

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

May 7, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO) *[Signature]*

FROM: DIVISION OF LEGAL SERVICES (REYES) *[Signature]*  
DIVISION OF WATER & WASTEWATER (RENDELL) *[Signature]*

RE: DOCKET NO. 951056-WS - PALM COAST UTILITY CORPORATION -  
APPLICATION FOR RATE INCREASE  
COUNTY: FLAGLER

AGENDA: May 19, 1997 - REGULAR AGENDA - POST HEARING DECISION -  
PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: 8-MONTH EXPIRATION DATE: OCTOBER 12, 1996  
12-MONTH EXPIRATION DATE: FEBRUARY 12, 1997

SPECIAL INSTRUCTIONS: NONE

LOCATION OF FILE: S:\PSC\LEG\WP\951056D.RCM

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DOCUMENT NUMBER-DATE

04520 MAY-75

FPSC-RECORDS/REPORTING

1677

DOCKET NO. 951056-WS  
DATE: MAY 7, 1997

CASE BACKGROUND

Palm Coast Utility Corporation (PCUC) is a utility, which provides water and wastewater service to the public in Flagler County. Palm Coast is located in a critical use area as designated by the St. Johns River Water Management District (SJRWMD). During the twelve months ending December 31, 1994 (the historical test year), the utility recorded operating revenues of \$5,007,702 for water service and \$2,951,217 for wastewater service. During the same period, Palm Coast reported a net operating loss of \$2,247 for water and net operating income of \$281,533 for wastewater.

On December 27, 1995, the utility filed an application for increased rates pursuant to Sections 367.081 and 367.082, Florida Statutes. The utility satisfied the Minimum Filing Requirements (MFRs) for a rate increase on February 12, 1996 and that date was designated as the official filing date pursuant to Section 367.083, Florida Statutes.

By Order No. PSC-96-0493-FOF-WS, issued April 9, 1996, (Interim Order) the Commission approved interim rates for PCUC based upon a historic test year, designed to generate \$5,491,319 in annual water revenues and \$3,432,636 in annual wastewater revenues, subject to refund with interest. This represents a \$483,617 (9.66%) increase over water test year revenues, and a \$481,419 (16.31%) increase over wastewater test year revenues.

A prehearing was held in Tallahassee on June 20, 1996. The hearing was held in Palm Coast on July 1 and 2, 1996 and continued and concluded in Tallahassee on July 19, 1996. The Office of Public Counsel (OPC), Dunes Community Development District, and Flagler County intervened in this docket.

On November 7, 1995, the Commission issued Order No. PSC-96-1338-FOF-WS, (Final Order). On November 22, 1995, PCUC filed a timely Motion for Reconsideration (Motion) and a Request for Oral Argument. On December 2, 1995, OPC filed its timely response to PCUC's motion and request. On January 24, 1997, PCUC filed an additional Request for Oral Argument and an Amended Motion for Reconsideration or, Alternatively, Motion to Correct Computational Errors (Amended Motion). On January 31, 1997, OPC filed its response to PCUC's Amended Motion. On February 26, 1997, PCUC filed its Second Amended Motion for Reconsideration or, Alternatively, Amended Motion to Correct Computational Errors. OPC filed its response to this Second Amended Motion on March 3, 1997.

By Order No. PSC-97-0388-FOF-WS, issued on April 7, 1997, (Reconsideration Order) the Commission granted in part and denied

DOCKET NO. 951056-WS  
DATE: MAY 7, 1997

in part PCUC's Motion for Reconsideration, denied PCUC's Amended and Second Motions for Reconsideration and denied the requests for oral argument. As a result of this order, PCUC was ordered to refund a percentage of the interim water and wastewater revenues and lower certain water rates and all wastewater rates.

On April 11, 1997, PCUC filed its Motion for Stay Pending Judicial Review. In its Motion, PCUC indicated that it will appeal the Final Order and the Reconsideration Order. This recommendation will address PCUC's motion for stay.

