

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Lake County by Raintree Utilities, Inc.

DOCKET NO. 070627-WU
ORDER NO. PSC-07-0981-PCO-WU
ISSUED: December 10, 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 GRANTING TEMPORARY SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

BACKGROUND

Raintree Utilities, Inc. (Raintree or utility) is a class C water utility providing service to approximately 119 customers in Lake County. The utility is located in the Raintree Harbor and Bentwood subdivisions. Wastewater service is provided through septic tanks. According to Raintree's 2006 Annual Report, the utility reported operating revenues of \$45,950 and a net operating income (loss) of \$600.

On September 8, 1987, we issued Order No. 18131 granting Raintree an exemption from our jurisdiction pursuant to Section 367.022(6), Florida Statutes. Section 367.022(6), Florida Statutes, exempts those systems with the capacity or proposed capacity to serve 100 or fewer persons. We found Raintree exempt based upon the initial 29 lot subdivision and associated capacity of the water plant. Raintree began operation in January 1988 and implemented rates and charges in January 1990.

On July 18, 1991, Raintree advised us that it was in the process of expanding the distribution system to serve 119 lots and had received Lake County's approval for the second phase of the development. The utility further advised that it was preparing to file an application with us for an original certificate.

On October 10, 1991, Raintree filed its application for a water certificate. We granted Water Certificate 539-W to the utility in Order No. PSC-92-0019-FOF-WU, issued March 10,

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1992.¹ The utility did not have a rate base established at this time and operated under the same rates that were established in Order No. PSC-92-0019-FOF-WU.

On April 28, 2000, we issued Order No. PSC-00-0843-FOF-WU, approving the transfer of majority organizational control from Mr. Donn Monn to Mr. Keith J. Shamrock. Rate base was not established because the sale was accomplished by the transfer of stock.

On June 29, 2005, we issued Order No. PSC-05-0706-PAA-WU, which amended the utility's certificate to include the additional territory of Bentwood. In addition, we also approved an \$800 plant capacity charge and a meter installation charge of \$125.

On September 27, 2007, Raintree filed an application for a staff assisted rate case. This is the utility's first staff assisted rate case. In its application, the utility requested authority to increase its plant capacity charge from \$800 to \$2,900 on a temporary basis, pending the determination of final rates and charges in this proceeding. As Raintree Harbor is built out, the proposed plant charges shall only apply to Bentwood and future developments.

This Order addresses Raintree's request for authority to collect revised plant capacity charges on a temporary basis. We grant the request for the reasons explained below. We have jurisdiction pursuant to Sections 367.011, 367.0814, 367.101, and 367.121, Florida Statutes.

INTERIM PLANT CAPACITY CHARGES

Currently, Raintree has an authorized residential plant capacity charge of \$800 per equivalent residential connection (ERC). On September 27, 2007, the utility filed its application for a staff assisted rate case which included a request for increased plant capacity charges. Raintree requested a residential plant capacity charge of \$2,900 per ERC.

Section 367.011(2), Florida Statutes, gives us exclusive jurisdiction over each utility with respect to its authority, service, and rates. Section 367.081(1), Florida Statutes, provides that, except for pass-through and index rate adjustments, a utility may only charge Commission approved rates and charges. Section 367.101(1), Florida Statutes, states:

The commission shall set just and reasonable charges and conditions for service availability. The commission by rule may set standards for and levels of service-availability charges and service-availability conditions. Such charges and conditions shall be just and reasonable. The commission shall, upon request or upon its own motion, investigate agreements or proposals for charges and conditions for service availability.

Section 367.121(1)(g), Florida Statutes, provides that, in the exercise of our jurisdiction, we shall have power to do all things necessary or convenient to the full and complete exercise of our jurisdiction.

¹ See Order No. PSC-92-0019-FOF-WU, issued March 10, 1992, in Docket No. 911039-WU, In re: Application for Raintree Utilities, Inc. for a water certificate in Lake County, Florida.

