

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a) DOCKET NO. 910276-WS
Staff-Assisted Rate Case in) ORDER NO. PSC-92-0126-AS-WS
Volusia County by PINE) ISSUED: 3/31/92
ISLAND UTILITY CORPORATION)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE COMMISSION:

BACKGROUND

Pine Island Utility Corporation (PIU or Utility) is a Class "C" water and wastewater utility whose service area is located in the northwestern portion of Volusia County, approximately three miles west of Seville, Florida. The utility provides service to approximately 86 water customers and 69 wastewater customers.

On June 6, 1990, PIU applied for a staff-assisted rate case. However, by Order No. 24132, issued February 18, 1991, this Commission closed the case without granting PIU any rate relief. The documentation submitted by PIU concerning its ownership of land and plant assets was problematic. The Order stated that PIU could refile without having to pay a new filing fee if it had submitted by a date certain the documents necessary to settle the questions we had regarding the utility's ownership of land and facilities. PIU timely submitted the information, and on March 4, 1991, it re-submitted its application for a staff-assisted rate case. The test period for setting rate base is the average twelve-month period ended June 30, 1990. Proposed Agency Action (PAA) Order No. 24643, issued June 10, 1991, authorized the utility to collect increased rates on a temporary basis, subject to refund, in the event of a protest.

On July 1, 1991, a timely protest to Order No. 24643 was filed by numerous customers and Ms. Reba Whited, President of Pine Island Homeowners' Association.

DOCUMENT NUMBER-DATE

03131 MAR 31 1992

FPSC-RECORDS/REPORTING

On August 2, 1991, the protester in this action informed staff that the utility billed customers the increased rate for August, retroactively for July and ahead of time for September, October and November. The utility had not met all preconditions necessary for the implementation of temporary rates. Therefore, by Order No. 24961, issued August 22, 1991, we ordered the utility to cease and desist the charging of temporary rates and to show cause in writing why it should not be fined up to \$5,000 a day for charging unauthorized and illegal rates. The utility did not file a response to the show cause order.

This case was scheduled for a hearing to be held on March 25 and 26, 1992. Prior to the scheduled hearing dates, the utility and the customers reached a settlement and the customers withdrew their protests.

SETTLEMENT AGREEMENT

In the proposed settlement agreement, Pine Island and its customers agreed to the following:

- (1) The utility expressly agreed to continue the employment of the existing maintenance man, to the same extent or greater than he is currently being employed, to assist the utility in serving its customers.
- (2) The utility shall include in each billing a listing of the current telephone number for the maintenance man. The customers may call this number or, if necessary, call the owner of the utility to report problems with their utility service.
- (3) The utility expressly agrees to make an additional payment of three hundred dollars (\$300) to Clay Electric Company to serve as an additional deposit to help guarantee that the utility service will never be interrupted because of the utility's failure to pay its electric bill. In addition to making this three hundred dollar (\$300) payment, the utility expressly agrees to pay its future electric bills in a timely manner. The utility expressly authorizes Clay Electric to notify the Pine Island Homeowners' Association or its designee if the utility ever fails to pay its electric bill on the due date.

- (4) The utility expressly agrees to invest funds necessary to bring the water and wastewater treatment plants into compliance with the requirements of the Department of Environmental Regulation (DER).

The utility has hired a part-time maintenance person. Based on responses from the utility's customers, Pine Island's quality of service has improved. Further, the utility has submitted to this Commission a copy of a letter that was mailed to all its customers listing the maintenance man's telephone number and the utility has agreed to stamp all future bills to show this telephone number.

Moreover, on February 12, 1992, we contacted Clay Electric, the utility's power provider, and were informed that the utility had made an additional \$300 deposit on February 5, 1992.

Our Staff shall monitor plant improvements required to meet DER requirements and if the utility does not comply with these requirements, further action may be required by this Commission.

