

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-**

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**DATE:** October 21, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Economics (Bruce, Hudson) *JGH*  
Division of Accounting and Finance (Casper, Richards) *ALM*  
Division of Engineering (Ellis, Kistner) *TB*  
Office of the General Counsel (Trierweiler) *TLI*

**RE:** Docket No. 20210120-SU – Application for a limited alternative rate increase proceeding in Brevard County, by TKCB, Inc.

**AGENDA:** 11/02/21 – Regular Agenda – Proposed Agency Action – Except Issue Nos. 3 and 4 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Passidomo

**CRITICAL DATES:** 11/12//21 – 90 day deadline Pursuant to Rule 25-30.457(11), F.A.C.

**SPECIAL INSTRUCTIONS:** None

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### Case Background

TKCB, Inc. (TKCB or utility) is a Class C utility providing wastewater service in Brevard County to approximately 277 customers. According to TKCB's annual report, total gross revenue was \$98,455 and total operating expense was \$92,668. The utility's rates for wastewater were last approved by the Florida Public Service Commission (Commission) in a staff-assisted rate case in 2019.<sup>1</sup> Subsequently, the rates were increased by a price index rate adjustment effective June 21, 2020.

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<sup>1</sup> Order No. PSC-2019-0362-PAA-SU, issued August 26, 2019, in Docket No. 20180218-SU, *In re: Application for staff-assisted rate case in Brevard County by TKCB, Inc.*

In the utility's last rate case, the Commission found the utility's overall quality of service to be satisfactory. As a wastewater-only utility, the determination is made from an evaluation of TKCB's attempt to address customer satisfaction and consideration of any outstanding citations, violations, and consent orders on file with the Florida Department of Environmental Protection (DEP) and the county health department, along with any DEP and county health department officials' testimony concerning quality of service. Staff has not identified any complaints filed with the Commission since the last rate case. Staff notes that based on the most recent DEP Compliance Inspection Report, conducted on August 14, 2018, the utility was determined to be in compliance with the DEP's rules and regulations after corrective actions were completed on September 12, 2018.

On June 25, 2021, the utility filed an application for a limited alternative rate increase (LARI) pursuant to Rule 25-30.457, Florida Administrative Code (F.A.C.). On July 13, 2021, staff notified the utility that it met the initial requirements of Rule 25-30.457, F.A.C. Therefore, pursuant to Rule 25-30.457(4), F.A.C., the official date of filing was established as August 12, 2021, and the 90-day time frame for the Commission to render a decision began on that date. The utility's purpose for filing this request is to recover the increase in costs that has or will occur due to the abrupt change in operator services and recovery of repairs to the wastewater treatment plant. However, on July 21, the utility withdrew its request for recovery of plant adjustments.

The Commission has jurisdiction pursuant to Sections 367.0814(9) and 367.121(1), Florida Statutes (F.S.).

## Discussion of Issues

**Issue 1:** Should the Commission approve TKCB's application for a LARI?

**Recommendation:** Yes. The Commission should approve TKCB's application for a LARI with staff's modifications. The increase for the utility is 19.75 percent, which results in an increase in revenues of \$19,668. Pursuant to Rule 25-30.457(7), F.A.C., the utility is required to hold any revenue increase granted subject to refund. To ensure overearnings will not occur due to the implementation of the rate increase, staff will conduct an earnings review of the 12-month period following the implementation of the revenue increase. If overearnings occur, such overearnings, up to the amount held subject to refund, with interest, must be disposed of for the benefit of the customers. If staff determines that the utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund. (Casper, Kistner, Richards)

**Staff Analysis:** Pursuant to Rule 25-30.457, F.A.C., any utility eligible to file for a staff-assisted rate case may petition the Commission for a rate increase of up to 20 percent applied to metered or flat recurring rates as an alternative to a rate case. This Rule was designed to streamline the rate increase process for qualifying water or wastewater utilities by establishing an abbreviated procedure for a limited rate increase that is less time consuming and thus less costly for utilities, their customers, and the Commission. This Rule is similar to the rules governing price index and pass-through increases, in that neither an engineering review nor a financial audit of the utility's books and records is required.

On June 25, 2021, TKCB notified the Commission of its intent to implement a LARI pursuant to Rule 25-30.457, F.A.C. Staff determined the utility's application met the initial requirements of the rule, and established August 12, 2021 as the official filing date. Staff verified that the utility is current on the filing of regulatory assessment fees and annual reports. TKCB has had rates established within the last seven years, pursuant to Rule 25-30.457(2)(I), F.A.C., and was under earning based on information provided in its 2020 Annual Report.<sup>2</sup> The filing contained additional relevant information in support of the utility's application.

On September 27, 2021, the utility sent to all customers a Notice for the Solicitation of Comments (Notice) that provided a summary of the rate request, the current and proposed rates, detailed instructions on how comments may be filed with the Commission prior to the Commission Conference, and instructions if a customer wished to comment at the Commission Conference. Also, attached to the Notice was a customer comment card that customers could complete and mail to the Commission. As of October 14, 2021, no customers have submitted comments.

