

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in water and  
wastewater rates in Polk County by Cypress  
Lakes Utilities, Inc.

DOCKET NO. 060257-WS  
ORDER NO. PSC-07-0607-PCO-WS  
ISSUED: July 30, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER MODIFYING THE IMPLEMENTATION OF PROPOSED AGENCY  
ACTION RATES SUBJECT TO REFUND

BY THE COMMISSION:

Background

Cypress Lakes Utilities, Inc. (Cypress Lakes or Utility) is a Class B utility providing water and wastewater service to approximately 1,287 residential and 43 general service customers in Polk County. Pursuant to Order No. PSC-07-0199-PAA-WS, issued March 5, 2007, we approved increased proposed agency action (PAA) rates and charges, resulting in annual revenue increases of \$42,874 for water and \$143,167 for wastewater. On March 26, 2007, Cypress Lakes Associates, Ltd., a developer, timely filed a protest of the proposed service availability charges authorized in Order No. PSC-07-0199-PAA-WS. On April 6, 2007, the Office of Public Counsel (OPC) filed a cross-protest.

By Order No. PSC-07-0454-PCO-WS, issued May 29, 2007, we required Cypress Lakes to obtain either a surety bond or escrow agreement to guarantee the funds collected subject to refund in order to implement the PAA rates. This Order addresses the Utility's request to modify Order No. PSC-07-0454-PCO-WS to allow it to use a corporate undertaking guaranteed by its parent in lieu of a surety bond or escrow agreement to secure the incremental funds collected under the PAA rates. We have jurisdiction pursuant to Section 367.081, Florida Statutes, (F.S.).

Modification of Order No. PSC-07-0454-PCO-WS

In Order No. PSC-07-0454-PCO-WS, we acknowledged the implementation of PAA rates by Cypress Lakes. Following a protest of a Commission PAA order, pursuant to Section 367.081(8), F.S., there is a period of time from when the rates are approved on a PAA basis until the rates are deemed final following a hearing. During this period, the money collected under these temporary rates is held subject to refund. In order to protect any potential refund, the

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utility is required to demonstrate the ability to support a corporate undertaking or provide some other form of financial security such as a letter of credit, an escrow account, or a surety bond.

Under the appropriate circumstances, we have approved corporate undertakings for Utilities, Inc. (UI or Company) subsidiaries where UI has guaranteed the incremental revenues collected subject to refund. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We review the financial statements of the parent company to determine if UI can support a corporate undertaking on behalf of its subsidiaries. An additional condition for the use of a corporate undertaking in this instance is that UI does not have corporate undertakings outstanding on behalf of utility systems in other states. UI has filed numerous attestations with this Commission confirming that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

At the time the PAA rates for Cypress Lakes were approved, UI had a cumulative corporate undertaking amount outstanding of approximately \$1.7 million. Included in this \$1.7 million amount is approximately \$59,000 to secure interim rates that had been implemented for Cypress Lakes earlier in this proceeding. Based on the total amount outstanding at the time we considered the Utility's request to implement PAA rates, we determined it would not be appropriate to allow UI to support additional corporate undertaking amounts. In Order No. PSC-07-0454-PCO-WS, we ordered Cypress Lakes to provide a surety bond or escrow agreement to guarantee the funds collected under the PAA rates.

We recently approved settlement agreements between OPC and three UI systems that have outstanding corporate undertakings.<sup>1</sup> Now that final orders have been issued in these three dockets, the amounts held subject to refund for these systems have been released. Accordingly, the cumulative corporate undertaking amount guaranteed by UI has dropped from \$1,727,605 to \$557,351.

In light of the reduction in the amount of the cumulative corporate undertaking as a result of the approval of these settlement agreements, UI has requested that we authorize the \$158,475 approved in Order No. PSC-07-0454-PCO-WS be secured by corporate undertaking instead of a surety bond or escrow agreement as stated in the order. This latter amount is necessary to secure the money collected under the PAA rates and is incremental to the \$59,000 already secured by and included in the \$557,351 presently guaranteed by UI. Approval of UI's request in this matter would bring the cumulative amount outstanding to \$715,826.

UI's 2004, 2005, and 2006 financial statements were used to determine the financial condition of the Company. This analysis shows that UI's equity ratio over the most recent three-year period has remained stable at 40%. In addition, UI's relative level of liquidity has improved

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<sup>1</sup> Order No. PSC-07-0529-AS-SU, issued June 26, 2007, in Docket No. 060256-SU, In re: Application for increase in wastewater rates in Seminole County by Alafaya Utilities, Inc.; Order No. PSC-07-0535-AS-WS, issued June 26, 2007, in Docket No. 060258-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp.; and Order No. PSC-07-0528-AS-WS, issued June 26, 2007, in Docket No. 060260-WS, In re: Application for increase in water and wastewater rates in Highlands County by Lake Placid Utilities Inc.

compared to 2005. These positive measures are somewhat tempered by the decline in the Company's interest coverage ratio and relative level of net income over the three-year review period. However, net income has been on average six times greater than the requested cumulative corporate undertaking amount. In summary, UI's financial performance has demonstrated adequate levels of both equity capitalization and profitability on an absolute basis to offset the decline in interest coverage and profitability on a relative basis.

We believe UI has adequate financial resources to support a corporate undertaking in the amount requested. Based on this analysis, we hereby modify Order No. PSC-07-0454-PCO-WS to allow Cypress Lakes to secure money collected under its PAA rates with a corporate undertaking. The cumulative corporate undertaking of \$715,826 shall be approved contingent upon receipt of the written guarantee of UI and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Finally, regardless of the type of security provided, Cypress Lakes shall keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), Florida Administrative Code (F.A.C.), Cypress Lakes shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-07-0454-PCO-WS is hereby modified to allow Cypress Lakes to secure money collected under its PAA rates with a corporate undertaking. It is further

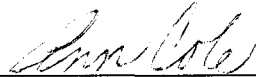
ORDERED that the cumulative corporate undertaking of \$715,826 shall be approved contingent upon receipt of the written guarantee of Utilities, Inc. and written confirmation that Utilities, Inc. does not have any outstanding guarantees on behalf of UI-owned utilities in other states. It is further

ORDERED that pursuant to Rule 25-30.360(6), F.A.C., Cypress Lakes Utilities, Inc. shall provide a report by the 20<sup>th</sup> of each month indicating the monthly total revenue collected subject to refund. It is further

ORDERED that, should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 30th day of July, 2007.



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ANN COLE  
Commission Clerk

( 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.