

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into possible overcollection of Allowance for Funds Prudently Invested (AFPI) in Lake County, by Lake Utility Services, Inc.

DOCKET NO. 980483-WU
ORDER NO. PSC-98-0796-FOF-WU
ISSUED: June 8, 1998

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING UTILITY TO RECORD AFPI
AS CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION

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.

BACKGROUND

Lake Utility Services, Inc. (LUSI or utility) is a Class B utility located in Lake County. LUSI is a wholly-owned subsidiary of Utilities, Inc. and provides no wastewater service.

A complaint was received from a customer in August of 1996. The customer was concerned about the fees she was required to pay for service. At the time of complaint, the utility had three schedules of fees and charges for service that differed depending on the location of the customer's residence. The customer's residence was in the territory approved for LUSI by Order No. PSC-92-1369-FOF-WU issued November 24, 1992, in Docket No. 920174-WU. By that Order, LUSI's service territory was amended to include additional territory. The rates and charges for the additional territory were also established by that Order.

Our staff investigated the complaint and initially determined that the customer's fees were appropriate. Those fees were a plant capacity charge of \$569, a main extension charge of \$509, a meter

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installation charge of \$100, and an allowance for funds prudently invested (AFPI) charge of \$608.09. After analysis done in the utility's rate case in Docket No. 960444-WU, our staff determined that the collection of the AFPI from customers in the territory approved by Order No. PSC-92-1369-FOF-WU may have been inappropriate. An informal investigation into the AFPI charges was initiated. At the conclusion of the informal investigation, it was determined that it was appropriate for the utility to collect AFPI from the customers in the additional territory pursuant to a tariff page contained in the utility's policy section of its approved tariff. However, the collection of AFPI should cease after 106 equivalent residential connections (ERCs). The utility has collected AFPI from more than 106 ERCs.

AFPI CHARGES

By Order No. 19962, issued September 8, 1992, in Docket No. 871080-WU, we established LUSI's AFPI charges for the utility's Crescent Bay Subdivision. The purpose of the AFPI charge was to provide for a return on the plant which had been prudently constructed but exceeded the needs of the customers in the early years of development. The charge was to be in effect until the utility reached the capacity of 106 ERCs. By the approved tariff, the charge stopped escalating at 80% design capacity (85 ERCs).

By Order No. PSC-92-1369-FOF-WU, we indicated that the rates and charges approved in the utility's tariff for the Crescent Bay system would be the same for the additional territory. For service availability purposes, the charges approved for the additional territory were the plant capacity charge of \$569 per ERC, the main extension charge of \$506 per ERC, and the meter installation charges by meter size, including a charge of \$100 for a 5/8 x 3/4 inch meter. Those charges would serve to increase the utility's level of contributions-in-aid-of-construction (CIAC). The Order did not specifically address AFPI.

In response to the order, the utility filed several tariffs sheets for the territory amendment. One of the tariff pages was Third Revised Sheet No. 26.0 which listed the service availability schedule of fees and charges for the additional territory. On this tariff page the only charges shown were the plant capacity charge, main extension charge, and meter installation charges as specifically addressed in the order. This tariff page did not include AFPI. Based upon Third Revised Sheet No. 26.0, and because Order No. PSC-92-1369-FOF-WU did not address AFPI, our staff wrote the utility a letter on September 8, 1997 indicating that the AFPI

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was applicable only to connections in the Crescent Bay Subdivision and only up to 106 ERCs.

The utility responded by stating that the AFPI was appropriate, because Order No. PSC-92-1369-FOF-WU made an all-inclusive reference to the rates and charges set forth in the Crescent Bay tariff and did not exclude any of the rates and charges. It further stated that the Commission was aware that the rates and charges would apply to more than 106 ERCs and that additional investment was involved in serving the ERCs.

Our staff responded by letter dated January 27, 1998, stating that it did not agree nor recognize that the intent of the order was that all of the rates and charges were applicable to the additional territory. However, upon further review of the utility's entire tariff, Third Revised Sheet No. 27.3, contained in the utility's policy section of the tariff, it appears that the tariff did reference the AFPI for the Crescent Bay Subdivision and the additional territory approved in Order No. PSC-92-1369-FOF-WU: Third Revised Sheet No. 27.3 referred to Sheets Nos. 25.1 and 25.1A for a schedule of applicable AFPI charges which listed the Crescent Bay Subdivision service availability schedule of fees and charges. It appears that LUSI had properly collected AFPI from the additional territory in accordance with Third Revised Sheet No. 27.3, but that LUSI had collected AFPI for connections over the number approved in its tariff. Specifically, Sheets Nos. 25.1 and 25.1A state:

The above Allowance for Funds Prudently Invested (AFPI) Charges will stop escalating when the utility is serving 85 ERCs which is currently projected to occur in December 1990. AFPI will continue to be collected until the utility reaches design capacity, which is 106 ERCs. This is currently projected to occur in December, 1991.

Therefore, our staff indicated that LUSI should refund the AFPI collected beyond 106 ERCs.

By letter dated February 19, 1998, the utility responded to staff. The utility acknowledged that Third Revised Sheet No. 27.3 made the AFPI charge in Sheets Nos. 25.1 and 25.1A applicable to the additional territory. However, the utility stated that the limit of 106 ERCs only applied to the Crescent Bay Subdivision, because the title on both Sheets Nos. 25.1 and 25.1A only referred to the Crescent Bay Subdivision. Using the utility's logic, it can be argued that any fees and charges on that schedule are limited to

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Crescent Bay, and that Third Revised Sheet No. 26 sets forth the charges for the additional territory approved in Order No. PSC-92-1369-FOF-WU.

AFPI RECORDED AS CIAC

To date, LUSI has collected AFPI for 288 ERCs beyond the 106 ERCs previously discussed. Upon review of this matter, we believe that extenuating circumstances exist on both sides of this issue, which make it unclear as to whether LUSI is authorized to collect AFPI beyond 106 ERCs for the territory approved in Order No. PSC-92-1369-FOF-WU. As a reasonable compromise, we find it appropriate that LUSI record all AFPI collected beyond 106 ERCs as CIAC. This compromise will prevent a refund but will, nevertheless, benefit the utility's customers.

If a protest is not received within the 21 day protest period, this Order shall become final. This docket shall be closed at the conclusion of the protest period, if no protest is filed.

Based on the foregoing, it is


ORDERED by the Florida Public Service Commission that Lake Utility Services, Inc. shall record all allowance for funds prudently invested charges collected beyond 106 equivalent residential connections as contributions-in-aid-of-construction. It is further

ORDERED that the provisions of this Order are issued as proposed agency action, and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at her office at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 8th
day of June, 1998.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, 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 120.569(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.

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 and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 29, 1998.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of 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 of the effective date 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.