

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for approval of) DOCKET NO. 950354-WU
third extension of emergency) ORDER NO. PSC-95-0845-FOF-WU
water agreement with Town of) ISSUED: July 17, 1995
Marineland in Flagler County by)
Palm Coast Utility Corporation.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER GRANTING REQUEST FOR THIRD
EXTENSION OF EMERGENCY WATER AGREEMENT

BY THE COMMISSION:

Palm Coast Utility Corporation (PCUC or utility) is a Class A utility providing service to 13,491 water customers and 9,138 wastewater customers in Flagler County. According to its December 31, 1993 annual report, its annual revenues were \$5,844,210 for water and \$2,673,211 for wastewater. Annual operating income was \$343,461 for water and \$758,876 for wastewater respectively.

PCUC initially requested our approval to provide emergency water service on March 4, 1992, because the Town of Marineland (Marineland) was experiencing periods of inoperability in providing water service. Pursuant to Section 367.091, Florida Statutes, we approved a new class of service allowing PCUC to provide emergency water for one year to Marineland in Order No. PSC-92-0328-FOF-WU, issued May 11, 1992. By Order No. PSC-93-0792-FOF-WU, issued May 24, 1993, we approved PCUC's request for an extension of this agreement for a second year. Marineland expected to have completed all necessary repairs and improvements before the end of this second period. However, two repair items remained incomplete and there were problems with the switching panel on the generator. All of these repairs have since been completed.

At the end of the agreement period, the utility contacted Marineland to arrange for the payment of service availability impact fees which would make Marineland a permanent customer. However, Marineland questioned the necessity at that time because

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the needed repairs were almost completed. After several contacts between Marineland and the utility, the parties agreed to request an extension of the agreement. We approved that extension by Order No. PSC-94-0638-FOF-WU, issued May 25, 1994.

By letter dated February 16, 1995 to PCUC, Marineland formally requested a third extension of the agreement to February 28, 1996. On March 30, 1995, the utility filed a revised tariff sheet and requested approval to extend this emergency water agreement with Marineland. The utility has waived the 60 day deadline set forth in Section 367.091(5), Florida Statutes.

Pursuant to Section 367.091(4), Florida Statutes, we may approve a new class of service upon request by the utility. The necessary repairs and improvements expected to be completed by Marineland by the end of the second extension period have been completed. Therefore, while PCUC's current request is premised upon the continuation of emergency service, a change of circumstances has actually occurred. This agreement is based on Marineland's need for service during any emergency shutdown of its water plant due to equipment failure, planned maintenance of permeators and pumps, and during any clearwell or piping repairs. The agreement on PCUC's behalf, is based on its excess capacity and design flow of its water treatment plants, which is 7.2 million gallons per day (mgd). Peak usage for calendar year 1994 was 4.9 mgd. The average monthly usage for calendar year 1994 by Marineland was 12,300 gallons, or 413 gallons per day. Peak monthly usage in that period for Marineland was 63,900 gallons. Based on the average usage of Marineland, PCUC is able and willing to provide the needed water for this customer.

While PCUC has requested an extension of the emergency water service agreement, the request is actually a modification of the prior situation. Our staff inquired as to the feasibility of the emergency water agreement between PCUC and the town of Marineland becoming permanent. The utility advised our staff that Marineland has indicated an interest to discuss a partnership arrangement with PCUC for water and wastewater services. While discussions are continuing, the utility would prefer to have this emergency agreement in place until February 1996, by which time a decision regarding a more permanent arrangement will have been made.

Based on the progression of the negotiations regarding the agreement, we find it appropriate to approve PCUC's request for a third extension of the emergency water agreement with Marineland. The tariff shall become effective in accordance with Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance of this Order, the tariff shall remain in

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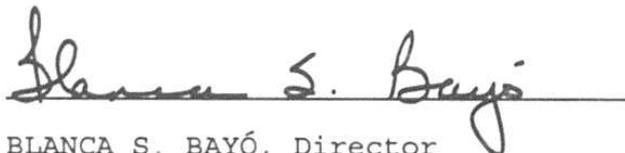
effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the request for extension of the emergency water agreement with the Town of Marineland filed by Palm Coast Utility Corporation is hereby approved. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person by the expiration of the protest period.

By ORDER of the Florida Public Service Commission, this 17th day of July, 1995.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 7, 1995.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this Order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.