

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in Lee County and wastewater rates in Pasco by Ni Florida, LLC.

DOCKET NO. 130010-WS
ORDER NO. PSC-13-0179-PCO-WS
ISSUED: April 29, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER SUSPENDING FINAL RATES

BY THE COMMISSION:

BACKGROUND

Ni Florida, LLC (Ni Florida or Utility) is a Class A utility serving approximately 743 water connections in Lee County and 2,739 wastewater connections in Pasco County. Water rates were last established for this Utility in 2011.¹ Wastewater rates were last established for this Utility in 2010.² On February 27, 2013, Ni Florida filed an application with the Florida Public Service Commission (Commission) for an increase in its rates and charges for water and wastewater service. Accompanying the Utility's application were minimum filing requirement schedules (MFRs) required by Section 367.081 Florida Statutes (F.S.), and Rule 25-3.437, Florida Administrative Code (F.A.C.).

Staff identified several deficiencies in the Utility's MFRs. As of the filing of this recommendation, those deficiencies remain outstanding. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and did not request interim rates. The historic test year established for final rates is the period ended September 30, 2012.

The recommendation addresses the suspension of Ni Florida's requested final rates. The Commission has jurisdiction pursuant to Section 367.081, F.S.

¹ See Order No. PSC-11-0199-PAA-WU, issued April 22, 2011, in Docket No. 100149-WU, In re: Application for increase in water rates in Lee County by Ni Florida, LLC.

² See Order No. PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

DECISION

Section 367.081(6), F.S., provides that the Commission may, for good cause, withhold consent to the implementation of the requested rates within 60 days after the date the rate request is filed. Further, Section 367.081(8), F.S., permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months from the official date of filing if: (1) the Commission has not acted upon the requested rate increase; or (2) if the Commission's PAA action is protested by a party other than the Utility. It should be noted that because the Utility's MFRs to this docket have been determined deficient, an official date of filing has not yet been established. The MFR Corrections are due April 30, 2013.

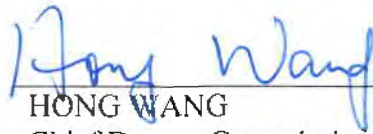
We have reviewed the filing and has considered the information filed in support of the rate application and the proposed final rates. We find it is necessary to require further investigation of this information, including on-site investigations by Commission staff accountants and engineers. To date, staff has initiated an audit of Ni Florida's books and records, as well as an audit of Ni America, Inc., the Utility's parent, to examine allocated investment and operating expenses. Both of these audits are tentatively due on May 9, 2013. In addition, staff sent its first data request on April 5, 2013. The Utility's responses to these data requests are due on May 6, 2013. Further, staff believes additional requests will be necessary to process this case. Based on the foregoing, we find it appropriate to suspend the Utility's proposed rate increase.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the final water and wastewater rates proposed by Ni Florida, LLC. are hereby suspended. It is further

ORDERED that this docket shall remain open pending the Commission's final action on Ni Florida, LLC.'s application for increases in rates and charges for water and wastewater services.

By ORDER of the Florida Public Service Commission this 29th day of April, 2013.



HONG WANG
Chief Deputy Commission Clerk
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

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 25-22.0376, 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.