

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-

DATE: August 21, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Maurey, Springer) *ALM*
Division of Economics (Thompson) *KT PD*
Division of Engineering (Lee) *KT PD*
Office of the General Counsel (Mapp, Crawford) *J.W.D.*

RE: Docket No. 130212-WS – Application for increase in water/wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

AGENDA: 09/04/14 – Regular Agenda – Proposed Settlement Prior to Hearing – Parties May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Cypress Lakes Utilities, Inc. (CLU or Utility), a wholly-owned subsidiary of Utilities, Inc. (UI), is a Class B utility in Polk County. Rates were last established for CLU in its limited proceeding in Docket No. 090349-WS.¹ CLU's last full rate case proceeding was in Docket No. 060257-WS.²

¹ See Order No. PSC-10-0682-PAA-WS, issued November 15, 2010, in Docket No. 090349-WS, In re: Application for limited proceeding rate increase in Polk County by Cypress Lakes Utilities, Inc.

² See Order No. PSC-07-0199-PAA-WS, issued March 5, 2007, in Docket No. 060257-WS, In re: Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

On September 30, 2013, CLU filed its application for a rate increase. The Utility's application met the minimum filing requirements (MFRs) on September 30, 2013. The test year established for interim and final rates is the simple average period ended December 31, 2012. The Utility serves 1,447 residential water and wastewater customers and several general service water and wastewater customers. CLU also serves approximately 40 general service water only customers.

On December 3, 2013, the Commission approved an interim rate increase designed to generate an interim revenue increase of \$85,052 (26.80 percent) for the water system only.³ The interim rates were subject to refund with interest, pending the conclusion of the rate case. The Utility requested final revenue increases of \$100,603 (31.71 percent) for water and \$26,350 (3.95 percent) for wastewater. Subsequently, on May 30, 2014, the Commission issued Order No. PSC-14-0283-PAA-WS (PAA Order), granting in part the Utility's application for water increase and decreasing wastewater rates in Polk County. On June 17, 2014, CLU filed a Petition for Formal Administrative Hearing, protesting the PAA Order. CLU contends that the adjustment to rate case expense was unsupported by the record. On June 26, 2014, Order No. PSC-14-0333-PCO-WS was issued acknowledging the Office of Public Counsel's (OPC) Notice of Intervention.

On July 10, 2014, CLU, OPC, and Commission staff held a noticed informal meeting to discuss potential issues and procedural matters in the docket. On July 31, 2014, OPC and CLU filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Settlement Agreement), which is attached to this recommendation as Attachment A. If approved the Settlement Agreement resolves CLU's protest of the Commission's adjustment to rate case expense. The parties contend that the Settlement Agreement avoids the time, expense, and uncertainty associated with adversarial litigation.

This recommendation addresses the parties' proposed Settlement Agreement. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

³ See Order No. PSC-13-0673-FOF-WS, issued December 19, 2013, in Docket No. 130212-WS, In re: Application for increase in water and wastewater rates in Polk County by Cypress Lakes Utilities, Inc.

Discussion of Issues

Issue 1: Should the Commission grant OPC and CLU's Joint Motion to Approve Settlement Agreement?

Recommendation: Yes. Staff recommends that the Settlement Agreement should be approved. Order No. PSC-14-0283-PAA-WS should be modified as set forth below, and made final. If the Commission approves the Settlement Agreement, staff recommends that CLU file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates within fifteen days of the Commission vote. The approved rates should 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 approved rates should not be implemented until Commission staff has approved the proposed customer notice and the notice has been received by the customers. CLU should provide proof of the date the notice was given within ten days of issuance. (Mapp, J.S. Crawford, Maurey)

Staff Analysis: On July 31, 2014, CLU and OPC filed a Joint Motion Requesting Commission Approval of Settlement Agreement. The Settlement Agreement maintains the water and wastewater rates approved by the Commission in Order No. PSC-14-0283-PAA-WS, but seeks to replace the first paragraph on page twenty-four of the PAA Order concerning rate case expense with the following:

Although the Utility believes that all of the rate case expense was prudent, in order to settle this disputed issue, the Utility accepts and OPC agrees to a further reduction to rate expense of \$29,607, resulting in a total approved rate expense of \$88,821. This acceptance shall not be construed as an agreement by the Utility of a methodology of reducing rate case expense based upon a percentage reduction.

After review of the motion and Settlement Agreement, staff believes that the parties' Settlement Agreement is a reasonable resolution of all protested issues. Staff recommends that it is in the public interest for the Commission to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time, expense and uncertainty associated with adversarial litigation. The Settlement Agreement is in keeping with the Commission's long-standing practice of encouraging parties in contested proceedings to settle issues whenever possible.⁴ As such, staff recommends that the parties' Settlement Agreement be approved, and Order No. PSC-14-0283-PAA-WS be modified as set forth above and made final.

