

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

June 24, 1993

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (XANDERS) *ex 909w*
DIVISION OF LEGAL SERVICES (FEIL) *MD JH A*

RE : UTILITY: FAMILY DINER, INC. AND TURKEY CREEK, INC.
D/B/A TURKEY CREEK UTILITIES
DOCKET NO. 921098-WS
COUNTY: ALACHUA
CASE: APPLICATION FOR WATER AND WASTEWATER
CERTIFICATES UNDER GRANDFATHER RIGHTS BY
FAMILY DINER, INC. AND TURKEY CREEK, INC.
D/B/A TURKEY CREEK UTILITIES

AGENDA : July 6, 1993 - CONTROVERSIAL - PARTIES MAY
PARTICIPATE

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: THIS IS AN INITIAL DECISION WHICH SHOULD
BE HEARD BY THE FULL COMMISSION

RECOMMENDATION FILE NAME: I:\PSC\WAW\WP\921098.RCM

DOCUMENT NUMBER-DATE

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FLORIDA PUBLIC SERVICE COMMISSION

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CASE BACKGROUND

At the May 4, 1993, Agenda Conference, the Commission voted to reduce certain charges of Family Diner, Inc. and Turkey Creek, Inc. d/b/a Turkey Creek Utilities (Turkey Creek) in Alachua County. This vote was confirmed by proposed agency action (PAA) Order No. PSC-93-0816-FOF-WS, issued May 27, 1993. The deadline for Turkey Creek to file a protest to the order was June 17, 1993. On June 17, 1993, the Commission received a protest from Turkey Creek. This matter is now set for hearing to be held in Alachua County on November 3, 1993. This hearing will be in conjunction with the hearing already scheduled for the same date to dispose the protest to PAA Order No. PSC-93-0229-FOF-WS, issued February 10, 1993. PAA Order No. PSC-93-0229-FOF-WS, issued February 10, 1993, proposes to reduce the monthly service rates and charges of the utility.

This recommendation addresses the placing subject to refund of the Miscellaneous Service Charges, the Public Fire Protection Charge, the Late Payment Charge, the Service Availability Charges, and the Meter Installation Charges proposed in PAA Order No. PSC-93-0816-FOF-WS, issued May 27, 1993. However, staff believes it is important to point out that it is staff's view that the utility will be responsible for the refund of any monthly service rates and charges ultimately determined to be in excess of those legally in effect on the date the Commission received jurisdiction of Alachua County.

DISCUSSION OF ISSUES

ISSUE 1: Should the difference between the utility's current charges and those approved by the Commission on May 4, 1993, be held subject to refund pending the outcome of the hearing?

RECOMMENDATION: Yes, the difference should be held subject to refund effective the date of the Commission vote. As discussed herein, within thirty days of the date of the order, the utility should be required to file a bond, letter of credit or escrow agreement to guarantee any potential refunds of water and/or wastewater revenues collected through the disposition of the protest. 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 and total revenue collected subject to refund. In addition, if a bond or letter of credit is chosen as security, the utility should be ordered to file a schedule supporting the amount of the bond or letter of credit, as detailed in the Staff Analysis. (XANDERS)

STAFF ANALYSIS: As mentioned in the Case Background, on May 4, 1993, the Commission proposed reducing certain charges of Turkey Creek Utilities as follows:

	<u>Current Utility Charge</u>	<u>Commission Approved-PAA Charge</u>
<u>Public Fire Protection:</u>	\$1838.16 (Annual)	\$ 0.00
<u>Miscellaneous Service Charges (Water):</u>		
Initial Connection	\$ 40.00	\$ 15.00
Prepaid Disconnection	40.00	15.00
Disconnection	40.00	15.00
Normal Reconnection	40.00	10.00
<u>Miscellaneous Service Charges (Wastewater):</u>		
Initial Connection	\$ 40.00	\$ 15.00
Prepaid Disconnection	40.00	15.00
Disconnection	40.00	Actual cost
Normal Reconnection	40.00	10.00
<u>Late Payment Fee:</u>	\$20.00 or 10% of bill	\$ 3.00

