

LAKE TALQUIN WATERWORKS, INC.

August 14, 2020

Office of Commission Clerk
Florida Public Service Commission
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Re: Docket No. 20200195-WU - Application of Lake Talquin Waterworks, Inc. for grandfather water certificate in Leon County and pass through of regulatory assessment fees.- Petition for Variance or Waiver of Rule 25-30.120, Florida Administrative Code by Lake Talquin Waterworks, Inc. in Lake Talquin County

Dear Commission Clerk,

Lake Talquin Waterworks, Inc. (Lake Talquin) hereby petitions the Florida Public Service Commission for a partial variance or waiver of a requirement of Rule 25-30.120, Florida Administrative Code (FAC) pursuant to Section 120.542, Florida Statutes (F.S.). In support of this Petition, Lake Talquin asserts the following:

1. The name and address of the Petitioner is:

Lake Talquin Waterworks, Inc.
4939 Cross Bayou Blvd.
New Port Richey, FL 34652
Telephone: (727) 848-8292

2. The name, address and telephone number of the authorized representative to contact concerning this Petition is:

Troy Rendell
U.S. Water Services Corporation, Inc.
4939 Cross Bayous Blvd.
New Port Richey, FL 34652
Telephone: (727) 848-8292

3. Lake Talquin Waterworks acquired the utility from Seminole Waterworks, Inc. (Seminole) on March 30, 2020. Seminole Waterworks acquired the utility from Lake Talquin Water Company, Inc. on the same date. There was a simultaneous closing which transferred the utility from Seminole to Lake Talquin Waterworks.
4. On June 20, 2017, the Board of County Commissioners of Leon County (County) passed and adopted Resolution No. R17-12 (Resolution), transferring regulation of the privately-

owned, for-profit water and wastewater utilities in Leon County to the Florida Public Service Commission (Commission). Effective upon the adoption of the Resolution, all non-exempt water and wastewater systems in the County became subject to the provisions of Chapter 367, Florida Statutes (F.S.). The Commission acknowledged the Resolution in Order No. PSC-2017-0357-FOF-WS.

5. On August 4, 2020, Lake Talquin filed its application for a Grandfather Certificate pursuant to Section 367.171(2), Florida Statutes in the above referenced docket.
6. Simultaneously in the same filing Lake Talquin filed its request for approval of a pass through increase for regulatory assessment fees pursuant to Section 367.081(4)(b), F.S. This request was in relation to the required regulatory assessment fees required under Section 367.145, F.S. and Rule 25-30.120, F.A.C.
7. Section 367.081(4)(b), F.S. provides that “The approved rates of any utility which is subject to an increase or decrease in the rates or fees that is charged for ... or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that ... the regulatory assessment fees imposed upon it by the commission have change. The new rates authorized shall reflect the amount of the ... regulatory assessment fees imposed upon it by the commission.”
8. However, the Commission Staff has previously stated that the pass through provision of Section 367.081(4)(b), F.S. could not be approved without “approved rates” by the Commission.
9. Rule 25-30.120(2), F.A.C. states that “The obligation to remit regulatory assessment fees for any year shall apply to any utility that is subject to the Commission’s jurisdiction on or before December 31 of that year or any part of that year.
10. The Commission’s regulatory assessment fees are not included in the current existing rates for Lake Talquin since the utility was not regulated by the Commission.
11. This places Lake Talquin at a financial disadvantage and places a financial hardship on the utility due to its inability to collect these regulatory assessment fees in its rates.
12. Section 120.542(2), F.S. states that, “Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when the application of the rule would create a substantial hardship or would violate the principles of fairness.”
13. Section 120.542(5), F.S. states that, “A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency’s rule.”

Request of Variance or Waiver – Lake Talquin Waterworks, Inc.

14. Section 367.145(3), states that the “Fees collected by the commission pursuant to this section may only be used to cover the cost of regulating water and wastewater systems.”
15. Lake Talquin contends that there have been minimal to no costs of regulating Lake Talquin under Section 367, F.S. Absent the review of its recent certificate application, there have been no regulatory costs to the Commission caused by Lake Talquin.
16. Lake Talquin paid the applicable filing fee of \$1,000 as required by Section 367.145(2), F.S., and Rule 25-30.020, F.A.C. for the processing of its Certificate filing.
17. Application of Section 367.145, F.S. and Rule 25-30.120, F.A.C. to Lake Talquin would create a substantial hardship for the utility and violate the principles of fairness as defined in Section 120.542(2), F.S. without the concurrent opportunity to automatically increase the existing rates pursuant to Section 367.081(4)(b), F.S.
18. The Commission has previously approved similar request. See Document No. **09777-2017** filed in Docket No. 20170155-WU. This previous request was approved by Order No. PSC-2018-0075-PAA-WU, issued February 12, 2018. In that Order, the Commission stated:

Based on the foregoing analysis and the information provided within the Utility’s petition, we find that Seminole Waterworks has met the requirements of Section 120.542, F.S., and has demonstrated that the purpose of the of the underlying statute will be or has been achieved by other means, because minimal regulation has been required at this point and the Utility has been very cooperative with Commission staff’s requests. Further, the strict application of Rule 25-30.120, F.A.C., would place a substantial hardship on the Utility by requiring the Utility to pay regulatory expenses for which it is not compensated through rates.

See also Document No. **04038-2018** filed in Docket No. 20170253-WU. This request was approved by Order No. PSC-2018-0441-PAA-WU, issued August 29, 2018. As in the previous order, this Order stated:

The purpose of assessing RAFs is to defray the cost of utility regulation. The Utility contends that there have been minimal to no costs of regulating Lake Talquin under Chapter 367, F.S., absent the review of its grandfather application. The Utility also notes that it has paid the applicable filing fee of \$200 as required by Section 367.145(2), F.S., and Rule 25-30.020, F.A.C., for the processing of its grandfather filing. Additionally, the Commission has previously granted a waiver of RAFs for a similarly situated utility prior to its receipt of a grandfather certificate.

Based on the foregoing analysis and the information provided within the Utility’s petition, we find that Lake Talquin has met the requirements of Section 120.542, F.S., and has demonstrated that the purpose of the of the underlying statute will be or has been achieved by other means, because minimal regulation has been required at this point.

19. The same situation applies in this instant case. There is and will be minimal to no costs of regulating Lake Talquin Waterworks under Chapter 367, F.S. absent the review of its application for certificate. Also Okaloosa paid its applicable filing fee to defray the costs of processing its application. Thus, the underlying statute will be or has already been achieved by other means.

WHEREAS, Section 120.542(2), F.S., authorizes the Commission to grant variances or waivers from agency rules where the petitioner subject to the rule has demonstrated that the purpose of the underlying statute will be or has been achieved by other means, and that a strict application of the rule would cause the applicant substantial hardship or would violate the principles of fairness. “Substantial hardship” as defined in this section means demonstrated economic, technological, legal, or other hardship. A violation of the “principles of fairness” occurs when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

WHEREFORE, LAKE TALQUIN WATERWORKS, INC. requests this Commission grant a partial waiver or variance of the provisions of Rule 25-30.120, F.A.C. until such time as Lake Talquin is authorized to increase its rates pursuant to Section 367.081(4)(b), F.S.

Respectfully Submitted,



Troy Rendell
Vice President

Investor Owned Utilities

// for Lake Talquin Waterworks, Inc.