We have approved temporary service availability charges in several previous cases.² The Florida Supreme Court has also affirmed our authority and discretion to determine, on a case by case basis, what evidence we will consider in fixing interim rates. See Citizens of Florida v. Public Service Commission, 425 So. 2d 534, 540 (Fla. 1982), and Citizens of Fla. v. Public Service Commission, 435 So. 2d 784, 786 (Fla. 1983) ("Interim awards attempt to make a utility whole during the pendency of a proceeding without the interjection of any opinion testimony").

Rule 25-30.580, Florida Administrative Code, establishes guidelines for designing a utility's service availability policy as follows:

- (1) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75 percent of the total original cost, net accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their capacity; and
- (2) The minimum amount of contribution-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

Raintree provided a detailed cost breakdown of the direct construction and engineering costs for the new water plant that was built for the Bentwood development, which totaled \$639,412. Raintree indicated its requested plant capacity charge would result in a 75 percent contribution level at build out. This contribution-in-aid-of-construction (CIAC) level meets the guidelines pursuant to Rule 25-30.580, Florida Administrative Code. The information provided by the utility indicates a prima facie entitlement for Raintree's requested temporary plant capacity charges. We find that the incremental temporary increase in plant capacity charge shall be held subject to refund. Thus, developers and others paying plant capacity charges will be protected if the utility is later required by us to refund any portion of the incremental temporary increase.

Based on the above, we approve the utility's request for collection of the temporary wastewater plant capacity charges of \$2,900 per ERC. The incremental increase shall be held subject to refund in the event further analyses indicate a need to subsequently reduce these charges.

² See Order No. PSC-07-0327-PCO-SU, issued April 16, 2007, in Docket No. 060285-SU, In re: Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven; Order No. 20822, issued February 28, 1989, in Docket No. 880654-SU, In re: Application of Radnor/Plantation Utilities for increase in sewer rates in Martin County.; Order No. 23195, issued July 16, 1990, in Docket No. 900402-WS, In re: Application for approval of new service availability policy in Seminole County by Alafaya Palm Valley Associates, Ltd.; Order No. PSC-96-0043-FOF-SU, issued January 11, 1996, in Docket No. 951311-SU, In Re: Application for approval of increase in wastewater plant capacity charges in Brevard County by Florida Cities Water Company. (Barefoot Bay Division).; and Order No. PSC-00-1285-FOF-WS, issued July 14, 2000, in Docket No. 960545-WS, In re: Investigation of utility rates of Aloha Utilities, Inc. in Pasco County.

ESCROW ACCOUNT

We order that Raintree enter into an escrow agreement to guarantee the amount of plant capacity charges collected subject to refund. An escrow account shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. The Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following: the account is established at the direction of this Commission for the purpose set forth above, no withdrawals of funds shall occur without the prior approval of the Commission through the Office of the Commission Clerk, the account shall be interest bearing, information concerning that escrow account shall be available from the institution to the Commission or its representative at all times, the amount of plant capacity charges collected subject to refund shall be deposited in the escrow account within seven days of receipt.

In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The cost are the responsibility of, and should be borne by, the utility. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating the monthly and total amount collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the requested interim plant capacity charge is hereby granted, as set forth in the body of this Order. It is further

ORDERED that the incremental temporary plant capacity charges shall be held subject to refund. It is further

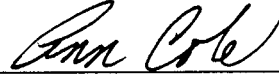
ORDERED that Raintree Utilities, Inc. shall enter into an escrow agreement, as set forth in the body of this Order, to guarantee the amount of plant capacity charges collected subject to a refund. It is further

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

ORDERED that pursuant to Rule 25-30.360, Florida Administrative Code, Raintree Utilities, Inc. shall provide a report by the 20th day of each month indicating the monthly and total amount collected subject to refund. It is further

ORDERED that this docket shall remain open pending our final action in Raintree Utilities, Inc.'s requested rate increase.

By ORDER of the Florida Public Service Commission this 10th day of December, 2007.



ANN COLE
Commission Clerk

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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.