### Utility's Requested Increase

As part of its filing, the utility requested \$2,245 in plant improvements. Staff believes the instant LARI docket is not the appropriate rate application to address plant improvements. On July 21, 2021, the utility agreed with staff and opted to forgo the inclusion of the plant adjustments in this

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<sup>2</sup> Order No. PSC-2019-0362-PAA-SU, issued on August 26, 2019, in Docket No. 20180218-SU, *In re: Application for staff-assisted rate case in Brevard County by TKCB, Inc.*

proceeding.<sup>3</sup> Therefore, staff did not include recovery associated with the requested plant increase amounts in this docket.

The main driver behind this LARI request is the fact that on February 10, 2021, TKCB's prior plant operator notified the utility that he "would no longer service the WWTP, effective immediately."<sup>4</sup> This required the utility to find a new plant operator in a short period of time. TKCB entered into a contract with the new plant operator, Accurate Utilities, Inc., effective March 1, 2021. Accurate Utilities, Inc. determined that the previous operator had not been maintaining the plant to adequate standards. This determination impacted several operations and maintenance (O&M) expense accounts, both in regards to rectifying previous issues and appropriately servicing the plant going forward.<sup>5</sup>

In its application, the utility requested O&M expense increases totaling \$17,509. Based on the documentation provided by the utility, staff believes the requested increases have been supported by the utility and are appropriate. A summary of the increases is provided in the table below.

**Table 1-1**  
**Summary of Expense Increases**

Account	Recommended Increase
Sludge Removal (711)	\$6,500
Chemicals (718)	3,922
Materials and Supplies (720)	2,650
Contractual Services – Billing (730)	202
Contractual Services – Testing (735)	995
Contractual Services – Other (736)	<u>3,240</u>
Total	<u>\$17,509</u>

Source: Utility's application, response to data request, and staff calculations.

In addition to the O&M increase detailed above, the utility also requested rate case expense in its application. Staff calculated rate case expense to be \$5,095 for the instant docket, which amortized over four years is \$1,274 ( $\$5,095 \div 4$  years) per year.

### **Conclusion**

The data presented in the application was based on annualized revenues by customer class and meter size for the period ended December 31, 2020, the most recent 12-month period. As discussed above, staff recommends an increase of \$17,509 to O&M expenses and an allowance for rate case expense of \$1,274 totaling \$18,783 ( $\$17,509 + \$1,274$ ). As a result of staff's recommended increase, there is a corresponding increase to regulatory assessment fees (RAF) of \$885. As summarized in Table 1-2, this results in a total increase of \$19,668.

<sup>3</sup> Document No. 08223-2021, filed on July 22, 2021.

<sup>4</sup> Document No. 08469-2021, filed on July 29, 2021.

<sup>5</sup> Id.

**Table 1-2**  
**Summary of Recommended Adjustments**

Increase to O&M	RCE	Total Increase	Adjustment For RAFs	Total Revenue Increase
\$17,509	\$1,274	\$18,783	\$885	\$19,668

Source: Staff calculations.

Based on annualized revenues of \$99,605, the recommended increase of \$19,668 represents a 19.75 percent increase, resulting in total annual service revenues of \$119,273, as shown in Table 1-3.

**Table 1-3**  
**Staff Recommended Increase**

2020 Annualized Revenue	Annual Service Revenue	Revenue Increase	Percentage Increase
\$99,605	\$119,273	\$19,668	19.75%

Source: Utility's application and staff calculations.

Pursuant to Rule 25-30.457(7), F.A.C., the utility is required to hold any revenue increase granted subject to refund in accordance with Rule 25-30.360(4), F.A.C.

To ensure overearnings will not occur due to the implementation of these rate increases, staff will conduct an earnings review of the 12-month period following the implementation of the revenue increase. At the end of the 12-month period, each utility has 90 days to complete and file Form PSC 1025 (03/20), entitled "Limited Alternative Rate Increase Earnings Review." In the event a utility needs additional time to complete the form, the utility may request an extension of time supported by a statement of good cause that must be filed with Commission staff within seven days prior to the 90-day deadline. If staff's earnings review demonstrates that the utility exceeded the range of its last authorized rate of return on equity, such overearnings, up to the amount held subject to refund, with interest, shall be disposed of for the benefit of the customers. If staff determines that the utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund.

Based on the information described above, staff recommends approval of the utility's application with the modifications discussed above.

**Issue 2:** What are the appropriate monthly service rates for TKCB?

**Recommendation:** The existing service rates for TKCB should be increased by 19.75 percent in accordance with Rule 25-30.457, F.A.C. The appropriate service rates are shown on Schedule No. 1. The utility should file tariff sheets and a proposed customer notice to reflect the Commission-approved rates. 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. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bruce)

**Staff Analysis:** Based on staff's recommended approval of the utility's LARI in Issue 1, the existing service rates for TKCB should be increased by 19.75 percent in accordance with Rule 25-30.457, F.A.C. Therefore, staff calculated rates by applying the 19.75 percent increase across-the-board to the existing base facility and gallonage charges. The utility's existing wastewater rates and the staff recommended rates are shown on Schedule No. 1. The utility should file tariff sheets and a proposed customer notice to reflect the Commission-approved rates. 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. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

**Issue 3:** What is the appropriate amount by which rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense as required by Section 367.081(8), F.S.?

