

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by  
Tradewinds Utilities, Inc. for  
approval of a new class of  
service for wastewater-only flat  
rates in Marion County.

DOCKET NO. 981825-SU  
ORDER NO. PSC-99-0382-FOF-SU  
ISSUED: February 23, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

ORDER APPROVING TEMPORARY RATES, SUBJECT TO REFUND,  
FOR NEW CLASS OF SERVICE TO  
PROVIDE WASTEWATER TO GENERAL SERVICE CUSTOMERS

BY THE COMMISSION:

BACKGROUND

Tradewinds Utilities, Inc. (Tradewinds or utility) is a Class C water and wastewater utility located in Marion County. According to the utility's 1997 annual report, the utility provides water services to approximately 421 customers and wastewater service to approximately 257 customers. In its 1997 annual report, the utility reported water revenues in the amount of \$84,259 and wastewater revenues in the amount of \$132,456 with expenses of \$78,286 for water and \$120,302 for wastewater, resulting in net operating income of \$5,973 and \$12,154 respectively. The utility's service area is located in the St. John's River Water Management District. (SJRWMD)

In Order No. PSC-98-0484-FOF-WS issued April 6, 1998, the Commission amended the utility's certificated territory to include additional territory in Marion County.

On November 6, 1998, we received a complaint from a customer representative, that Tradewinds recently installed a private

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water/sewer system and mandated all owners of property be required to connect to this system. The representative stated that the utility neither notified customers prior to the installation nor provided any opportunity for customers to reject the proposal. We responded to the customers' complaint on November 24, 1998, and explained that the Commission recently authorized the utility to serve the area in which the customer lived in. Pursuant to Section 367.045, Florida Statutes, the utility was required to file an application with the Commission to have its certificate amended to include additional territory. We noted that Tradewinds had to submit proof to the Commission that it provided customers with notice to serve this additional territory. The notice was published in the Starr-Banner Newspaper on January 28, 1998, and no protest was filed within the 30-day protest period set forth in Rule 25-30.031, Florida Administrative Code. Finally, the customer was urged to contact the Marion County Health Department for further information.

On December 3, 1998, Tradewinds Utilities, Inc., contacted us about filing a proposal requesting approval for flat rates for a new class of service. On December 8, 1998, the utility filed this proposal requesting that we grant the approval of flat rates for a new class of service, pursuant to Section 367.091(4), Florida Statutes. In support of its request, and in accordance with Rule 25-9.005 (4), Florida Administrative Code, and Section 367.091(4), Florida Statutes, the utility provided: a statement of purpose for the new service, the estimated revenues that will be derived from the new service, the estimated number of customers to be served, and cost justification for the proposed rates and charges. The new class of service includes the amended certificated territory approved in Order No. PSC-98-0484-FOF-WS issued April 6, 1998. The utility proposed to serve an additional 32 equivalent residential connections (ERCs) consisting of an estimated 26 quadraplexes, and 6 light industrial buildings with one or two bathrooms.

The additional territory includes customers requesting water and wastewater services, and customers requesting wastewater-only services. On January 14, 1999 in a telephone conversation, the utility's president stated that sixteen (16) of the customers requesting water and wastewater were connected. These customers who requested water and wastewater services are on metered rates. On the other hand, the customers who requested wastewater-only services were not connected. The following analysis will summarize customers requesting wastewater only services.

APPROVING TEMPORARY RATES

As stated in Order No. PSC-98-0484-FOF-WS, issued April 6, 1998, the utility's certificated territory was amended to include additional territory in Marion County. As a result of the Order, Tradewinds currently provides service to residents in the additional territory area. Pursuant to Section 367.091(4), Florida Statutes, a "utility may furnish the new class of service and charge just, reasonable, compensatory rates or charges therefor. A schedule of rates or charges so fixed shall be filed with the Commission within 10 days after the service is furnished."

Residents in this additional territory currently have private wells and septic tanks. However, there have been considerable problems with contaminated wells and septic tanks in the area. The utility stated in its application that the Marion County Health Department had requested Tradewinds to extend its territory in this area for quite a few years. The utility also stated that some customers in the new territory do not wish to accept water service from the utility. Therefore, those customers that are not metered by the utility for water cannot be charged the Commission-approved base facility and gallonage charge for wastewater.

On December 8, 1998, Tradewinds submitted an application requesting the Commission's approval of a flat rate for unmetered wastewater customers residing in the utility's amended territory. In support of its application, and in accordance with Rule 25-9.005(4), Florida Administrative Code, the utility provided a statement of the purpose and reason for the new service. The purpose is explained as follows:

1. Tradewinds Utilities, Inc. has submitted and has been approved for an extension to serve this commercial subdivision area of 26 quadraplexes, and 6 light industrial buildings with one or two bathrooms.
2. The additional territory has had considerable problems with contaminated wells and septic tanks.
3. The Marion County Health Department has been asking Tradewinds to extend its territory to this area for quite a few years.

4. The utility has received funding from a local financial institution for the amount of \$280,000 for the wastewater extension.

