STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

CYNTHIA LEE ALMOND, PRESIDENT
JEREMY H. ODEN, COMMISSIONER, PLACE 1
CHRIS V. BEEKER III, COMMISSIONER, PLACE 2

LUKE D. BENTLEY IV, EXECUTIVE DIRECTOR

BIO-FLOW, INC.

Petitioner,

OFFICE OF THE ATTORNEY GENERAL OF ALABAMA,

Intervenor.

PETITION: FOR APPROVAL OF TARIFF REVISIONS ADJUSTING RATES

DOCKET 31182

ORDER

BY THE COMMISSION:

On March 30, 2026, Bio-Flow, Inc. ("Bio-Flow" or "Petitioner"), a wastewater management entity ("ME"), filed a petition requesting approval to increase its tariffed monthly sewer rates. Petitioner proposed the following changes to its tariff: 1) residential service rates will increase from $50.73 per month to $66.22[1] per month; 2) A separate reserve rate rider of $5.00 per month to be collected for all classes of service unless and until the reserve account balance exceeds $200,000.00, and collection of the rider will be suspended when the reserve account exceeds $200,000.00 and resume whenever the balance is less than $200,000.00; 3) unoccupied residential lot rates, for the first two years, shall increase from $20.00 per month to $40.00 per month; 4) the tap fee shall increase from $300.00 to $500.00; 5) disposable and flushable wipes are being added to the prohibited items list in the service rules and regulations; and 6) the service rules and regulations are being amended to allow Bio-Flow, to the extent allowed by Alabama law, to collect reasonable attorney fees in the event it must commence litigation to collect delinquent amounts owed by a customer and prevails in that litigation.

[1] Bio-Flow initially requested an increase to $68.00 per month. However, in Mr. Evan Wright's pre-filed testimony and testimony at the hearing, Bio-Flow updated its requested increase downward to $66.22.

On April 7, 2026, the Commission issued an order suspending the proposed tariff through October 28, 2026, to allow sufficient time for investigation and study of the requested changes. On April 22, 2026, the Office of the Attorney General of Alabama ("Attorney General") intervened in the matter. A hearing was held on July 21, 2026, in which representatives from Bio-Flow, the Attorney General, and Commission Staff were present and participated.

Summary of the Hearing Testimony

In support of these proposed changes, Bio-Flow offered the testimony of two witnesses. The first witness was Mr. Evan Wright, the Controller for Russell Lands, Inc. ("Russell Lands"), which is the parent and sole owner of Bio-Flow. And the second witness for Bio-Flow was Mr. Steve Forehand, the Vice President, General Counsel and Secretary for Russell Lands.

Bio-Flow submitted pre-filed testimony for Mr. Wright on or about July 13, 2026, in compliance with the Commission's Rules of Practice. Both witnesses were subject to cross-examination at the hearing and the pre-filed testimony of Mr. Wright was incorporated into the record as if the testimony had been given orally at the hearing.

Mr. Wright testified that due to Bio-Flow having the same rate since its inception in 2008, it is currently operating under annual losses. Mr. Wright also testified to how the rate was calculated – Bio-Flow calculated the rate based off yearly operating expenses (test year 2025) with an additional 10% added above expense for a rate of return. The testimony provided Commission precedent having approved a 10% rate of return for a similarly situated utility – River Bend Marina, LLC (Docket 32698).

In 2025, Bio-Flow served four neighborhoods – Glynmere, Willow Glynn, the Willows at Willow Point and the Ridge. In early 2026, Bio-Flow divested Glynmere, Willow Glynn and the Willows at Willow Point – or roughly 28% of its customers. After the divestment, Bio-Flow was only left with one neighborhood, the Ridge.

When calculating the rates, Mr. Wright broke down Bio-Flow's expenses from 2025 into essentially four categories: 1) expenses directly tied to the Ridge, 2) general overhead expenses for the entire system which were reduced by roughly 28% to account for the divestment, 3) all labor related costs, which are expected to remain the same due to Bio-Flow retaining its only two employees, and 4) the depreciation of the assets that the Ridge will continue to utilize.

Mr. Wright also testified about the $5 reserve rate rider Bio-Flow requested in its filing. Although Bio-Flow did not have a provision in its initial tariff regarding a reserve account. Russell Lands, in lieu of taking profits or dividends, had left funds in a contingency account for Bio-Flow. Mr. Wright testified that the current account balance, at the time of the hearing, was $130,000, which would fall under Wastewater Rule 8(7) if the rate rider were approved.

