility the opportunity to recover its operating expenses and earn an 8.35 percent return on its water rate base.

Interim Water Rates

We find that interim service rates for Cypress Lakes shall be increased by 27.1 percent to allow the Utility the opportunity to generate annual operating revenues of \$402,356. Before removal of miscellaneous revenues, this would result in an increase of \$85,052 or 26.8 percent for water. To determine the appropriate increase to apply to the service rates, miscellaneous revenues shall be removed from the test year revenues. The calculation is as follows:

Table 1

	<u>Water</u>
1 Total Test Year Revenues	\$317,304
2 Less: Miscellaneous Revenues	<u>\$3,437</u>
3 Test Year Revenues from Service Rates	\$313,867
4 Revenue Increase	<u>\$85,052</u>
5 % Service Rate Increase (Line 4/Line 3)	27.1%

The interim rate increase of 27.1 percent for water shall be applied as an across-the-board increase to the existing rates. The approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The Utility shall file revised tariff sheets and a proposed customer notice to reflect the Commission-

<sup>1</sup> See Order Nos. PSC-10-0707-FOF-WS, issued November 29, 2010, in Docket No. 100330-WS, In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.; PSC-05-0287-PAA-SU, issued March 17, 2005, in Docket No. 040972-SU, In re: Application for rate increase in Pinellas County by Ranch Mobile WWTP, Inc.; and PSC-96-1187-FOF-WU, issued September 23, 1996, in Docket No. 960444-WU, In re: Application for rate increase and for increase in service availability charges in Lake County by Lake Utility Services, Inc.

approved rates. In addition, the approved rates shall not be implemented until the required security has been filed, Commission staff has approved the proposed customer notice, and the notice has been received by the customers. The Utility shall provide proof of the date notice was given within ten days of the date of the notice.

### Security

Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by this Commission. Cypress Lakes has requested an annual interim revenue increase of \$85,052 for water only. As stated previously, the approved annual interim increase for water is \$85,052. In accordance with Rule 25-30.360, F.A.C., the potential refund of revenues and interest collected under interim conditions was calculated to be \$49,622. This amount is based on an estimated seven months of revenue being collected under the approved interim rates shown on Schedule No. 4.

Cypress Lakes is a wholly-owned subsidiary of Utilities Inc. (UI or Company), which provides all investor capital to its subsidiaries. Based on the amount subject to refund for the Utility, the incremental increase in UI's corporate undertaking is \$49,622. The current cumulative corporate undertaking amount outstanding for other UI systems is \$75,569.<sup>2</sup> The new request will bring the cumulative amount outstanding to \$125,191.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. UI's 2010, 2011, and 2012 financial statements were reviewed to determine if the Company can support a corporate undertaking on behalf of its subsidiary. UI reported negative working capital in 2012. However, in all other time periods, the Company achieved sufficient liquidity and interest coverage ratios. In addition, UI reported adequate ownership equity over the three-year review period. UI also reported net income in excess of \$5 million a year in all periods.

We find that UI has adequate resources to support a corporate undertaking in the amount requested. Based on this analysis, we find that a cumulative corporate undertaking of \$125,191 is acceptable contingent upon receipt of the written guarantee of UI and written confirmation that the cumulative outstanding guarantees on behalf of UI-owned utilities in other states will not exceed \$1.2 million (inclusive of all Florida utilities).

Pursuant to Rule 25-30.360(6), F.A.C., the Utility shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility.

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<sup>2</sup> By Order No. PSC-13-0332-PCO-WS, this Commission approved annual interim revenue increase of \$106,123 for water and \$23,389 for wastewater for Utilities, Inc. of Florida, which is also a wholly-owned subsidiary of UI. Specifically, we approved a corporate undertaking of \$75,569 to secure the interim rate increase granted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed water and wastewater rates of Cypress Lakes Utilities, Inc. are hereby suspended. It is further

ORDERED that \$49,622 of annual water revenues shall be collected subject to refund with interest. It is further

ORDERED that a cumulative corporate undertaking of \$125,191 is acceptable contingent upon receipt of the written guarantee of the parent company, Utilities, Inc., and written confirmation that the cumulative outstanding guarantees on behalf of UI-owned utilities in other states will not exceed \$1.2 million (inclusive of all Florida utilities). It is further

ORDERED that Utilities, Inc. shall file a corporate undertaking of which includes the entire amount of \$125,191 subject to refund in this docket, on behalf of its subsidiary, Utilities, Inc. of Florida, to guarantee any potential refunds of revenues collected under interim conditions. It is further

ORDERED that pursuant to Rule 25-30.360(6), F.A.C., Cypress Lakes Utilities, Inc. shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and in accordance with Rule 25-30.360, F.A.C. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility. It is further

ORDERED that this docket shall remain open pending our decision on the requested rate increase.

