

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY

In Re: Application of UTILITIES, INC., OF  
SANDALHAVEN for an increase in wastewater  
rates and charges

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Docket No. 2011-001-S

**ORDER ESTABLISHING PRE-HEARING SCHEDULE**

Pursuant to a pre-hearing conference held on December 12, 2011, with all parties in attendance, and in accordance with Article XII, Section 1-10-346(c), Charlotte County Code of Ordinances, and Part III, Chapter 3-8, Article II, Division 5, and a subsequent telephonic pre-hearing conference that also include representatives of the Office of the Public Counsel, this Pre-Hearing Schedule and additional procedures are hereby established.

Controlling Dates Tentatively Established

The following dates are tentatively established to govern key activities of the case:

- |    |                            |   |
|----|----------------------------|---|
| a. | January 9, 2012            | County/PRMG begin audit review of Sandalhaven's records and plant                                       |
| b. | March 9, 2012              | PRMG's Preliminary Report due to County   |
| c. | March, 2012<br>April, 2012 | County and Sandalhaven staff negotiate re: financial issues and potential agreements                    |
| d. | April 30, 2012             | Issues ID conference and mailing of notice regarding requested rates and recommended rates to customers |
| e. | May 21, 2012               | Pre-Hearing Conference, 10 a.m. at CAO chambers. Pre-Hearing Statements due.                            |
| f. | June 18, 2012              | Sandalhaven's Direct Pre-filed Testimony due  |
| g. | July 16, 2012              | County's Direct Pre-filed Testimony due<br>Office of Public Counsel's Pre-filed Testimony due           |
| h. | August 10, 2012            | Sandalhaven's Rebuttal Pre-filed testimony due  |

- i. August 22, 2012 Quality of Service Hearings, 1 & 6 p.m.,  
Tringali Center, 3400 N. Access Rd.,  
Englewood, FL
- j. August 23, 2012 Technical Hearing, 9 a.m., Room 119, 18500  
Murdock Circle, Port Charlotte, FL
- k. August 24, 2012 Technical Hearing, 9 a.m., Room 119, 18500  
Murdock Circle, Port Charlotte, FL, if needed
- l. September 14, 2012 Transcript
- m. October 1, 2012 P.R.O.s and remaining briefs due to Hearing  
Officer
- n. October 22, 2012 R.O. Completed by Hearing Officer
- o. October 29, 2012 21-day "Public Notice" newspaper ad published
- p. November 20, 2012 CC Special Meeting to consider Resolution  
approving Recommended Order, including consideration of  
exceptions (no public input) at 1 p.m., Room 119, 18500 Murdock  
Circle, Port Charlotte, FL.

### General Requirements

To assist in preparation of documents and adherence to the narrow timeframes in this proceeding, all parties shall, in addition to filing the original of all documents as required, furnish by email to the Hearing Officer, a file containing each filing in Microsoft Word format. All filings and orders shall be served by facsimile or email with hard copy to follow, except the consultant's report, pre-filed testimony, the post-hearing filings, and the Recommended Order, which shall be served by hand service or over-night delivery

### Discovery

Discovery shall be conducted pursuant Section 1-10-345. When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes. Unless authorized by the Hearing Officer for good cause shown, all discovery shall be completed by August 17, 2012.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending formal ruling on such request by the Hearing Officer, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in the proceeding, it shall be returned expeditiously to the person providing the information.

#### Notice and Public Information

The utility shall comply with the requirements of Chapter 3-8, Article II, and Chapter 1-10, Article XII, of the County Code. The notices required by those Chapters shall also include a statement advising the customer where to send any customer comments regarding the utility's service or the proposed rate increases and that such comments should identify the docket number assigned to this proceeding.

#### Pre-filed Testimony and Exhibits

Each party may pre-file, in writing, any testimony that it intends to sponsor. Such testimony shall be typed on 8 ½ inch X 11 inch transcript-quality paper, double spaced, with 23 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness's pre-filed testimony shall be attached to that witness's testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification in the Pre-Hearing Stipulation, if agreed upon by the parties, or at the hearing if admissibility is contested. After an opportunity for opposing parties to object to introduction of exhibits and to cross-examine witnesses sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the County Commission

An original and 15 copies of all testimony and exhibits shall be pre-filed with the Charlotte County Attorney's Office by the close of business, which is 5:00 p.m., on the due date. A copy of all pre-filed testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Charlotte County Attorney's Office. Failure of a party to timely pre-file exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

## Pre-Hearing Statements

All parties in this docket shall file a pre-hearing statement. The original and 15 copies of each pre-hearing statement shall be pre-filed with the Charlotte County Attorney's Office by the close of business on the date due. A copy of the pre-hearing statement shall be served on all other parties and staff no later than the date it is filed. Failure of a party to timely file a pre-hearing statement shall be a waiver of any issue not raised by other parties. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such pre-hearing statements shall set forth the following information in the sequence listed:

- a. The name of all known witnesses who may be called by the party, and the subject matter of their testimony;
- b. A description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, their contents, and the witness sponsoring each;
- c. A statement of basic position in the proceeding;
- d. A statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- e. A statement of each question of law the party considers at issue and the party's position on each such issue;
- f. A statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- g. A statement of issues that have been stipulated to by the parties;
- h. A statement of all pending motions or other matters that party seeks action upon;
- i. A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore; and
- j. Any other matters in the pre-hearing statement as will aid the governing body in achieving an orderly disposition of the proceeding.

### Pre-Hearing Conference

Pursuant to Section 1-10-346(c), a pre-hearing conference will be held at the request of any party or upon the order of the Hearing Officer for the purposes stated therein. Except for good cause shown, any pre-hearing conference will be held by telephone upon seven (7) days notice to all parties.

### Pre-hearing Procedures: Waiver of Issues

Any issues not raised by a party prior to the filing of the Pre-Hearing Stipulation shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the filing of the Pre-Hearing Stipulation shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other pre-hearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the filing of the Pre-Hearing Stipulation was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to filing the Pre-Hearing Stipulation. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Hearing Officer. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing filing.

### Post-Hearing Procedure

Each party may file a post-hearing memorandum with proposed findings of fact, conclusions of law, recommended order, and legal brief as allowed by Chapter 3-8, Article II, and Chapter 1-10, Article XII, of the County Code no later than October 1, 2012.

Based upon the foregoing, it is

ORDERED by Diane K. Kiesling, as Hearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Hearing Officer or the Charlotte County Board of County Commissioners.

DONE AND ORDERED this 7<sup>th</sup> day of March, 2012.

*Diane K. Kiesling*

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