

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for water ) DOCKET NO. 920650-WS  
and wastewater certificates in) ORDER NO. PSC-92-1374-FOF-WS  
Palm Beach County by W.P. ) ISSUED: 11/30/92  
UTILITIES, INC. )  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

FINAL ORDER GRANTING WATER AND WASTEWATER CERTIFICATES  
AND  
ORDER APPROVING TARIFF ESTABLISHING RATES AND CHARGES

BY THE COMMISSION:

BACKGROUND

W. P. Utilities, Inc. (W.P.) is an existing water and wastewater utility in Palm Beach County currently serving and charging 189 customers as an exempt utility in accordance with Section 367.022(8), Florida Statutes, the reseller exemption. The Commission granted the utility exempt status by issuance of Order No. 23412. W.P. began providing on-site water distribution and wastewater collection services to the Palm Breezes Club Mobile Home Park (Palm Breezes) in January 1987. The utility purchases bulk potable water and wastewater treatment and disposal services from the City of Lake Worth.

Palm Breezes was developed by Homeland Development Corporation (Homeland) which is wholly owned by Roger E. Medema. W.P. is also wholly owned by Roger E. Medema. Homeland constructed the mobile home park, including the water and wastewater facilities. Homeland also participated in the construction of the off-site facilities which were required by the City of Lake Worth to bring service to the park and other nearby areas. W.P. was formed for the purpose of operating, administering, and maintaining the on-site water and wastewater utility facilities at Palm Breezes. W.P. will not construct on-site water sources and treatment facilities or wastewater treatment and disposal facilities.

In order to qualify for exempt status pursuant to Section 367.022(8), F.S., a utility must resell water and/or wastewater service at a rate which recovers only the actual purchase price it

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is charged by the provider, in this case the City of Lake Worth. The exempt status does not authorize the recovery of the costs of administration, meter setting, meter reading, customer accounting, maintenance of the distribution and collection systems or any of the costs associated with the utility's investment in facilities used to provide service. In accordance with Sections 367.031 and 367.045, Florida Statutes, and Rule 25-30.033, Florida Administrative Code, W. P. Utilities, Inc., is requesting certificates of authorization to provide water and wastewater service so that it may charge rates to cover these costs.

W.P.'s application for certificates to provide water and wastewater service in Palm Beach County was filed on June 24, 1992. On July 15, 1992, the applicant was informed by letter that the application was deficient in that an improper legal territory description was submitted. On August 6, 1992, the corrected legal description was received and the official filing date was established as that date.

After this filing, we received three objections to the request for an increase in the rates and charges. Specifically, the objections were received from Mr. Walter Nesel, Mr. Ronald J. Kertes, and Mr. Harold Mackness. Based on several conversations with the customers who sent the objections, it was determined that the letters were not intended to object to the application for original certificates, but were in direct opposition to the proposed rates.

On October 13, 1992, a customer meeting was held in Lantana, Florida, regarding the application for original certificates and the proposed rates. Although a customer meeting is not usually held in the case of applications for original certificates, in this case the proposed increase in rates and charges warranted such. There were approximately 103 people in attendance, including a representative of W.P. Thirteen customers of the utility made sworn presentations in opposition to the proposed increase in rates. Several customers expressed concerns regarding an alleged refund for the period 1987 through 1990. Our Staff has analyzed the exemption docket file, Docket No. 900682-WS, as well as Order No. 23412. Their findings indicate that no such refund was warranted in that there were no overcharges for that period.

#### APPLICATION

W.P.'s application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original

certificates and initial rates and charges. The application contains \$300.00, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.030(1)(l),(m), and (n), Florida Administrative Code. A description of the territory requested by the applicant is attached hereto as Attachment A.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. As discussed earlier, there were three letters received, but it was determined that these were intended as objections to the proposed rates, not the certificate application.

The applicant is already operating and charging for water and wastewater service as an exempt entity. The utility installs water meters at each lot, maintains the lines and meters, is responsible for additions and replacements, reads meters and bills each occupied lot, and performs other administrative functions as required. W.P. has operated, maintained, and administered the utility since its inception in 1987. Since the utility provides on-site distribution and collection service only, there are no other utilities in the area in a position to provide such service as an alternative.

