



Public Service Commission

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DATE: MARCH 23, 2000

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

FROM: DIVISION OF LEGAL SERVICES (GERVASI)
DIVISION OF WATER AND WASTEWATER (CASEY, BUTTS)

RE: DOCKET NO. 990356-WS - APPLICATION FOR STAFF-ASSISTED RATE CASE BY BIEBER ENTERPRISES, INC. d/b/a BREEZE HILL UTILITIES
COUNTY: POLK

AGENDA: 04/04/00 - REGULAR AGENDA - DECISION PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 15-MONTH EFFECTIVE DATE: 08/16/00 (SARC)

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990356WS.RCM

CASE BACKGROUND

On March 18, 1999, Bieber Enterprises, Inc. d/b/a/ Breeze Hill Utilities (Breeze Hill or utility) filed an application for a staff-assisted rate case. The official date of filing was established as May 16, 1999.

On December 7, 1999, the Commission issued Proposed Agency Action (PAA) Order No. PSC-99-2394-FOF-WS granting increased rates and charges for Breeze Hill. That Order also provided for temporary rates subject to refund in the event of protest of the proposed agency action portion of the Order.

Subsequently, on December 22, 1999, two customers of Breeze Hill timely protested PAA Order No. PSC-99-2394-FOF-WS. The customers alleged that the utility's operating expenses were overstated, its rate base was overstated, and the approved rates

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were excessive. Accordingly, this matter was set for an administrative hearing.

Pursuant to the provisions of PAA Order No. PSC-99-2394-FOF-WS, Breeze Hill filed a letter of credit in the amount of \$28,129, and implemented the PAA rates as temporary rates subject to refund. The utility also filed its prefiled testimony on January 28, 2000, as required by the Order Establishing Procedure, Order No. PSC-00-0116-PCO-WS, issued January 12, 2000.

However, on March 15, 2000, the two customers filed a "Withdrawal of Formal Hearing Request" (attached as Attachment A), in which they state that they, "hereby withdraw the Petition for Formal Hearing filed in the above referenced docket filed on December 28, 1999." This recommendation addresses the customers' withdrawal of their request for a formal hearing, and the proper disposition of the letter of credit filed by Breeze Hill.

DISCUSSION OF ISSUES

ISSUE 1: Should the customers' Withdrawal of Formal Hearing Request regarding the protest of Proposed Agency Action Order No. PSC-99-2394-FOF-WS be acknowledged and that Order become final?

RECOMMENDATION: Yes, the Withdrawal of Formal Hearing Request regarding the protest should be acknowledged. Order No. PSC-99-2394-FOF-WS should be made final and effective as of the date of the Commission vote at this agenda conference. (GERVASI)

STAFF ANALYSIS: As stated in the case background, on March 15, 2000, the protesting customers filed a Withdrawal of Formal Hearing Request regarding the protest of Proposed Agency Action Order No. PSC-99-2394-FOF-WS. Since the Withdrawal of Formal Hearing Request was signed by only one of the two protesters, staff contacted the other protester by telephone on March 22, 2000, to verify that he also wishes to withdraw the protest. Staff recommends that the Commission acknowledge the customers' withdrawal of protest and that Order No. PSC-99-2394-FOF-WS should be made final and effective as of the date of the Commission vote at this agenda conference.

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ISSUE 2: What is the appropriate disposition of the irrevocable letter of credit in the amount of \$28,129, submitted by Citizens Bank on behalf of Breeze Hill Utilities?

RECOMMENDATION: The irrevocable letter of credit in the amount of \$28,129 provided by Citizens Bank on behalf of Breeze Hill Utilities should be canceled. (GERVASI, CASEY)

STAFF ANALYSIS: In the event of protest, Order No. PSC-99-2394-FOF-WS, issued December 7, 1999, allowed the utility to implement the PAA rates as temporary rates subject to refund, if the utility first provided a letter of credit in the amount of \$28,129. The utility did implement the PAA rates as temporary rates subject to refund, and, in accordance with that Order, the Citizens Bank on behalf of Breeze Hill Utilities, provided a letter of credit in the amount of \$28,129.

If the Commission approves staff's recommendation in Issue No. 1, the temporary rates will become final rates and will no longer be subject to refund. Therefore, the irrevocable letter of credit should be canceled since it is not needed.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: If the Commission approves Issues Nos. 1 and 2 of this recommendation, the docket should remain open for 180 days from the issuance date of the Order to verify that the utility has installed a new 5,000 gallon hydro-pneumatic water tank, a chlorine alarm with automatic switch-over, water meters for all customers, a blower at the wastewater plant, and purchased a back-up motor for the well pump. Once staff has verified these actions, no further action will be necessary in this docket, and the docket should be closed administratively. (GERVASI, CASEY)

STAFF ANALYSIS: If the Commission approves Issues Nos. 1 and 2 of this recommendation, the docket should remain open for 180 days from the issuance date of the Order to verify that the utility has installed a new 5,000 gallon hydro-pneumatic water tank, a chlorine alarm with automatic switch-over, water meters for all customers, a blower at the wastewater plant, and purchased a back-up motor for the well pump. Once staff has verified these actions, no further action will be necessary in this docket, and the docket should be closed administratively.