By ORDER of the Florida Public Service Commission this 19th day of December, 2013.



CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.

Any party adversely affected by the portion of this order granting interim revenue increase and interim rates, which is non-final in nature, may request (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Any party adversely affected by the portion of this order suspending proposed final rates, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by

ORDER NO. PSC-13-0673-FOF-WS

DOCKET NO. 130212-WS

PAGE 8

Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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.

Cypress Lakes Utilities, Inc. Schedule of Water Rate Base Test Year Ended 12/31/2012				Schedule No. 1 Docket No. 130212-WS	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
1 Plant in Service	\$1,738,817	(\$23,430)	\$1,715,387	\$0	\$1,715,387
2 Land and Land Rights	1,365	0	1,365	0	1,365
3 Non-used and Useful Components	0	0	0	0	0
4 Accumulated Depreciation	(870,888)	37,154	(833,734)	0	(833,734)
5 CIAC	(347,273)	0	(347,273)	0	(347,273)
6 Amortization of CIAC	140,254	12,670	152,924	0	152,924
7 Working Capital Allowance	<u>26,891</u>	<u>340</u>	<u>27,231</u>	<u>(6)</u>	<u>27,225</u>
8 Rate Base	<u>\$689,166</u>	<u>\$26,734</u>	<u>\$715,900</u>	<u>(\$6)</u>	<u>\$715,894</u>

Cypress Lakes Utilities, Inc. Capital Structure-Simple Average Test Year Ended 12/31/2012							Schedule No. 2 Docket No. 130212-WS		
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
<b>Per Utility</b>									
1 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,709,833)	\$1,290,167	48.30%	6.64%	3.21%	
2 Short-term Debt	250,000	0	250,000	(248,208)	1,792	0.07%	0.00%	0.00%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	175,327,223	0	175,327,223	(174,070,548)	1,256,675	49.78%	10.22%	5.09%	
5 Customer Deposits	13,366	0	13,366	0	13,366	0.51%	3.00%	0.02%	
6 Deferred Income Taxes	<u>34,531</u>	<u>0</u>	<u>34,531</u>	<u>0</u>	<u>34,531</u>	<u>1.33%</u>	0.00%	<u>0.00%</u>	
7 <b>Total Capital</b>	<u>\$355,625,120</u>	<u>\$0</u>	<u>\$355,625,120</u>	<u>(\$353,028,589)</u>	<u>\$2,596,531</u>	<u>100.00%</u>		<u>8.32%</u>	
<b>Per Commission</b>									
8 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,709,836)	\$1,290,164	49.69%	6.64%	3.30%	
9 Short-term Debt	250,000	0	250,000	(248,208)	1,792	0.07%	0.00%	0.00%	
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
11 Common Equity	175,327,223	0	175,327,223	(174,070,551)	1,256,672	48.40%	10.45%	5.06%	
12 Customer Deposits	13,366	0	13,366	0	13,366	0.51%	3.00%	0.02%	
13 Deferred Income Taxes	<u>34,531</u>	<u>0</u>	<u>34,531</u>	<u>0</u>	<u>34,531</u>	<u>1.33%</u>	0.00%	<u>0.00%</u>	
14 <b>Total Capital</b>	<u>\$355,625,120</u>	<u>\$0</u>	<u>\$355,625,120</u>	<u>(\$353,067,368)</u>	<u>\$2,596,525</u>	<u>100.00%</u>		<u>8.37%</u>	
						<b>LOW</b>	<b>HIGH</b>		
RETURN ON EQUITY						<u>10.45%</u>	<u>12.45%</u>		
OVERALL RATE OF RETURN						<u>8.37%</u>	<u>9.34%</u>		

