

STATE OF FLORIDA

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP
DAVID E. KLEMENT



TIMOTHY DEVLIN, DIRECTOR
DIVISION OF ECONOMIC REGULATION
(850) 413-6900

Public Service Commission

October 27, 2009

RECEIVED-FPSC
09 OCT 27 PM 3:37
COMMISSION
CLERK

Mr. Terry Blackmon
Four Points Utility Corporation
101 Golden Malay Palm Way
Davenport, FL 33897

Re: Staff Assisted Rate Case for Four Points Utility Corporation in Polk County, Docket No. 090213-WS.

Dear Mr. Blackmon:

This letter is in response to your e-mail dated September 10, 2009, in which you ask if the Staff Assisted Rate Case (SARC) could be resurrected. By letter dated May 14, 2009, Four Points Utility Corporation (Four Points or Utility) was advised that the SARC had been accepted and that the filing fee must be received by June 17, 2009. On June 15, 2009, even though not required, staff e-mailed a copy of the letter to the Utility reminding Four Points that the fee was due. When the fee had still not been received some 55 days later, staff advised the Utility that the docket had been closed. This docket was closed for non-payment of filing fees pursuant to Rule 25-30.455(9), Florida Administrative Code (F.A.C.), which states "[t]he Commission will deny the application if a utility does not remit the fee as provided by Section 367.145, Florida Statutes (F.S.), and paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance."

Staff also notes on August 20, 2009, Four Points submitted their 2008 Annual Report 142 days late. As a result of this untimely filing, Four Points owes penalties of \$426. Further, the Utility owes additional regulatory assessment fees that were assessed, plus penalties and interest.¹ If Four Points fails to resolve the matters in a timely manner, additional charges could be assessed.

In determining whether to grant or deny an application for a SARC, Rules 25-30.455(8)(b),(c),(d), and (g), F.A.C., state that the following should be considered:

¹ See letters dated August 26, 2009, advising the Utility that additional amounts of \$2,488.21 and \$5,016.79 for water and wastewater RAFs, respectively.

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

An Affirmative Action / Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

DOCUMENT NUMBER DATE

10894 00 27 8

FPSC-COMMISSION CLERK

- (b) Whether the petitioner's books and records are organized consistent with Rule 25-30.110, F.A.C., so as to allow commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;
- (c) Whether the petitioner has filed annual reports;
- (d) Whether the petitioner has paid applicable regulatory assessment fees;
- (g) Whether the petitioner has complied in a timely manner with all Commission decisions and requests affecting water and wastewater utilities for 2 years prior to the filing of the application under review;

From May 1 to June 16, 2009, the audit staff requested the following from Four Points:

- (a) Supporting documentation for plant in service, land, contributions in aid of construction, and projected plant;
- (b) Supporting documentation for one of the samples of operation and maintenance expenses as well as salaries;
- (c) A sample of water and wastewater customer bills;
- (d) Supporting documentation for customer deposits and long-term debt;
- (e) Copies of the utility's Federal Tax Returns, minutes of the Board of Directors, and outside Auditor Reports;
- (f) Copies of Polk County's bills for three years; and
- (g) A list of vendors and a report of employee hours.

As of the close of the docket, Four Points failed to provide to audit staff sufficient responses to the above requirements. Moreover, On June 9, 2009, it appears that a fire destroyed all the books and records of Four Points. Therefore, unless the data can be obtained through other means, there would be no data for the most recent twelve-months on which the Commission could set rates.

Based on the above, there would be no point in the Utility submitting another application for a SARC until Four Points has paid the appropriate RAFs, penalties and interest, as well as providing the Commission with the last twelve-month worth of operating revenue and expense data. Therefore, in answer to your question as to whether the SARC in Docket No. 090213-WS can be "resurrected" at this time, staff concludes that it cannot. Moreover, staff recommends the Utility not file another SARC until the above-noted problems are remedied.

Mr. Blackmon
Page 3
October 27, 2009

If you have any questions regarding this decision, please contact Lydia Roberts at (850) 413-6877.

Sincerely,



Bart Fletcher
Public Utilities Supervisor

BF/r

cc: Division of Economic Regulation (Roberts, Bulecza-Banks, Daniel, Deamer, Maihot, Hudson, Walden, Willis)
Office of General Counsel (Bennett, Brubaker, Jaeger)
Office of Commission Clerk (Docket No.090213-WS)