

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of MEADOWBROOK UTILITY SYSTEMS, INC. for interim and permanent rate increase in Palm Beach County	) ) ) ) )	DOCKET NO. 850062-WS
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In re: Application of MEADOWBROOK UTILITY SYSTEMS, INC. for 1987 price index rate adjustment in Palm Beach County	) ) ) ) )	DOCKET NO. 870673-WS
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In re: Application by MEADOWBROOK UTILITY SYSTEMS, INC. for 1987 pass- through rate adjustment in Palm Beach County	) ) ) ) )	DOCKET NO. 870822-SU ORDER NO. 22332 ISSUED: 12-22-89
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The following Commissioners participated in the disposition of this matter:

BETTY EASLEY  
JOHN T. HERNDON

ORDER LIFTING PARTIAL STAY  
AND PRESCRIBING REFUND METHOD

BY THE COMMISSION:

BACKGROUND

By Order No. 13664, issued September 10, 1984, this Commission initiated an investigation into the earnings of Meadowbrook Utility Systems, Inc. (Meadowbrook). On May 31, 1984, during the pendency of the overearnings investigation, Meadowbrook filed an application for increased water and wastewater rates. By Order No. 14656, issued July 30, 1984, we suspended Meadowbrook's proposed rates, denied any interim increase and consolidated the overearnings investigation into the rate case docket.

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On April 21, 1986, Meadowbrook gave notice of its intent to place its "file and suspend" rates into effect pursuant to Section 367.081(6), Florida Statutes.

A hearing was held on the combined overearnings investigation and rate application on December 11 and 12, 1986, and January 9 and 26, 1987. By Order No. 17304, issued March 19, 1987, we reduced Meadowbrook's rates and ordered it to refund, with interest, excessive annual water revenues collected between August 21, 1984 and April 21, 1986. In addition, by Order No. 17304, we required Meadowbrook to refund, with interest, excessive water and wastewater revenues collected as a result of its implementation of the "file and suspend" rates between April 21, 1986, and such time as the refund was completed.

On April 6, 1987, Meadowbrook filed a motion for a stay of Order No. 17304 pending judicial review by the First District Court of Appeal (DCA). By Order No. 17567, issued May 20, 1987, the Commission granted the stay, subject to Meadowbrook's providing security to cover its potential refund liability through March 1988.

On December 10, 1987, the First DCA affirmed Order No. 17304 in all respects. On December 23, 1987, Meadowbrook filed a motion for rehearing with the First DCA. Meadowbrook's motion was denied on February 1, 1988.

On February 26, 1988, Meadowbrook petitioned the Supreme Court of Florida to review the decision of the First DCA. On June 20, 1988, the Supreme Court denied Meadowbrook's petition for review and granted this Commission's motion for attorneys' fees.

On November 7, 1988, by Order No. 20287, we lifted the stay of Order No. 17304 and ordered Meadowbrook to comply with the refund provisions of Order No. 17304.

On November 22, 1988, Meadowbrook filed a motion for reconsideration of Order No. 20287. By Order No. 20488, issued December 20, 1988, we denied Meadowbrook's motion for reconsideration. Further, we ordered Meadowbrook to begin complying with the refund provisions of Order No. 17304 beginning December 20, 1988.

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On January 19, 1989, Meadowbrook served notice of its appeal of Orders Nos. 20287 and 20488. In addition to its notice of appeal, Meadowbrook also filed a motion for a partial stay of Orders Nos. 20287 and 20488 and a motion for clarification of the refund provisions of Order No. 20488. By Order No. 21017, issued April 11, 1989, we granted Meadowbrook's motion for a partial stay in part, clarified the "customers of record" date and ordered Meadowbrook to begin refunding all amounts not in controversy immediately.

REFUND OF AMOUNT STAYED

On September 15, 1989, the First DCA affirmed Orders Nos. 20287 and 20488. Therefore,, by this Order, we hereby lift the partial stay of those orders. In addition, we hereby order Meadowbrook to refund \$80,256, the amount stayed, plus interest.

Normally, we would require Meadowbrook to make the refund based upon usage, in accordance with Rule 25-30.360, Florida Administrative Code. However, considering the relatively small amount to be refunded, the administrative expense of such a usage-based refund and the transient nature of Meadowbrook's customer base, we believe that a more simplified refund procedure is appropriate in this case.

Upon consideration, we find that the refund should be calculated on a per equivalent residential connection (ERC) basis, using a customer of record date of December 29, 1988, and the following ERC factors:

<u>Meter Size</u>	<u>Equivalent Factor</u>
5/8" x 3/4"	1.0
3/4"	1.5
1"	2.5
1-1/2"	5.0
2"	8.0
3"	16.0
4"	25.0
6"	50.0

NOTE: All residential customers are to be computed at the equivalent factor of 1.0, regardless of meter size (same as used in rate structure.)

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The water refund amount is \$42,873, which includes interest calculated through March 21, 1989. Meadowbrook shall add interest from that date until the refund is made. This amount should then be divided by the total number of water ERCs as of December 29, 1988, to determine the refund due per ERC. This is the amount to be refunded to each residential customer. For general service customers, Meadowbrook shall calculate the refund amounts due each customer using the above expansion factors.

The wastewater refund amount is \$37,383, which includes interest calculated through March 21, 1989. Meadowbrook shall add interest from that date until the refund is made. This amount should then be divided by the total number of wastewater ERCs as of December 29, 1988, to determine the refund due per ERC. This is the amount to be refunded to each residential customer. For general service customers, Meadowbrook shall calculate the refund amounts due each customer using the expansion factors discussed above.

Meadowbrook shall comply with Rule 25-30.360, Florida Administrative Code, to the extent that such provisions are not inconsistent with this decision.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the partial stay of Orders Nos. 20287 and 20488 granted by this Commission by Order No. 21017 be and is hereby lifted. It is further

ORDERED that Meadowbrook Utility Systems, Inc. shall refund \$80,256, the amount stayed, plus interest calculated through the date of the refund, to the customers of record as of December 29, 1988, on a per ERC basis, as set forth in the body of this Order. It is further

ORDERED that Dockets Nos. 870673-WS and 870822-SU be and are hereby closed. It is further

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ORDERED that Docket No. 850062-WS shall be closed upon Staff's verification of the refund, Meadowbrook Utility Systems, Inc.'s payment of the \$500 in attorneys fees awarded by the Florida Supreme Court and upon the satisfactory disposition of unclaimed refund amounts.

By ORDER of the Florida Public Service Commission  
this 22nd day of DECEMBER, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RJP

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.