DOCKET NO. 951056-WS

DATE: MAY 7, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant PCUC's Motion for Stay of Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS?

RECOMMENDATION: Yes. Because the orders involve both a refund of monies and a decrease in certain rates charged to customers, the Commission should grant the motion for stay if PCUC posts sufficient security in accordance with Rule 25-22.061(1), Florida Administrative Code. (REYES)

STAFF ANALYSIS: Orders Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS required PCUC to decrease certain water rates and all wastewater rates charged to customers and refund a percentage of interim revenues. As stated in the case background, PCUC filed a Motion for Stay of those orders.

Rule 25-22.061(1)(a), Florida Administrative Code, provides that:

When the order being appealed involves the refund of moneys to customers or a decrease in rates charged to customers, the Commission shall, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The stay shall be conditioned upon the posting of good and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate.

PCUC contends that pursuant to this rule, the Commission shall, upon motion filed by a utility, grant the stay. As adequate security for this stay, the utility states that it will post an adequate bond.

Staff believes that where the order in question involves a refund or reduction in rates, then Rule 25-22.061(1)(a), Florida Administrative Code, is mandatory. Orders Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS require PCUC to make refunds and reduce certain water rates and all wastewater rates. Therefore, Staff recommends that, pursuant to Rule 25-22.061(1)(a), Florida Administrative Code, the Commission impose a stay upon Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS, pending the resolution of the judicial proceedings. The amount and conditions of security are discussed further in Issue No. 3.

DOCKET NO. 951056-WS  
DATE: MAY 7, 1997

**ISSUE 2:** Should the utility hold revenues collected under interim rates pursuant to Order No. PSC-96-0493-FOF-WS issued April 9, 1996 subject to refund and if so, what is the appropriate amount?

**RECOMMENDATION:** Yes, PCUC should hold 2.22% of annual water interim revenues and 7.87% of annual wastewater interim revenues collected pursuant to Order No. PSC-96-0493-FOF-WS subject to refund. (RENDELL)

**STAFF ANALYSIS:** As indicated in the case background, by Order No. PSC-96-0493-FOF-WS, issued April 9, 1996, the Commission approved interim rates for PCUC based upon a historic test year, designed to generate \$5,491,319 in annual water revenues and \$3,432,636 in annual wastewater revenues, subject to refund with interest. This represents a \$483,617 (9.66%) increase over water test year revenues, and a \$481,419 (16.31%) increase over wastewater test year revenues. The utility implemented its interim water and wastewater rates on April 10, 1996.

Subsequently, the case went to hearing and by Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS, the Commission required PCUC to refund a percentage of the revenues collected through interim rates and also to reduce certain water rates and all wastewater rates.

With the utility's Motion for Stay of Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS, the refunds and the reduction to rates are postponed until a decision is made by the courts through the appeal process. Pending the decision by the courts, PCUC will continue to collect interim water and wastewater rates. Therefore, it is necessary to determine the appropriate amount of revenues collected by the utility which should be held subject to refund. As shown on Schedule No. 1, staff has determined that 2.22% of the annual water revenues and 7.87% of the annual wastewater revenues collected through interim rates should be held subject to refund. These amounts are calculated by taking the water and wastewater revenue requirements of \$5,373,161 and \$3,186,512 granted in the Reconsideration Order No. PSC-97-0388-FOF-WS and the water and wastewater revenue requirements of \$5,491,319 and \$3,432,636 granted in the Interim Order No. PSC-96-0493-FOF-WS and subtracting the miscellaneous revenues. Then the percentage is calculated using the difference between these net amounts.

DOCKET NO. 951056-WS  
DATE: MAY 7, 1997

**ISSUE 3:** What is the appropriate security to guarantee the revenue subject to refund collected as per the Interim Order No. PSC-96-0493-FOF-WS and any additional revenues resulting from the extended time period due to PCUC's Motion for Stay of Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS?

