

FLORIDA PUBLIC SERVICE COMMISSION  
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M E M O R A N D U M

MAY 30, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (GILCHRIST)  
DIVISION OF LEGAL SERVICES (AGARWAL)

RE: DOCKET NO. 960540-WS - J & J WATER AND SEWER CORPORATION  
- REQUEST FOR ESTABLISHMENT OF PAYMENT PLAN FOR 1994 AND  
1995 REGULATORY ASSESSMENT FEES  
COUNTY: CITRUS

AGENDA: JUNE 11, 1996 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\WAW\WP\960540.RCM

CASE BACKGROUND

J & J Water and Sewer Corporation (J & J or utility) is a Class "C" utility providing water and wastewater services to approximately 51 residential customers in Citrus County. On August 29, 1995, a Notice of Abandonment was filed with the Commission. On December 27, 1995, the Abandonment was stayed and on January 24, 1996, an application to transfer J & J to Meadows Utility Company, Inc., was filed with the Commission. The transfer application is being handled in Docket No. 951026-WS. Staff anticipates taking a recommendation regarding Docket No. 951026-WS to the September 3, 1996 Agenda Conference. Although Mr. Paul LaFond, the present owner of the utility, did not purchase the utility until November, 1995, a statement submitted with the transfer application indicates that he is accepting the responsibility of any outstanding RAFs, fines, or refunds owed by the utility. By correspondence dated April 17, 1996, Mr. LaFond requested a payment plan for the amounts owed for delinquent 1994 and 1995 regulatory assessment fees (RAFs). Mr. LaFond requested that he be given the maximum amount of time to pay off the debt. The purpose of this recommendation is to address the utility's request.

Based on the information in its 1993 annual report (the last annual report filed with the Commission), the utility reported gross operating revenues of \$8,474 for both water and wastewater, respectively. The previous owner of the utility failed to file an

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annual report for 1994 and Mr. LaFond has indicated that he does not have the data available to file an annual report for the period prior to when he became owner of the utility (Jan through November, 1995), therefore, revenues for 1994 and 1995 have been estimated by staff. In projecting revenues for 1994 and 1995, the revenues of 1993 were indexed forward using the price index inflation factors for 1994 and 1995. As a result, the utility owes RAFs of \$782.18, plus penalty and interest of \$359.79, for a total amount of \$1,141.97 for 1994. For 1995, the utility owes RAFs of \$797.44, plus penalty and interest of \$263.15, for a total amount of \$1,060.59.

DISCUSSION OF ISSUES

**ISSUE 1:** Should J & J be permitted to pay its 1994 and 1995 regulatory assessment fees in accordance with a payment schedule?

**RECOMMENDATION:** Yes. The utility should be ordered to pay regulatory assessment fees for 1994 and 1995 (including penalty and interest) by March 31, 1997, at a minimum of \$244.73 per month until all fees for 1994 and 1995 have been paid. The first payment should be due on July 10, 1996, and subsequent payments should be made by the 10th of each month. The Commission's approval of this payment schedule would be subject to the final approval of the Department of Banking and Finance. Furthermore, the Commission should place the utility on notice that if 1996 regulatory assessment fees are not paid by the due date of March 31, 1997, a proceeding will be initiated to require the utility to place 4.5% of the total monthly service revenues billed by the utility into an interest bearing escrow account. (GILCHRIST)

**STAFF ANALYSIS:** Section 350.113 (5), Florida Statutes, provides that the Commission, "for good cause shown by written request, may extend for a period not to exceed 30 days the time for paying any fee ...." Rule 25-30.120 (1), Florida Administrative Code, requires utilities to pay a regulatory assessment fee in the amount of four and one-half per cent of gross revenues for the entire year. Rule 25-30.120 (2) (a), Florida Administrative Code, provides that "[r]egulatory assessment fees shall be filed ... on or before March 31 for the preceding year ended December 31." Rule 25-30.120 (2) (b), Florida Administrative Code, provides that "[e]ach utility shall have up to and including the due date in which to: 1. remit the total amount of its fee, or 2. Remit an amount which the utility estimates is its full fee, or 3. Seek and receive from the Division of Administration a 30-day extension of its due date ...." If a utility fails to timely pay the regulatory assessment fee as provided in Rule 25-30.120 (2) (b), Florida Administrative Code, a penalty shall be assessed and interest charged, as provided in Section 350.113 (4), Florida Statutes, and Rule 25-30.120 (5), Florida Administrative Code.

On April 17, 1996, staff received a letter from Mr. LaFond explaining the necessity of a payment plan. Mr. LaFond stated in his letter that the utility was practically abandoned when he purchased it in November, 1995 and that he was unaware that RAFs for 1994 had not been paid by the previous owner. Also, Mr. LaFond stated that the utility has not had a rate increase for several years and that the utility has a desperate cash flow problem. The utility's 1993 Annual Report indicates that the utility has been

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operating at a loss. Also, it should be noted that the utility's existing rates include only a 2.5% allowance for RAFs and the last rate increase for J & J occurred in 1987 as a result of a price index rate adjustment. Mr. LaFond has filed an application for a staff assisted rate case.

As previously mentioned, in projecting revenues for 1994 and 1995, the revenues of 1993 were indexed forward using the price index inflation factors for 1994 and 1995. As a result, the utility owes RAFs of \$782.18, plus penalty and interest of \$359.79, for a total amount of \$1,141.97 for 1994. For 1995, the utility owes RAFs of \$797.44, plus penalty and interest of \$263.15, for a total amount of \$1,060.59. Staff believes, and Mr. LaFond agrees that a monthly payment of \$244.73 would be reasonable. At the rate of \$244.73 per month, RAFs for 1994 and 1995, including penalty and interest shall be paid off before RAFs for 1996 are due (March 31, 1997).

Based on the above discussion, staff recommends that the utility be allowed to pay its 1994 and 1995 RAFs, including penalty and interest, by March 31, 1997, at a minimum of \$244.73 per month until all fees for 1994 and 1995 have been paid. The first payment shall be due on July 10, 1996, and subsequent payments shall be made by the 10th of each month. The Commission's approval of a payment plan for 1994 and 1995 RAFs is subject to the final approval of the Department of Banking and Finance. The Commission has approved requests for payment plans to pay delinquent RAFs in Dockets Nos. 940974-WU, 940982-WS, 951244-WS, 951585-WU, and 960219-WS, Orders Nos. PSC-94-1463-FOF-WU, PSC-94-1464-FOF-WU, PSC-95-1514-FOF-WS, PSC-96-0282-FOF-WU, and PSC-96-0580-FOF-WS, respectively.

The Commission should place the utility on notice that if 1996 RAFs are not paid by the due date of March 31, 1997, a proceeding will be initiated to require the utility to place 4.5% of the total monthly service revenues billed by the utility into an interest bearing escrow account .

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ISSUE 2: Should the docket be closed?

RECOMMENDATION: Yes. (AGARWAL)

STAFF ANALYSIS: The first payment for delinquent 1994 and 1995 RAFs is due on July 10, 1996 and subsequent payments shall be due by the 10th of each month. No further action is required in this docket, therefore, this docket should be closed.