If the Commission approves the Settlement Agreement, staff recommends that CLU file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates within fifteen days of the Commission vote. The approved rates should 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 approved rates should not be implemented until Commission staff has approved the proposed customer notice and the notice has been received by the customers. CLU should provide proof of the date the notice was given within ten days of issuance.

⁴ 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.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by CLU and approved by staff, and that the interim refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively. (Mapp)

Staff Analysis: The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by CLU and approved by staff, and that the interim refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively.

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

Filed: *July 31, 2014*

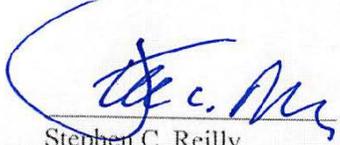
JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT

CYPRESS LAKES UTILITIES, INC. ("Utility" or "Company") 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, the Utility and OPC state:

1. The Utility and OPC have entered into a Settlement Agreement to resolve the Utility's Petition Protesting PAA Order No. PSC-14-0283-PAA-WS, in accordance with the terms of the Settlement Agreement. A copy of the Settlement Agreement is attached hereto as Exhibit "A".
2. The Utility and OPC have entered into the Settlement Agreement to avoid the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible. For these reasons, the Utility and OPC request the Commission to expeditiously issue a Final Order approving the Settlement Agreement without modification and close Docket No. 130212-WS.
3. Pending Commission consideration of the Settlement Agreement, the Utility 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.

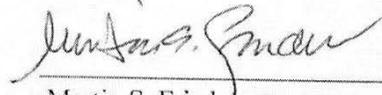
WHEREFORE, the Utility and OPC respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a Final Order is issued closing this docket.

Respectfully submitted this 31st day of July, 2014.



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

Attorney for Customers of
Cypress Lakes Utilities, Inc.



Martin S. Friedman
Friedman, Friedman & Long, P.A.
766 N. Sun Drive, Suite 4030
Lake Mary, Florida, 32746

Attorney for Cypress Lakes Utilities, Inc.

CERTIFICATE OF SERVICE
DOCKET NO. 130212-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion Requesting Commission Approval of Settlement Agreement has been furnished by electronic mail to the following party on this 31st day of July, 2014.

Keino Young, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Exhibit "A" to Joint Motion

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

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 31st day of July 2014,
by and between Cypress Lakes Utilities, Inc. ("Utility" or "Company") and the Office of Public
Counsel ("OPC"), on behalf of the customers of the Utility.

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed
Agency Action Order No. PSC-14-0283-PAA-WS in this docket on May 30, 2014 ("PAA Order");
and

WHEREAS, on June 17, 2014, the Utility filed a timely protest of the PAA Order; and

WHEREAS, on June 25, 2014, OPC filed its Notice of Intervention; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial
litigation, and in keeping with the Commission's long-standing policy and practice of encouraging
parties in protested proceedings to settle issues whenever possible, the Utility and OPC hereby
enter into this Agreement to settle this case in accordance with the terms and conditions herein.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the Utility and OPC agree as follows:

1. The second to last paragraph of the discussion of rate case expense in the PAA Order is deleted and replaced with the following paragraph:

Although the Utility believes that all of the rate case expense was prudent, in order to settle this disputed issue, the Utility accepts and OPC agrees to a further reduction to rate case expense of \$29,607, resulting in a total approved rate case expense of \$88,821. This acceptance shall not be construed as an agreement by the Utility of a methodology of reducing rate case expense based upon a percentage reduction.

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

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

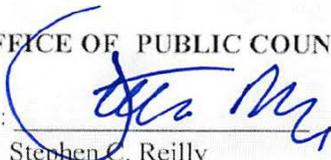
4. This Settlement Agreement will become effective on the date the Commission enters a final order approving the Agreement in total. Upon the Commission issuing a final

order approving this Settlement Agreement, the Utility's Petition protesting the PAA Order 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

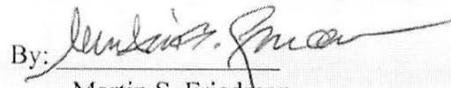
By:



Stephen C. Reilly
Associate Public Counsel
On behalf of the Customers of
Cypress Lakes Utilities, Inc.

CYPRESS LAKES UTILITIES, INC.

By:



Martin S. Friedman
Attorney for Cypress Lakes Utilities, Inc.