Mr. Steve Forehand was then called to testify. Mr. Forehand's testimony primarily was to discuss the day-to-day operations and to clear up any questions Mr. Wright failed to answer. Specifically, Mr. Forehand spoke to the value Russell Lands provides in the overall administrative function it provides Bio-Flow, and the relatively low costs it charges back to Bio-Flow for the work done by Russell Lands. Mr. Forehand also testified to the worth of the homes in the Ridge neighborhood – multi-million dollar homes.

The Office of the Attorney General participated in the hearing, though it did not have its own witness. The Office of the Attorney General objected to any rate increase at the hearing, but did request that if the Commission deemed a rate increase was warranted, for the rate increase to be broken up to prevent rate shock. Additionally, on or about July 29, 2026, the Office of the Attorney General filed a Motion for Consideration. In its motion the Office of the Attorney General reemphasized its position that if an increase is warranted it should be done incrementally over a 12-month period.

Analysis and Findings

The Commission considers the Petitioner's proposed sewer rates "pursuant to the laws, rules, regulations, and procedures pertaining to utilities." Ala. Code § 22-25B-6(g). The Alabama laws pertaining to utilities require that rates "be reasonable and just to both the utility and the public" and "enable [the utility] at all times to fully perform its duties to the public." Ala. Code § 37-1-80. When evaluating proposed rates, the Commission considers a company's prudent expenses, the revenue generated by the existing customer rates, and the allowance of a reasonable return. Regarding the consideration of the prudence of expenses, the Commission approves rates that allow a wastewater provider to earn a fair return while operating "under honest, efficient and economical management." *Id.* Honest, efficient, and economical management refers to prudent operations, reflected by expenses that are not unreasonable, extravagant, or wasteful. The burden of proof is on the regulated company to provide evidence to support its proposed rates. *Birmingham Elec. Co. v. Alabama Pub. Serv. Comm'n*, 254 Ala. 140 (1949). This includes the burden of showing that the incurred expenses are prudent and that the proposed rate of return is reasonable. 73B C.J.S. Public Utilities § 135.

Bio-Flow demonstrated its prudency with expenses through its responses to data requests from the Commission and providing detailed explanations of the major expense accounts during the hearing. Bio-Flow also provided Commission precedent for its proposed 10% rate of return on expenses, and no testimony was presented to rebut Bio-Flow's request. Bio-Flow, however, failed to show specifically how the tap fee costs have increased. The testimony provided and a spreadsheet provided post hearing, only showed that labor costs have increased since 2008. Although Bio-Flow showed its labor costs have been prudent, it did not show additional labor costs that would not already be recovered in its requested rate increase. Additionally, neither the testimony nor the evidence provided reasonable grounds to incrementally implement the rate increase.

IT IS THEREFORE ORDERED as the following: 1) *Approval* of the residential service rate increase from $50.73 per month to $66.22 per month; 2) *Approval* of the separate reserve rate rider of $5.00 per month to be collected for all classes of service unless and until the reserve account balance exceeds $200,000.00. Collection of the rider will be suspended when the reserve account exceeds $200,000.00 and resume whenever the balance is less than $200,000.00, with the initial balance – roughly $130,000 at the time of the hearing – to be provided to Commission staff within 30 days from the date of this Order; 3) *Approval* of the unoccupied residential lot rates, for the first two years, increase from $20.00 per month to $40.00 per month; 4) *Denial* of the tap fee increase from $300.00 to $500.00; 5) *Approval* of the disposable and flushable wipes being added to the prohibited items list in the service rules and regulations; and 6) *Approval* of the service rules and regulations being amended to allow Bio-Flow, to the extent allowed by Alabama law, to collect reasonable attorney fees in the event it must commence litigation to collect delinquent amounts owed by a customer and prevails in that litigation.

IT IS FURTHER THEREFORE ORDERED the Office of the Attorney General's request to incrementally implement any rate increase is *denied*.

IT IS FURTHER ORDERED that jurisdiction in this cause is retained for whatever Order or Orders deemed appropriate by this Commission.

IT IS FURTHER ORDERED that this Order is effective as of the date hereon.

DONE at Montgomery, Alabama, this 4th day of September, 2026.

ALABAMA PUBLIC SERVICE COMMISSION

Cynthia Lee Almond

Cynthia Lee Almond, President

Jeremy H. Oden, Commissioner

Chris V. Beeker III, Commissioner

ATTEST: A True Copy

Devon D. Beaty

Devon D. Beaty, Secretary