**RECOMMENDATION:** The utility should be required to post a bond in the amount \$1,395,580 as security to guarantee any potential refunds of revenues collected as per the Interim Order No. PSC-96-0493-FOF-WS and any additional revenues resulting from the extended time period due to the utility's Motion for Stay of Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should be required to provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Further, the bond should state that it will remain in effect during the pendency of the appeal and will be released or terminated upon subsequent order of the Commission addressing the potential refund.  
(RENDELL)

**STAFF ANALYSIS:** In general, an appeal process is estimated to take 24 months. Staff has calculated the security to include the estimated appeal time along with the period of time between the implementation of interim rates and this recommendation. As a result of the motion, Staff recommends that security in the amount of \$1,395,580 be posted to guarantee any potential refunds of revenues collected as per the Interim Order No. PSC-96-0493-FOF-WS and any additional revenues resulting from the extended time period due to the utility's Motion for Stay of Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS.

As discussed earlier, pursuant to Rule 25-22.061, Florida Administrative Code, the stay shall be conditioned upon the posting of good and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate.

In its motion, filed April 11, 1997, the utility states that it will post an appropriate bond. Staff recommends that the utility should be ordered to post a bond in the amount of \$1,395,580. Staff's calculation is shown on Schedule No. 1. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should be required to provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Further, the bond should state that it will remain in effect during the pendency of the appeal and will be released or terminated upon subsequent order of the Commission addressing the potential refund.

DOCKET NO. 951056-WS  
DATE: MAY 7, 1997

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. The docket should remain open pending resolution of the appeal process. (REYES)

STAFF ANALYSIS: Order Nos. PSC-96-1338-FOF-WS and PSC-97-0388-FOF-WS have been appealed. This docket should remain open pending final resolution of the appeal by the First District Court of Appeal.

**ANNUAL REVENUES HELD SUBJECT TO REFUND CALCULATION:**

**WATER**

COMMISSION APPROVED - PER INTERIM ORDER		\$5,491,319
APPROVED FINAL REVENUE - PER RECONSIDERATION ORDER	\$5,373,161	
LESS MISC SERVICE REVENUES	(42,469)	(42,469)
WATER SERVICE REVENUES	<u>5,330,692</u>	<u>5,448,850</u>
ANNUAL REVENUE SUBJECT TO REFUND		<b>\$118,158</b>

PERCENT INCREASE IN WATER SALES REVENUES **2.22%**

**WASTEWATER**

COMMISSION APPROVED - PER INTERIM ORDER		\$3,432,636
APPROVED FINAL REVENUE - PER RECONSIDERATION ORDER	\$3,186,512	
LESS MISC SERVICE REVENUES	(59,023)	(59,023)
WASTEWATER SERVICE REVENUES	<u>3,127,489</u>	<u>3,373,613</u>
ANNUAL REVENUE SUBJECT TO REFUND		<b>\$246,124</b>

PERCENT INCREASE IN WASTEWATER SALES REVENUES **7.87%**

**AMOUNT OF BOND FOR STAY MOTION:**

**WATER AND WASTEWATER**

AMOUNT OF ANNUAL REVENUES SUBJECT TO REFUND		\$364,282
DIVIDED BY 12 MONTHS		12
MONTHLY REVENUE HELD		<u>\$30,357</u>
Number of months for refund to be completed - 39 months (April 1996 through July 1999)		39
TOTAL AMOUNT OF POTENTIAL REFUND W/O INTEREST		<u>\$1,183,917</u>
13-MONTH AVERAGE ANNUAL INTEREST RATE AS OF 4/4/97	5.501%	
FACTORED INTERST RATE FOR 39 MONTH PERIOD		<u>1.1787825</u>
<b>AMOUNT OF POTENTIAL REFUNDS - AMOUNT OF BOND</b>		<b>\$1,395,580</b>