Our review of Mr. Roger E. Medema's personal statements indicates that sufficient financial and economic resources exist to continue to successfully operate the system as well as provide any necessary infusion of capital or operating funds, should the need arise. Subsequently, the applicant has provided a signed statement from Mr. Medema indicating that he has provided, and will continue to provide, resources such that the utility can continue to provide utility services within the requirements of Chapter 367, Florida Statutes.

The applicant has stated that if it is to maintain its financial ability to render reasonably sufficient, adequate and efficient service, it must be in the position to recover at least some portion of its cost of service, beyond the purchase price it is charged by the City of Lake Worth. The applicant further believes that it can do that if it is granted a certificate and the authority to charge compensatory rates.

Based on the above information, we believe that it is in the public interest to allow the utility the means of sustaining its

financial integrity so that it can continue to serve its customers without any interruption. The utility consists of two systems, Palm Breezes Water Distribution System and Palm Breezes Wastewater Collection System. Accordingly, we hereby grant W. P. Utilities, Inc., Water Certificate No. 548-W and Wastewater Certificate No. 478-S to serve the territory described in Attachment A.

CURRENT RATES AND CHARGES WITH INCREASE FOR  
REGULATORY ASSESSMENT FEES APPROVED

Normally, in original certificate cases, we establish rates based on projected, unaudited figures and we do not establish rate base. However, in this case, W. P. Utilities is a utility in existence, which reached 80% of its capacity in the calendar year 1991. Therefore, we believe that it is appropriate to establish the utility's rate base and the final rates and charges once our Staff has completed an audit of the utility's books and records. After we receive the audit report and have had an opportunity to analyze the report and other information we have gathered, we will establish the utility's rate base and final rates and charges.

At our Agenda Conference on November 3, 1992, the utility stated that it wished to increase its rates to permit it to recover the regulatory assessment fees that it will be liable for as soon as it is certificated. Although we will address the permanent rates and charges for W.P. at a later time, we hereby authorize the utility to continue to charge its current reseller rates increased by only that amount that will allow it to recover its regulatory assessment fee liability. We hereby direct the utility to file a tariff reflecting its current rates and charges with the increase for the regulatory assessment fee liability and a proposed customer notice explaining the reason for the increase. The tariff will be approved by our Staff upon its determination that the tariff reflects our decision herein and that the proposed customer notice is appropriate. The notice shall be sent to all of the utility's customers prior to the implementation of the rate increase.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that W. P. Utilities is hereby granted Water Certificate No. 548-W and Wastewater Certificate No. 478-S to serve the territory described in Attachment A. It is further

ORDERED that W. P. Utilities shall file a tariff reflecting its current rates and charges increased by that amount that will allow it to recover the regulatory assessment fees that it will be

liable for upon its certification as a utility. It is further

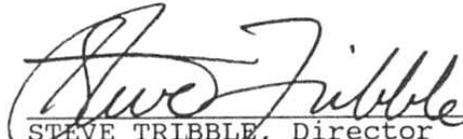
ORDERED that W. P. Utilities shall submit a proposed customer notice setting forth its current rates and charges with the increase related to the regulatory assessment fees, with an explanation for the increase. This proposed notice shall be sent to all of the utility's customers upon approval by our Staff. It is further

ORDERED that W. P. Utilities shall not implement the increase in rates and charges for its regulatory assessment fee liability, which is approved herein, until its tariff is approved by our Staff as consistent with our decision herein and its customer notice is approved by our Staff. It is further

ORDERED that if a protest is filed to the tariff in accordance with the requirement set forth below, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that this Docket shall remain open pending the final determination of rates and charges.

By ORDER of the Florida Public Service Commission this 30th day of November, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

NOTE: Commissioner Betty Easley dissented in the decision to approve the increase in rates and charges for the utility's regulatory assessment fee liability.

SFS

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 approving the utility's tariff filing reflecting its current rates and charges with an increase for its regulatory assessment fee liability 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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 21, 1992.

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.

Any party adversely affected by the Commission's final action granting W. P. Utilities water and wastewater certificates may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and

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Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 sewer 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

WP UTILITIES, INC.