The protest to the PAA Order was signed by Ms. Reba Whited, as an individual and as President of the Pine Island Homeowners Association, as well as by some fifty or so customers on an individual basis. Not all of the protest's signatories have signed the settlement agreement and Notice of Withdrawal. However, the principal participants in the case, Ms. Whited and Ms. Donnelly, have signed the settlement and notice. We believe that, given the leading roles played by Ms. Whited and Ms. Donnelly and the lack of individual participation from the other customers, this withdrawal and settlement agreement accurately reflects the decision of the other protestants.

We find that the utility has satisfied those conditions in the proposed settlement agreement that can be managed in a timely manner. Therefore, based on the above we hereby approve the settlement agreement between Pine Island Utility and its customers.

REVIVAL OF ORDER NO. 24643

By Order No. 24643, issued June 10, 1991, this Commission approved temporary rates, assessed and conditionally suspended a fine, and required that the utility comply with certain specific

DER requirements. We also required the utility to install meters and required the utility to provide security for payment of power bills.

The time frame for compliance with DER requirements and for meter installation was established as six months from the date of Order No. 24643. Since that Order was protested, these time constraints are no longer applicable. Therefore, we hereby find that Order No. 24643, issued June 10, 1991, is revived and is effective and final with the modification that all time requirements placed on the utility in that Order will begin when this Order is issued.

FINE

As discussed previously, the utility billed its customers unauthorized rates for the period of July through November, 1991. By Order No. 24961, issued August 22, 1991, this Commission ordered the utility to cease and desist charging temporary rates and to show cause in writing why it should not be fined up to \$5,000 a day for violating Order No. 24643 by charging unauthorized and illegal rates to its customers. The utility's written response to the show cause portion of that Order was due September 11, 1991. The utility never responded to the show cause portion of the Order.

We find that the utility should be assessed a fine of \$153 for failure to comply with Order No. 24643. This amount represents \$1.00 per day for the period of time customers were billed unauthorized rates from July through November, 1991.

Order No. 24961 also corrected a portion of Order No. 24643. The correction made final a requirement for security from the utility for regular and timely payment of its power bills. The utility has never satisfied this requirement. However, the settlement agreement between the utility and the customers requires an additional \$300 deposit for security. The utility paid the additional deposit on February 5, 1992, to Clay Electric. Since the utility has increased its security with its power provider, we find that this requirement of Order No. 24961 is fulfilled.

THE RELEASE OF ESCROW FUNDS

Because Order No. 24643 was timely protested and the utility was authorized to collect temporary rates when certain conditions were fulfilled, we required that the utility open an escrow account for security. We subsequently approved this escrow agreement.

Based on the fact that Pine Island and its customers made reached a settlement agreement, which we are approving herein, there is no need for these funds to remain escrowed, therefore, we find that these escrow funds should be released.

By Order No. 24643, issued June 10, 1991, this utility was assessed a \$1,000 fine due to unsatisfactory quality of service. Because Order No. 24643 has been revived and all time requirements placed on the utility in that Order will begin when this Order is issued, this fine will be suspended if the utility is in compliance with DER requirements within six months from the date of this Order. Order No. 24643 also required the utility to install meters within six months from the date of that Order. Therefore, we find that this Docket will remain open for a minimum of seven months to allow us to verify the utility's compliance with DER requirements and to ensure that Pine Island installs these meters. If the utility has not satisfied all requirements as ordered, we will take whatever further action is appropriate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the settlement agreement between Pine Island Utility Corporation and its customers is hereby approved. It is further

ORDERED that Order No. 24643, is revived and effective and final and all time requirements placed on Pine Island Utility Corporation in that Order shall begin when this Order is issued. It is further

ORDERED that Pine Island Utility Corporation shall be fined \$153 for failure to comply with Order No. 24643. It is further

ORDERED that since Pine Island Utility Corporation has increased its security with its power provider, this requirement of Order No. 24961, is fulfilled. It is further

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ORDERED that all escrowed funds be released. It is further

ORDERED that this Docket shall remain open for a minimum of seven months from the date of this Order to allow us to verify completion of meter installations and Pine Island Utility Corporation's compliance with Department of Environmental Regulation requirements.

By ORDER of the Florida Public Service Commission, this 31st day of March, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of

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Records and Reporting 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.