

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-14-0508-AS-WS  
ISSUED: September 24, 2014

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING SETTLEMENT AGREEMENT AND CLOSING DOCKET

BY THE COMMISSION:

**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.<sup>1</sup> CLU's last full rate case proceeding was in Docket No. 060257-WS.<sup>2</sup>

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, we approved an interim rate increase designed to generate an interim revenue increase of \$85,052 (26.80 percent) for the water system only.<sup>3</sup> 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, we 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

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

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 intervention of the Office of Public Counsel (OPC).

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). The Settlement Agreement resolves CLU's protest of our adjustment to rate case expense. The parties contend that the Settlement Agreement avoids the time, expense, and uncertainty associated with adversarial litigation.

This Order addresses the parties' proposed Settlement Agreement. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

### **Settlement Agreement**

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 we approved 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.

We find the Settlement Agreement to be a reasonable resolution of all protested issues, promotes administrative efficiency and avoids the time, expense and uncertainty associated with adversarial litigation. The Settlement Agreement is in keeping with our long-standing practice of encouraging parties in contested proceedings to settle issues whenever possible.<sup>4</sup> As such, we find the settlement to be in the public interest and we approve the parties' Settlement Agreement. Order No. PSC-14-0283-PAA-WS shall be modified as set forth above and made final.

CLU shall file revised tariff sheets and a proposed customer notice to reflect the approved 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 approved rates shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers. CLU shall provide proof of the date the notice was given within ten days of issuance.

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<sup>4</sup> 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Motion Requesting Commission Approval of Settlement Agreement filed by Cypress Lakes Utilities, Inc. and the Office of the Public Counsel is granted, and the Settlement Agreement is approved in its entirety. The Settlement Agreement, attached hereto, is incorporated herein by reference. It is further

ORDERED that Cypress Lakes Utilities, Inc. shall file revised tariffs and a proposed customer notice to reflect the approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until Commission staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given within 10 days of the date of the notice. It is further

ORDERED that once this Order becomes final, this docket shall remain open for Commission staff's verification that the tariff sheets and customer notices have been filed by Cypress Lakes Utilities, Inc. and approved by staff, and verification that the Utility has made the required refunds. Once these actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 24th day of September, 2014.

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

KRM

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 Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.

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*

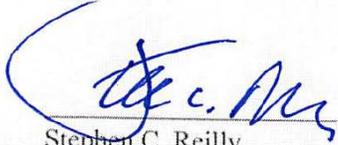
JOINT MOTION REQUESTING COMMISSION APPROVAL OF  
SETTLEMENT AGREEMENT

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 31<sup>st</sup> 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 31<sup>st</sup> 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 31<sup>st</sup> 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.

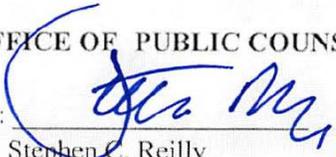
4. This Settlement Agreement will become effective on the date the Commission enters a final order approving the Agreement in total. Upon the Commission issuing a final

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.

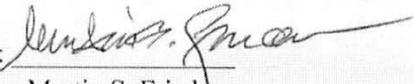
OFFICE OF PUBLIC COUNSEL

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.