

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-

DATE: January 21, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Ramos, Lewis, Maloy) *TB*
Office of the General Counsel (Crawford, Stiller) *JSC*

RE: Docket No. 20190166-WS – Application for increase in water rates in Highlands County by HC Waterworks, Inc. – Joint Motion for Approval of Stipulation and Settlement Agreement

AGENDA: 02/02/21 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

HC Waterworks, Inc. (HC or Utility) is a Class B utility providing water service to approximately 949 residential customers, 9 general service customers, and 1 private fire protection customer in the Leisure Lakes, Lake Josephine, and Sebring Lakes subdivisions in Highlands County. HC also provides wastewater service to 323 residential wastewater customers in the Leisure Lakes subdivision. On October 15, 2019, HC filed its application for an increase in water rates. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and a test year ended June 30, 2019. The Utility was notified of deficiencies in the MFRs on November 12, 2019, and December 6, 2019. The deficiencies were cured and December 13, 2019, was established as the official filing date.

On May 22, 2020, the Commission issued PAA Order No. PSC-2020-0168-PAA-WS (Order). In the Order, the Commission found the Utility's quality of service to be unsatisfactory due to the high volume of customer complaints and therefore, reduced the Utility's return on equity by 50 basis points. The Commission also ordered the Utility to work with its customers and the Office of Public Counsel (OPC) to resolve customer service issues. On June 12, 2020, OPC timely filed a petition protesting those portions of the Order related to the Commission's decision on HC's quality of service.¹ On June 16, 2020, HC filed its response to OPC's petition and also a cross petition requesting the Commission dismiss OPC's protest.²

On August 11, 2020, HC and OPC filed a joint motion for approval of a stipulation and settlement agreement (Attachment A).³ The agreement addresses issues associated with the Utility's quality of service which the joint movants have entered into in order to resolve litigation. On September 15, 2020, Commission staff held an informal meeting with the parties to discuss the settlement agreement. Subsequently, staff sent a data request to the parties on December 18, 2020, requesting clarification of certain terms within the settlement agreement. HC⁴ and OPC⁵ filed their responses on December 21, 2020, and January 8, 2021, respectively. In response to staff's data request, the joint movants indicate that the instant docket shall be closed upon the Utility's filing of its final status report. Additionally, the responses confirm that OPC has scheduled a virtual meeting with customers, Highlands County Commission personnel, and HC to occur on January 21, 2021, which staff plans to attend.

The Commission should vote on whether or not to approve the joint stipulation and settlement agreement filed August 11, 2020 by HC and OPC. The Commission has jurisdiction pursuant to Sections 367.081 and 367.121, F.S.

¹Document No. 03066-2020

²Document No. 03112-2020

³Document No. 04355-2020

⁴Document No. 13667-2020

⁵Document No. 00805-2021

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in
Highlands County by HC Waterworks, Inc.

DOCKET NO. 20190166-WU

FILED: August 11, 2020

STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, HC Waterworks, Inc. (HC or Utility), and the Citizens of the State of Florida, through the Office of Public Counsel (“OPC”), have signed this Stipulation and Settlement (the “Agreement;” unless the context clearly requires otherwise, the term “Party” or “Parties” means a signatory to this Agreement); and

WHEREAS, on August 26, 2019, HC initiated the subject docket by submitting a Request for Test Year Approval Pursuant to Rule 25-30.430, Florida Administrative Code; and

WHEREAS, on October 15, 2019, HC filed its Application for increase in interim and final water rates; and

WHEREAS, on May 22, 2020, the Public Service Commission (“PSC” or “the Commission”) entered PAA Order PSC-2020-0168-PAA-WS, approving an increase in water rates for HC Waterworks (“PAA Order”); and

WHEREAS, page 24 of the PAA Order “require[s] that HC engage with its customers and the Office of Public Counsel in an ongoing effort to address the Utility’s service quality and communication issues,” and

WHEREAS, OPC filed a Petition Protesting Portions of the PAA Order and Motion for Clarification of the PAA Order on June 12, 2020; and

WHEREAS, HCW filed a response and cross-protest petition on June 16, 2020; and

ATTACHMENT A

PSC Docket No. 20190166-WU
Stipulation and Settlement Agreement

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this docket so as to achieve fairness to customers and the Utility and to ensure compliance with the applicable Florida Statutes and Florida Rules of Administrative Procedure; and