TERRITORY DESCRIPTION

The territory to be served is generally referred to as the Palm Breezes Club Mobile Home Park, consists of approximately 42.6 acres, and is more particularly described as follows:

Commencing at a point 40 feet South of and 31.85 feet N  $89^{\circ}56'20''$  W of the North quarter corner of Section 6, Township 45 South, Range 43 East; said point being the POINT OF BEGINNING of the following described territory:

Thence due South for a distance of 1,090 feet to the beginning of a curve concave to the north having a radius of 575.42 feet and a central angle of  $15^{\circ}43'52''$ ;

Thence northwesterly along the arc of said curve, a distance of 157.98 feet;

Thence southwesterly along the arc of a curve concave to the northwest having a radius of 1,255 feet and a central angle of  $11^{\circ}01'59''$ , for a distance of 241.67 feet;

Thence South  $14^{\circ}04'10''$  west a distance of 20.62 feet to the beginning of a curve concave to the southwest having a radius of 440.35 feet and a central angle of  $32^{\circ}51'20''$ ;

Thence southerly along the arc of said curve a distance of 252.52 feet to the point of tangency of said curve;

Thence south 155.89 feet to the point of tangency of a reverse curve having a radius of 40 feet and a central angle of  $36^{\circ}52'12''$ ;

Thence 25.74 feet along the arc of that curve to the point of reverse curvature;

Thence south and westerly along the curve having a radius of 160 feet and a central angle of  $126^{\circ}52'12''$ , for a distance of 354.28 feet to the point of tangency of said curve;

Thence East, a distance of 150 feet;

Thence South, a distance of 311.07 feet;

Thence West, a distance of 350 feet to the point of tangency of a curve concave to the southwest, having a radius of 50 feet and a central angle of  $90^{\circ}$ ;

Thence easterly and southerly along the arc of the curve a distance of 78.54 feet to the point of tangency of the curve;

Thence South, a distance of 581.87 feet, to a point in the northerly right-of-way line of L.W.D.D. Canal No. L-17;

Thence North  $67^{\circ}28' 30''$  East, along said northerly right-of-way line, a distance of 108.26 feet;

Thence North, a distance of 1,272 feet;

Thence East at right angles to the preceding course for a distance of 865.00 feet;

Thence North for a distance of 100 feet;

Thence South  $57^{\circ} 00' 00''$  East 205 feet to a point on a curve, said curve being concave to the southeast and having a radius of 413.50 feet and a central angle of  $42^{\circ} 56' 54''$ ;

Thence northeasterly along the arc of said curve, a distance of 309.96 feet to the point of tangency of said curve;

Thence North  $73^{\circ} 00' 00''$  East, a distance of 140 feet;

Thence North  $63^{\circ} 00' 00''$  East, a distance of 170 feet;

Thence North  $44^{\circ} 00' 00''$  East 88.91 feet to a point on a curve and the Westerly right-of-way line of Congress Avenue as now established, said curve being concave to the northeast and having a radius of 1960.08 feet and a central angle of  $04^{\circ}24' 57''$ ;

Thence Northwesterly along the arc of said curve and the Westerly right-of-way of said Congress Avenue, 151.06 feet to a point;

Thence South  $47^{\circ} 30' 28''$  West, a distance of 330 feet;

Thence West 193.13 feet to a point on a curve, said curve having a radius of 2442 feet and a central angle of  $05^{\circ} 59' 27''$ ;

Thence Northwesterly along the arc of said curve 255.33 feet;

Thence Northwesterly along the arc of said curve, having a radius of 2,442 feet, and a central angle of  $1^{\circ}32'30''$ , said curve being concave to the Northeast and parallel with the Westerly Right-of-Way line of Congress Avenue for a distance of 65.71 feet;

Thence Northwesterly along the arc of said curve, having a radius of 2,442 feet, a central of  $25^{\circ}35'52''$ , and being concave to the Northeast and parallel with the Westerly Right-of-Way line of Congress Avenue for a distance of 1,091 feet to a point in a line 40 feet South of the North Line of said Section 6;

Thence North  $89^{\circ}59'00''$  West along a line parallel with and 40 feet South of the North Line of said Section 6 a distance of 581.50 feet to a point 40 feet South of the North Quarter corner of said Section 6;

Thence North  $89^{\circ}56'20''$  West for a distance of 31.85 feet to the POINT OF BEGINNING.