

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Utilities, Inc. of Florida.

DOCKET NO. 20200139-WS
ORDER NO. PSC-2020-0211-PAA-WS
ISSUED: June 25, 2020

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
JULIE I. BROWN
DONALD J. POLMANN
ANDREW GILES FAY

PROPOSED AGENCY ACTION
ORDER APPROVING PETITION FOR VARIANCE OR WAIVER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein 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.).

I. Background

On April 20, 2020, Utilities, Inc. of Florida (UIF or Utility), a Class A utility providing water and wastewater service to systems located in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, Florida, filed a notice of its intent to submit an application for general rate relief for these systems to the Florida Public Service Commission. The Utility intends to submit the minimum filing requirements (MFRs) on or before July 31, 2020. On May 7, 2020, the Chairman approved the Utility's historic test year ending December 31, 2019, and requested the filing of the complete petition, MFRs, and full filing fee no later than July 31, 2020.

The Utility's last rate proceeding occurred in Docket No. 20160101-WS utilizing a historic December 31, 2015, test year.¹ That proceeding culminated in Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, as amended by Order No. PSC-2017-0361A-FOF-

¹ *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

WS, issued October 4, 2017. On remand from the First District Court of Appeal, Order No. PSC-2019-0363-PAA-WS was issued on August 27, 2019.

Upon its request, the Office of Public Counsel (OPC) was added as an interested person to this docket on April 20, 2020.

On April 21, 2020, UIF filed a Petition for Variance or Waiver of a specific provision from Rule 25-30.437(3), F.A.C.. The portion of the rule from which the Utility is requesting waiver addresses the requirement to provide additional detailed billing analyses for each rate change period in the test year. Pursuant to Section 120.542, Florida Statutes (F.S.), notice of the petition for waiver was published in the Florida Administrative Register on April 24, 2020. No written comments to the notice were received, and the time for filing written comments expired on May 8, 2020. The 90-day statutory deadline for us to address the Utility's request pursuant to Section 120.542(8), F.S., is July 20, 2020. We have jurisdiction pursuant to Sections 367.081 and 120.542, F.S.

II. Decision

We are authorized by Section 120.542(2), F.S., to grant variances or waivers from the requirements of its rules where the person subject to the rules has demonstrated that the underlying purpose of the statute has been or will be achieved by other means, and strict application of the rules would cause the person substantial hardship or would violate principles of fairness. "Substantial hardship" as defined in this section may include a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.

On April 21, 2020, UIF filed a Petition for Variance or Waiver of one specific requirement of Commission Form PSC/AFD 19-W (11/93), which is incorporated by reference in Rule 25-30.437, F.A.C. The rule requires the Utility to create billing analyses that capture the data for each class of service by meter size and reflect all rate changes throughout the test year. Each billing analysis must show the bills, gallons, and rates. One of the goals is to provide us with the data necessary to annualize test year revenue if there was a rate change during the test year.

UIF asserts that the requested waiver or variance is needed because providing the detailed billing analyses with billing changes would result in a substantial hardship as defined in Section 120.542(2), F.S. The Utility had three rate changes during the test year, which by rule would require a billing analysis for each of the three rate periods. UIF would incur an inordinate amount of time to prepare these detailed billing analysis schedules which would result in the preparation of an additional 700 to 900 individual billing schedules due to the size of its customer base. UIF contends that these detailed rate change billing analyses do not provide any meaningful information which would facilitate our review of UIF's rate request. The Utility suggests that we only require the billing analysis which reflects the total number billing determinants for purposes of annualizing revenues and designing rates. UIF intends to provide the billing analysis (which by nature are the total test year billing determinants); but not the separate billing analyses which coincide with each period of rate change during the test year. UIF

contends that the application of this specific MFR requirement in this docket would lead to an unreasonable, unfair and unintended result, and that the purpose of this specific MFR requirement can be achieved through the billing analysis schedules to be filed by UIF.

We evaluated a similar petition by UIF in its prior rate case in Docket No. 20160101-WS, which was granted by Order No. PSC-2016-0530-PAA-WS. There has been no change in the rate case requirements since that time. Finally, UIF represents that OPC takes no position on UIF's Petition for Rule Waiver.

Section 367.081, F.S., provides that we shall fix rates which are just, reasonable, compensatory and not unfairly discriminatory. The underlying purpose for gathering the information required by Rule 25-30.437, F.A.C., is to provide sufficient information for us to set appropriate rates for a utility. The Utility will provide information in its MFRs that will facilitate examination of revenues for the test year period. We find that the information the Utility is seeking to waive is not necessary for that determination. Therefore, the underlying purpose of the statute can still be met if the waiver is granted. We also find that the Utility has sufficiently alleged that compliance with the rule would result in substantial hardship. We agree that the preparation of an additional 700 to 900 billing schedules would not materially assist in processing the case, but would result in an inordinate amount of time and resources on the part of the Utility and unnecessary rate case expense.

We therefore grant waiver of the rule so that UIF avoids incurring a substantial hardship without adversely impacting our ability to determine annualized test year revenues.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Utilities, Inc. of Florida's Petition for Waiver or Variance of Schedule E-14, of Commission Form PSC/AFD 19-W(11/93), as incorporated by reference in Rule 25.30-437, F.A.C., is granted. It is further

ORDERED that the provisions of this Order, issued as proposed 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, Florida Administrative Code, 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 in the event this Order becomes final, this docket shall remain open.

By ORDER of the Florida Public Service Commission this 25th day of June, 2020.



ADAM J. TEITZMAN
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.

WLT

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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.

The action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 16, 2020.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.