Cypress Lakes Utilities, Inc. Statement of Water Operations Test Year Ended 12/31/2012						Schedule No. 3-A Docket No. 130212-WS	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$317,304</u>	<u>\$85,052</u>	<u>\$402,356</u>	<u>(\$85,052)</u>	<u>\$317,304</u>	<u>\$85,052</u> 26.80%	<u>\$402,356</u>
<b>Operating Expenses</b>							
2    Operation & Maintenance	\$215,132	\$2,724	\$217,856	(\$53)	\$217,803		\$217,803
3    Depreciation	61,810	(3,846)	57,964	0	57,964		57,964
4    Amortization	0	0	0	0	0		0
5    Taxes Other Than Income	50,038	(4,694)	45,344	(4,106)	41,238	3,827	45,065
6    Income Taxes	<u>22,510</u>	<u>(882)</u>	<u>21,628</u>	<u>(30,445)</u>	<u>(8,817)</u>	<u>30,565</u>	<u>21,748</u>
7 <b>Total Operating Expense</b>	<u>349,490</u>	<u>(6,698)</u>	<u>342,792</u>	<u>(34,604)</u>	<u>308,188</u>	<u>34,392</u>	<u>342,580</u>
8 <b>Operating Income</b>	<u>(\$32,186)</u>	<u>\$91,750</u>	<u>\$59,564</u>	<u>(\$50,448)</u>	<u>\$9,116</u>	<u>\$50,660</u>	<u>\$59,776</u>
9 <b>Rate Base</b>	<u>\$689,166</u>		<u>\$715,900</u>		<u>\$715,894</u>		<u>\$715,894</u>
10 <b>Rate of Return</b>	<u>(4.67%)</u>		<u>8.32%</u>		<u>1.27%</u>		<u>8.35%</u>

<b>Cypress Lakes Utilities, Inc.</b>		<b>Schedule No. 3-B</b>
<b>Adjustment to Operating Income</b>		<b>Docket No. 130212-</b>
<b>Test Year Ended 12/31/2012</b>		<b>WS</b>
<b>Explanation</b>	<b>Water</b>	
<u>Operating Revenues</u>		
Remove requested Interim revenue increase.	(\$85,052)	
<u>Operation and Maintenance Expense</u>		
1 To remove annualized Salaries adjustments.	(\$1,529)	
2 To remove annualized Pension and Benefits adjustments.	1,327	
3 Appropriate RCE for limited proceeding.	<u>149</u>	
Total	<u>(\$53)</u>	
<u>Taxes Other Than Income</u>		
1 RAFs on revenue adjustments above.	(\$3,827)	
2 To reflect removal of pro forma expenses.	<u>(279)</u>	
Total	<u>(\$4,106)</u>	

**CYPRESS LAKES UTILITIES, INC.**  
**TEST YEAR ENDED DECEMBER 31, 2012**  
**MONTHLY WATER RATES**

**SCHEDULE NO. 4**  
**DOCKET NO. 130212-WS**  
**INTERIM**

	<b>CURRENT RATES</b>	<b>UTILITY REQUESTED INTERIM</b>	<b>UTILITY REQUESTED FINAL</b>	<b>COMISSION APPROVED INTERIM</b>
<b><u>Residential and General Service</u></b>				
Base Facility Charge by Meter Size:				
5/8"X3/4"	\$5.99	\$7.68	\$7.98	\$7.61
1"	\$14.97	\$19.20	\$19.95	\$19.03
1-1/2"	\$29.96	\$38.43	\$39.94	\$38.08
2"	\$47.92	\$61.47	\$63.88	\$60.91
3"	\$95.83	\$122.92	\$127.74	\$121.80
4"	\$149.75	\$192.09	\$199.61	\$190.33
6"	\$299.48	\$384.15	\$399.20	\$380.64
Charge per 1,000 Gallons - Residential				
0-6,000 Gallons	\$4.12	\$5.28	\$5.49	\$5.24
6,001 - 12,000 Gallons	\$6.18	\$7.93	\$8.24	\$7.85
Over 12,000 Gallons	\$8.24	\$10.57	\$10.98	\$10.47
Charge per 1,000 Gallons - General Service	\$4.37	\$5.61	\$5.83	\$5.55
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>				
3,000 Gallons	\$18.35	\$23.52	\$24.45	\$23.33
5,000 Gallons	\$26.59	\$34.08	\$35.43	\$33.81
10,000 Gallons	\$55.43	\$71.08	\$73.88	\$70.45