

State of Florida



## Public Service Commission

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**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** September 24, 2020

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

**FROM:** Division of Engineering (D. Phillips) *TB*  
Office of the General Counsel (Weisenfeld) *TLT*

**RE:** Docket No. 20190125-WS – Application for staff-assisted rate case in Sumter County by The Woods Utility Company.

**AGENDA:** 10/06/20 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Brown

**CRITICAL DATES:** 11/14/20 (Due date for Action Plan and Status Report per Order No. PSC-2020-0087-PAA-WS)

**SPECIAL INSTRUCTIONS:** None

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### Case Background

The Woods Utility (The Woods or Utility) is a Class C utility serving approximately 58 residential water customers, one general service water customer, and 52 residential wastewater customers in Sumter County. On June 6, 2019, The Woods filed a petition for a staff-assisted rate case. On January 6, 2020, the Utility was notified by the Florida Department of Environmental Protection (DEP) that tap water samples taken from customers' premises exceeded the allowable lead action level twice in 2019. In the first half of 2019, three samples exceeded lead levels, and in the second half of 2019, six samples exceeded lead levels and three exceeded copper levels. As a result, the DEP has mandated that additional actions are required to address lead and copper levels.

On March 25, 2020, the Commission issued Order No. PSC-2020-0087-PAA-WS (PAA Order), which found the quality of the Utility's service to be unsatisfactory and imposed a 100 basis point penalty.<sup>1</sup> The PAA Order requires the Utility to file status reports every six months detailing the actions it has taken to address the DEP's concerns, engage with customers and the Office of Public Counsel (OPC), and also to submit an action plan detailing how it will address the lead and copper levels. Both the status report and action plan are due six months after the issuance of the Final Order. The Final Order, issued on May 14, 2020,<sup>2</sup> set November 14, 2020, as the due date for the Utility's action plan and first status report. On July 24, 2020, the Utility filed a request for an extension of time to comply with the reporting requirements of the PAA Order.

The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081, 367.0812, 367.0814, 367.091, and 367.121, Florida Statutes (F.S.).

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<sup>1</sup> Order No. PSC-2020-0087-PAA-WS, issued on March 25, 2020, in Docket No 20190125-WS, *In re: Application for staff-assisted rate care in Sumter Country by The Woods Utility*.

<sup>2</sup> Order No. PSC-2020-0151-CO-WS, issued on May 14, 2020, in Docket No 20190125-WS, *In re: Application for staff-assisted rate care in Sumter Country by The Woods Utility*.

## Discussion of Issues

**Issue 1:** Should The Woods' request for an extension of time to comply with Order No. PSC-2020-0087-PAA-WS be granted?

**Recommendation:** Yes. The Woods' request for an additional six months to comply with the PAA Order's filing requirements, including an action plan and first status report, should be granted due to the impacts of the COVID-19 pandemic. Furthermore, staff recommends that it be given administrative authority to grant one additional time extension if good cause is shown. (D. Phillips)

**Staff Analysis:** In relevant part, the Commission's PAA Order states:

The DEP has mandated that the Utility take action to address lead and copper exceedances. We therefore find that the quality of the Utility's product is unsatisfactory. Accordingly, a 100 basis point reduction shall be applied, as further discussed in Section 5. The Utility shall file an action plan with this Commission detailing how it will address excessive lead and copper levels six months after the Final Order is issued in this docket. Additionally, the Utility shall engage with its customers and with the Office of Public Counsel on its efforts to ameliorate the quality of its product. The Utility shall file status reports with this Commission detailing the actions it has taken to meet the DEP's requirements and its engagement efforts with its customers and with the Office of Public Counsel. The first status report shall be filed six months after the Final Order is issued in this Docket and every six months thereafter, until the additional monitoring is rescinded by the DEP.<sup>3</sup>

As the PAA Order was made final on May 14, 2020, the required filing date for the action plan and the first status report is November 14, 2020.

On July 24, 2020, the Utility filed a petition requesting, at a minimum, an additional six months to comply with the PAA Order's reporting requirements. This would move the required filing date to May 14, 2021. The petition states that the Utility had planned to begin to collect lead and copper water samples from inside customers' homes as required by the DEP, conduct surveys of customer plumbing, and further distribution sampling. Per the Utility, the DEP has granted permission to delay these activities due to the COVID-19 pandemic to reduce in-person contact with customers.

Staff notes that although the Utility has requested a delay in filing its action plan and status report, its operator has met with a representative of their chemical supplier on site to assist in finding an appropriate dosage of the sequestrant (AquaGold) used in the water system. The Utility also advised that a decline in the lead exceedances has occurred. In August 2019, there were six lead exceedances and in samples taken in June 2020 there were two lead exceedances.

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<sup>3</sup> Order No. PSC-2020-0087-PAA-WS, issued on March 25, 2020, in Docket No 20190125-WS, *In re: Application for staff-assisted rate care in Sumter Country by The Woods Utility*.

Of the six residences that exceeded allowable lead levels in August 2019, four were re-tested in June 2020 and none exceeded allowable levels.

It appears that the Utility is working toward resolving the lead and copper exceedances; but, due to the pandemic, it cannot meet all requirements of the Commission's PAA Order at this time. Staff believes the proposed delay in the action plan filing and status reporting appears reasonable and is consistent with the DEP's approval of a delay to minimize in-person contact.

**Conclusion**

Staff recommends that The Woods' request for an additional six months to comply with the PAA Order's filing requirements, including an action plan and first status report, should be granted due to the impacts of the COVID-19 pandemic. Furthermore, staff recommends that it be given administrative authority to grant one additional time extension if good cause is shown.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, a Consummating Order should be issued. The docket should remain open for staff's verification of the Utility's required biannual status reports until additional monitoring is rescinded by the DEP. Once these actions are complete, this docket should be closed administratively if no adjustments are necessary.

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, a Consummating Order should be issued. The docket should remain open for staff's verification of the Utility's required biannual status reports until additional monitoring is rescinded by the DEP. Once these actions are complete, this docket should be closed administratively if no adjustments are necessary.