With regard to the Service Availability Charges, the Commission proposed to change the Service Availability Charges from

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charges which were based on meter size to plant capacity charges based on the number of equivalent residential connections (ERC's). Listed below are the charges which Turkey Creek had in effect on December 26, 1990:

WATER SYSTEM

Capital Facilities Charge

<u>Meter Size</u>	<u>Charge</u>
5/8 x 3/4"	\$380.00
1"	545.00
1 1/2"	675.00
2"	900.00

Meter Installation Charges

<u>Meter Size</u>	<u>Charge</u>
5/8 x 3/4"	\$375.00
1"	460.00
1 1/2"	675.00
2"	900.00

WASTEWATER SYSTEM

Capital Facilities Charge

<u>Meter Size</u>	<u>Charge</u>
5/8 x 3/4"	\$440.00
1"	590.00
1 1/2"	725.00
2"	950.00

As mentioned above, the PAA charges were based on the number of ERC's. The Plant Capacity charges in the PAA were \$380 for water and \$440 for wastewater per ERC.

In addition to the Service Availability Charges, the Commission proposed reducing the charge for meter installation. The purpose of this reduction was to separate the meter installation charge into a meter installation charge and a customer connection charge. Listed below are the charges which Turkey Creek had in effect on December 26, 1990:

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Meter Installation Charges

<u>Meter Size</u>	<u>Charge</u>
5/8 x 3/4"	\$375.00
1"	460.00
1 1/2"	675.00
2"	900.00

The meter installation charges proposed by the Commission are as follows:

Meter Installation Charges

<u>Meter Size</u>	<u>Charge</u>
5/8 x 3/4"	\$100
1"	\$175
Above 1"	Actual cost

In addition, Turkey Creek was allowed to collect a customer connection charge based on the actual cost of connecting a customer to the utility's main.

Staff recommends that the Commission order the difference between Turkey Creek's current charges and the PAA charges held subject to refund pending a final decision on the appropriate amount of the charges.

Staff notes that in the PAA Order, the Commission ordered the utility to pay interest on the deposits it refunded to the customers. Staff's position is that such interest will continue to accrue pending the outcome of the hearing.

A review of the utility's financial statements indicates that the utility cannot support a corporate undertaking. The Division of Auditing and Financial Analysis has advised that a bond, letter of credit or escrow agreement from Turkey Creek should be required to protect potential refunds. Therefore, we recommend that the utility be required to provide a bond, letter of credit or escrow agreement to guarantee the funds collected subject to refund.

If the security provided is an escrow account, said account should be established between the utility and an independent financial institution pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: that the account is established at the direction of this Commission for the purpose set forth above, that

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no withdrawals of funds should occur without the prior approval of the Commission through the Director of the Division of Records and Reporting, that the account should be interest bearing, that information concerning the escrow account should be available from the institution to the Commission or its representative at all times, and that pursuant to Consentino v. Elson, 263 So.2d 253 (Fla. 3d. DCA 1972), escrow accounts are not subject to garnishments.

The utility should deposit the funds to be escrowed into the escrow account each month. If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account should revert to the utility.

If the utility chooses a bond as security, the bond should state that it will be released or should terminate upon subsequent order of the Commission addressing overearnings or requiring a refund. If the utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered addressing overearnings or requiring a refund. If a bond or letter of credit is chosen as security, the utility should be ordered to file a schedule providing the following data by month for the last ten months: (1) the number of times each type of charge held subject to refund was collected; and (2) the revenue collected for each type of service. The amount of the bond or letter of credit should equal the difference between what the utility collected over the last ten months and what it would have collected under the charges contained in the Commission's PAA order.

Irrespective of the type of security provided, the utility should keep an accurate and detailed account of all monies it receives. 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 and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

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ISSUE 2: Should the docket be closed?

RECOMMENDATION: No. The docket should remain open. (FEIL)

STAFF ANALYSIS: The docket must remain open to process this objection and the objection the utility filed regarding the issues in PAA Order No. PSC-093-0229-FOF-WS, issued February 10, 1993.