Pursuant to Rule 25-9.005(4), Florida Administrative Code, the utility provided the estimated annual revenues to be derived from the new service, and the estimated number of customers to be served. The utility indicated that the commercial subdivision currently has 26 quadraplexes and 6 light industrial buildings. The utility consulted with an engineer to determine the appropriate meter size for the unmetered wastewater customers. The engineer suggested: a 2-inch meter for the 26 quadraplexes, and a 1-inch meter for the 6 light buildings. This was done to accurately include the appropriate base facility charge for 2-inch meter of \$142.48, and 1-inch meter of \$44.53 in the proposed flat rate. Based on the rates in the utility's existing tariff, the total annual revenues derived from the 26 quadraplexes are estimated at \$81,604, and the total annual revenues derived from the 6 light industrial buildings are estimated at \$4,244. The total annual revenues derived from the quadraplexes and light buildings will be \$85,848. The above estimate is based on the average usage of similar customers to determine the cost per gallon of wastewater treatment. The average usage was multiplied times the existing \$6.01 per 1,000 gallons rate. The appropriate rates for the utility's proposed wastewater rates for a new class of service are as follows:

<u>DESCRIPTION</u>	<u>TEMPORARY RATES</u>
6 Industrial Buildings	\$ 58.95
26 Quadraplexes	261.55

Based on Tradewind's existing rates in its tariff, the calculated annual revenues that were submitted to the Commission, are mathematically correct.

Pursuant to Section 367.091(4), Florida Statutes, Tradewinds submitted the following as cost justification for the flat rates requested in its filing:

1. Tradewinds consulted with an engineer and the engineer suggested the following design which has been accepted by DEP: for the 26 quadraplexes a 2 inch Meter Size, and for the 6 light buildings a 1 inch Meter Size.

2. Tradewinds proposed the rate of \$261.55 for the quadraplexes, and proposed the rate of \$58.95 for the light buildings. These rates are based on an analysis using the Residential Usage of Tradewinds Village for the last 12 months.
3. In consideration of the above information, Tradewinds indicates that the rates proposed are fair, just, reasonable, and compensatory under Section 367.091, Florida Statutes.

As stated in the background, the utility reported in its 1997 annual report wastewater revenues of \$132,456. Assuming that the quadraplexes and light buildings generate \$85,848 additional revenues, staff has concerns that the additional revenue will cause the utility's overall rate of return to exceed its limitations. However, we need additional information from the utility to determine the accuracy of the proposed rates and the effect of the additional revenue on the utility's earnings posture. The utility has indicated that it has not begun serving these wastewater only customers yet. Therefore, these rates are hereby approved on a temporary basis, subject to refund, pending further investigation. This Order is consistent with Order No. PSC-98-0971-FOF-WU issued on July 16, 1998, in Docket No. 980616-WU.

On January 19, 1999, the utility submitted Original Tariff Sheet No. 16.1, which contained its requested rates for quadraplexes and light buildings. Once our staff has verified that this tariff sheet is consistent with our vote, staff shall approve this tariff in accordance with Rule 25-30.475, Florida Administrative Code. Therefore, our staff shall be given administrative authority to approve this tariff sheet upon such verification. The Original Tariff Sheet No. 16.1 shall be implemented on or after the stamped approval date of the tariff sheet pursuant to Rule 25-30.475, Florida Administrative Code, provided customers have received notice. The utility shall provide proof that the customers have received notice within 10 days after the date of the notice.

#### SECURITY TO GUARANTEE REVENUES

The utility shall be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of wastewater flat rate revenues collected subject to refund. Pursuant to Rule 25-30.360(6), Florida Administrative

Code, the utility shall provide a report by the 20th of each month indicating the monthly revenues collected subject to refund.

We hereby authorize the utility to collect the temporary rates upon our approval of security for both the potential refund and a copy of the proposed customer notice. The security shall be in the form of a bond or letter of credit in the amount of \$57,232. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

1. The Commission approves the rates; or
2. If the Commission denies the rates, the utility shall refund the amount collected that is attributable to the rates.

If the utility chooses a letter of credit as a security, it shall contain the following conditions:

1. The letter of credit is irrevocable for the period it is in effect.
2. The letter of credit will be in effect until final Commission order is rendered, either approving or denying the rate.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

1. No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission.
2. The escrow account shall be an interest bearing account.
3. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
4. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

5. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
6. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
7. This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So.2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
8. The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance shall any associated costs with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. Whichever form of security chosen by the utility, an account of all monies received as result of the temporary approval of rates, shall be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

The utility shall maintain a record of the amount of the security, and the amount of revenues that are subject to refund. In addition, the utility shall file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected under these rates.

The docket shall remain open so our staff can obtain additional information to perform the needed investigation. If a protest is filed within 21 days of the issuance of the Order, the tariff sheets shall remain in effect, subject to refund, pending resolution of the protest. If no timely protest is filed, this docket shall remain open. If a protest is filed within 21 days of issuance of the Order, the tariff sheet shall remain in effect, with monies collected held subject to refund, pending resolution of the protest. If no substantially affected person files a protest of the tariff filing within the 21 day protest period, then the docket shall remain open.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tradewinds Utilities, Inc., implementation of flat wastewater rates for general service customer are hereby approved on a temporary basis, subject to refund, pending further investigation by staff. It is further

ORDERED that our staff shall be given administrative authority to approve Original Tariff Sheet 16.1 consistent with our vote. It is further

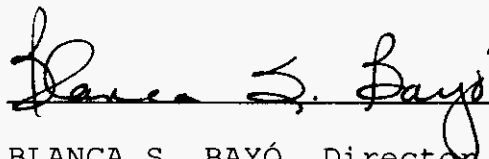
ORDERED that the new class of service tariff shall become effective upon on or after the stamped approval date on the revised tariff sheets, provided customers have received notice. It is further

ORDERED that Tradewinds Utilities, Inc., shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that if a protest is filed within 21 days of issuance of this Order, the tariff sheet shall remain in effect, with monies collected held subject to refund, pending resolution of the protest. It is further

ORDERED that if no protest is filed, the docket shall remain open pending further analysis by staff.

By ORDER of the Florida Public Service Commission this 23rd day of February, 1999.



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 120.569(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.

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 proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, 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 March 16, 1999.

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.