WHEREAS, the Parties have entered into this Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350, 367 and 120, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the parties to this Agreement each has agreed to concessions to the others with the expectation that all provisions of the Agreement will be enforced by the Commission as to all matters addressed herein with respect to all Parties upon acceptance of the Agreement as provided herein and upon approval in the public interest;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. This Agreement will become effective on the date it is approved by the Commission (the "Effective Date").
2. The Parties agree to work together to engage with HC's customers. The Parties further agree that the appropriate Commission Staff should be involved in HC's engagement with customers and the Office of Public Counsel in the ongoing effort to address the Utility's service quality and communication issues referenced in the PAA Order.
3. The Parties agree that HC shall file quarterly status reports in PSC Docket No. 20190166 beginning three months after the Final Order approving rates is entered and ending one year after the Final Order is entered. The quarterly status reports shall include details regarding (a) all customer complaints received by HC from August 1, 2020 to the end of the reporting period, and (b) all other communication between HC and its customers

ATTACHMENT A

PSC Docket No. 20190166-WU
Stipulation and Settlement Agreement

(individual and system-wide customer communications) from August 1, 2020 to the end of the reporting period. Regarding the customer complaints, the details to be included in the quarterly status reports shall include, but not be limited to, the name, address and contact information (phone and/or email) of each complaining customer; the substance of each complaint; whether and how each complaint was resolved; the amount of time from HC's receipt of the original complaint to resolution; and the Utility's post-resolution follow-up with the customer (the date and manner in which the resolution was communicated to the customer).

4. The Parties agree that HC will timely inform its customers before any pre-planned outages, including but not limited to, system repairs and service. This does not include unforeseen outages beyond HC's control, such as spontaneous outages caused by sudden power outages, lightning strikes, hurricanes, or mechanical failures, in which case HC will notify customers as soon as the emergency allows. HC Waterworks will follow the prescribed noticing for precautionary boil water notices pursuant to the Florida Department of Environmental Protection and Department of Health regulations.
5. The Parties agree to withdraw their respective petitions regarding the PAA Order, and that the terms agreed to herein shall be made part of an Amended PAA Order. The Parties agree that the terms of the Amended PAA Order shall, without protest from either Party, become final and effective upon the issuance of a Consummating Order or issuance of such other Order entered by the Commission to implement the terms of the Amended PAA Order.
6. The Parties agree and respectively request that the Commission Staff participate in any scheduled activities with HC's customers, HC, and OPC in order to address service quality and communication, and to measure customer satisfaction on or before February 28, 2021.

ATTACHMENT A

PSC Docket No. 20190166-WU
Stipulation and Settlement Agreement

This may include, but is not limited to, participation in any customer meetings, County Commissioner meetings, or follow-up telephone calls.

7. No Party to this Agreement will request, support, or seek to impose a change in the application of any provision hereof.
8. The provisions of this Agreement are contingent on approval of this Agreement in its entirety by the Commission without modification. The Parties agree that approval of this Agreement is in the public interest. The Parties further agree that they will support this Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof. No party will assert in any proceeding before the Commission or any court that this Agreement or any of the terms in the Agreement shall have any precedential value, except to enforce the provisions of this Agreement. Approval of this Agreement in its entirety will resolve all matters and issues in Docket No. 20190166-WU pursuant to, and in accordance with, Section 120.57(4), Florida Statutes. No party shall seek appellate review of any order issued in this Docket, as it relates to the enforceability of this Agreement.
9. This Agreement is dated as of the date the last signature is affixed. It may be executed in counterpart originals, and a scanned .pdf copy of an original signature shall be deemed an original.

ATTACHMENT A

PSC Docket No. 20190166-WU
Stipulation and Settlement Agreement

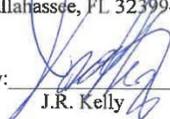
In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signature.

HC Waterworks, Inc.
c/o Troy Rendell
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

By: 

Troy Rendell
(Printed Name)
Title: Vice President / Secretary

Office of Public Counsel
J.R. Kelly, Esq.
The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

By: 

J.R. Kelly