**Recommendation:** The rates should be reduced as shown in Schedule No. 1, to remove rate case expenses grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period, pursuant to Section 367.081(8), F.S. TKCB should be required to file revised tariffs and proposed customer notices setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reductions. If the utility files this reduction in conjunction with price index or pass-through rate adjustments, separate data should be filed for the price index and/or pass-through increase or decrease and the reductions in the rates due to the amortized rate case expenses. (Bruce, Casper, Richards) (Procedural Agency Action)

**Staff Analysis:** Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the recovery period by the amount of the rate case expense previously included in rates. These reductions will reflect the removal of revenue associated with the amortization of rate case expense and the gross-up for RAFs. The total reduction for TKCB is \$1,334 ( $\$1,274 \div .955$ ).

Staff recommends that the rates should be reduced to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period, pursuant to Section 367.081(8), F.S. TKCB should be required to file revised tariffs and proposed customer notices setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reductions. If the utility files these reductions in conjunction with price index or pass-through rate adjustments, separate data should be filed for the price index and/or pass-through increases or decreases and the reductions in the rates due to the amortized rate case expenses.

**Issue 4:** Should the recommended rates be approved for TKCB on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

**Recommendation:** Yes. Pursuant to Rule 25-30.457(9), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected person other than the utility, the utility should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon filing a SARC application within 21 days from the date the protest is filed. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(9), F.A.C., if the utility fails to file a SARC application within 21 days in the event there is a protest, the application for a LARI will be deemed withdrawn. (Casper, Richards) (Procedural Agency Action)

**Staff Analysis:** This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue for the utility. Therefore, pursuant to Rule 25-30.457(9), F.A.C., the utility should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon filing a SARC application within 21 days from the date the protest is filed. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(9), F.A.C., if the utility fails to file a SARC application within 21 days in the event there is a protest, the application for a LARI will be deemed withdrawn.

**Issue 5:** Should this docket be closed?

**Recommendation:** No. In the event of a protest, TKCB may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the utility's filing of a SARC application within 21 days of the date the protest is filed. If TKCB fails to file a SARC within 21 days, the utility's petition for a LARI will be deemed withdrawn pursuant to Rule 25-30.457(9), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. The docket should remain open for staff's verification that the revised tariff sheets which reflect the Commission-approved rates, and the customer notice, have been filed by TKCB and approved by staff, and so that staff may conduct an earnings review of the utility pursuant to Rule 25-30.457(8), F.A.C. Upon staff's approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(8)(a), F.A.C., this docket should be closed administratively. (Trierweiler)

**Staff Analysis:** In the event of a protest, TKCB may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the utility's filing of a SARC application within 21 days of the date the protest is filed. If TKCB fails to file a SARC within 21 days, the utility's petition for a LARI will be deemed withdrawn pursuant to Rule 25-30.457(9), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. The docket should remain open for staff's verification that the revised tariff sheets which reflect the Commission-approved rates, and the customer notice, have been filed by TKCB and approved by staff, and so that staff may conduct an earnings review of the utility pursuant to Rule 25-30.457(8), F.A.C. Upon staff's approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(8)(a), F.A.C., this docket should be closed administratively.

<b>TKCB</b>		<b>Schedule No. 1</b>		
<b>Test Year Ended 12/31/20</b>		<b>Docket No. 20210120-SU</b>		
<b>Wastewater Rates</b>				
	<b>UTILITY'S EXISTING RATES</b>	<b>UTILITY'S PROPOSED RATES</b>	<b>STAFF RECOMMENDED RATES</b>	<b>4 YEAR RATE REDUCTION</b>
<b><u>Residential</u></b>				
Base Facility Charge - All Meter Sizes	\$14.60	\$17.52	\$17.48	\$0.20
Gallonge Charge (6,000 gallonge cap)	\$5.14	\$6.17	\$6.16	\$0.07
<b><u>General Service</u></b>				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$14.60	\$17.52	\$17.48	\$0.20
3/4"	\$21.90	\$26.28	\$26.22	\$0.29
1"	\$36.50	\$43.80	\$43.70	\$0.49
1 1/2"	\$73.00	\$87.60	\$87.40	\$0.98
2"	\$116.80	\$140.16	\$139.84	\$1.57
3"	\$233.60	\$280.32	\$279.68	\$3.13
4"	\$365.00	\$438.00	\$437.00	\$4.89
6"	\$730.00	\$876.00	\$874.00	\$9.79
Charge per 1,000 gallons	\$6.17	\$7.40	\$7.39	\$0.08
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>				
2,000 Gallons	\$24.88	\$29.86	\$29.80	
4,000 Gallons	\$35.16	\$42.20	\$42.12	
6,000 Gallons	\$45.44	\$54.54	\$54.44	