BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 2005-110-WS

April 5, 2006

IN RE: Petition of the Office of Regulatory Staff to Request Forfeiture of the Piney Grove Utilities, Inc. Bond and to Request Authority To Petition the Circuit Court for Appointment of a Receiver	))))))	**REPLY TO PINEY GROVE'S APPLICATION FOR REHEARING**

The Office of Regulatory Staff ("ORS") respectfully submits this Reply to Piney Grove Utilities, Inc. ("Piney Grove's") and D. Reece Williams, IV, and Elizabeth Williams's ("Williams's") (collectively referred to as "Piney Grove"), Application for Rehearing wherein Piney Grove requested that the Commission reconsider its Order No. 2001-761 (the "Order"), issued on February 24, 2006. In that application, Piney Grove asserts that the Commission's holding that the "bond was given, and remains in place, to secure the performance and operations of' Piney Grove" is in error as a matter of law and does not comport with the express language of the bond or the circumstances surrounding which the bond was given. Further, Piney Grove states that the directive makes no finding of willfulness, and, as such, the Commission's finding that an appropriate party may petition the Commission for forfeiture of the bond is inappropriate. In support of this Reply to Piney Grove's Petition, ORS states as follows:

I. Bond Securing the Performance and Operations of Piney Grove

In its Application for Rehearing, Piney Grove stated that, in a previous docket whereby the Commission authorized the consolidation of three separate utilities owned by Mr. Williams, the Commission ordered "that the utilities to be consolidated with Piedmont must meet certain criteria or accomplish certain goals before any consolidation was finalized" including the filing of an establishment case for Tickton Hall and the filing of annual reports for Eagle Point and Piney Grove. Using this position, Piney Grove asserts that because it did not satisfy all elements of the Commission's Order, it is not bound by any contractual, regulatory, or statutory obligation for its affiliated systems. As stated in the Commission's Order in this Docket, the 2001-761 Order clearly does not intend to require that Piedmont meet the conditions set forth prior to consolidation. Certain "conditions" would have been impossible to satisfy prior to the consolidation thus making this argument by Piney Grove illogical.

Further, Piney Grove argues that, due to the nature of the performance bond, its obligation is contractual and cannot extend beyond the terms of the bond and the intent of the parties thereto. The actions of Piedmont clearly show an intent different from that which is currently asserted. By authorizing the increase of the amount of the bond to $125,000 as required by the Consolidation Order, Piedmont assented to the order and caused the Commission to detrimentally rely upon the filing of this bond. Further, Piney Grove has conceded to this interpretation by failing to file a bond to cover its systems independently of Piedmont and purporting to rely upon the bond filed by Piedmont. As stated in the Order,

> Arguing that the Order does not allow Piedmont to cover the operations of the associated utilities suggests Piney Grove and Piedmont knowingly misled the Commission and refused to comply with Commission regulations. Such a result would be detrimental to Piney Grove because it would mean that Piney Grove has willfully and intentionally failed to file its required performance bond.

To hold otherwise would sanction and endorse Piney Grove's refusal to comply with the Commission's regulations and statutes.

II. Piney Grove's Willful Failure to Provide Adequate and Proper Service

Piney Grove challenges the Commission's finding that a duly reported receiver or other appropriate party may come back before the Commission and argue for forfeiture of the bond as the directive makes no finding of willfulness. "In fact, the directive makes no finding at all regarding the service provided by Piney Grove or Piedmont…" ORS concedes that the directive issued by the Commission on December 13, 2005, did not make a finding of willfulness; however, the directive is not considered a final order of the Commission. S.C. Code Ann. §58-3-250(A) provides that:

> All final orders and decisions of the commission must be sufficient in detail to enable the court on appeal to determine the controverted questions presented in the proceedings and must include: (1) findings and conclusions, and the reasons or bases therefor, upon all the material issues of fact or law presented in the record; and (2) the appropriate rule, order, sanction, relief, or statement of denial thereof.

Therefore, any facts or conclusions not specified in the directive can certainly be appropriately addressed in the formal written order issued by the Commission. In its Order, the Commission clearly found that, based upon the evidence, "Piney Grove's failure to provide adequate and proper service has been willful and has continued for an unreasonable length of time." Order at P. 11. Additionally, the Commission's other findings that Piney Grove's habitual disregard of state authority, knowing and willful failure to abide by the Commission's and other regulations, and failure to attend to the obligations to its customers support the finding of willfulness purported to be unfounded by Piney Grove.

III. Conclusion

WHEREFORE, having fully set forth its grounds for this Reply, ORS respectfully requests that the Commission decline to reverse its findings as to Piedmont's liability on the bond and its willful failure to provide adequate and proper service and deny Piney Grove's application for a rehearing based upon those issues.

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