

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of) DOCKET NO. 950337-WS
Allowance for Funds Used During) ORDER NO. PSC-95-1490-FOF-WS
Construction (AFUDC) Rates by) ISSUED: November 30, 1995
Utilities, Inc. of Florida in)
Marion and Pinellas Counties;)
Lake Utility Services, Inc. in)
Lake County; Lake Placid)
Utilities, Inc. in Highlands)
County; and Tierre Verde)
Utilities, Inc. in Pinellas)
County)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING ALLOWANCE FOR FUNDS USED
DURING CONSTRUCTION RATE

AND

DENYING LAKE UTILITY SYSTEM'S INC.'S REQUEST FOR A RETROACTIVE
ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION RATE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Utilities, Inc. of Florida (UIF) is a Class A utility providing water and wastewater service to plants in the following counties: Marion, Orange, Pasco, Pinellas and Seminole. Lake Utility Services, Inc. (LUSI), Lake Placid Utilities, Inc. (Lake Placid) and Tierre Verde Utilities, Inc. (Tierre Verde), are Class B utilities providing water and wastewater services in Lake,

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FPSC-H EGRESS REPORTING

Highland and Pinellas Counties, respectively. All four utilities are wholly-owned subsidiaries of Utilities, Inc.

Utilities, Inc. filed an application for approval of Allowance for Funds Used During Construction (AFUDC) rates on March 28, 1995, on behalf of UIF (Marion and Pinellas Counties), LUSI, Lake Placid, and Terre Verde.

Rule 25-30.116(2), Florida Administrative Code, provides that an AFUDC rate shall be determined for the most recent 12-month average embedded cost of capital by using all sources of capital and using adjustments consistent with those used in the utility's last rate case. A utility that has not previously had its equity return established in a rate case shall calculate it by applying the most recent water and wastewater leverage formula.

In their last rate case, the return on equity for UIF's, Marion and Pinellas Counties, was established by Order No. PSC-94-0739-FOF-WS, issued June 16, 1994. The additional systems included in this filing have not had rate proceedings before us, hence, a return on equity has not been established. In its application, UIF used the leverage graph in effect at that time. Subsequently, the Commission established a new leverage graph by Order No. PSC-95-0982-FOF-WS, issued August 10, 1995, to calculate a return on equity. Therefore, we have made adjustments to the requested AFUDC rate to reflect the current leverage graph for LUSI, Lake Placid, and Terre Verde.

UTILITIES, INC. OF FLORIDA - MARION AND PINELLAS COUNTIES

In its last rate case, UIF requested approval of an AFUDC rate equal to its overall weighted cost of capital for the plants located in Marion and Pinellas Counties. An 8.61% overall cost of capital with an equity rate of 10.64% was established by Order No. PSC-94-0739-FOF-WS. However, due to an oversight, the utility's requested approval of an AFUDC rate was not addressed in that Order. In this docket, the utility requested approval of an AFUDC rate with an effective date of January 1, 1993, due to the fact that AFUDC was not approved in the prior rate case. The utility requested that we use the rate equal to the overall cost of capital established by Order No. PSC-94-0739-FOF-WS.

We believe that the utility's request for retroactive application of AFUDC in this instance is appropriate. The utility shall retroactively accrue AFUDC at a rate of 8.61%, which is equal to the cost of capital established in that rate case. However, beginning January 1, 1995, the rate shall change to conform with the utility's most recent capital structure. Based on the

foregoing, we find it appropriate to grant UIF a rate of 8.61% and a discounted monthly rate of .716921%, effective January 1, 1993 through December 31, 1994, and a rate of 8.65% and a discounted monthly rate of .720667%, effective January 1, 1995. Our calculations of UIF's, Marion and Pinellas Counties, AFUDC rates are attached herein by Schedules Nos. 1 and 2.

LAKE UTILITY SERVICES, INC.

LUSI requested an AFUDC rate of 9.8%, based on the weighted cost of capital for the year ended December 31, 1994. LUSI used Utilities Inc.'s capital structure because it's capital structure includes only equity. Within its filing, LUSI requested that we retroactively approve an AFUDC rate for the year beginning January 1, 1994. The petition states that LUSI had significant construction projects during 1994, and it will suffer an undue hardship unless it is allowed to accrue AFUDC for these projects.

According to Rule 25-30.116(5), Florida Administrative Code, "No utility may charge or change its AFUDC rate without prior Commission approval. The new AFUDC rate shall be effective the month following the end of the 12-month period used to establish that rate and may not be retroactively applied to a previous year unless authorized by the Commission."

In previous orders, we rarely allowed retroactive application of AFUDC rates. One instance when we did allow a retroactive AFUDC rate was for Mid-County Services, Inc. (Mid-County). Mid-County is also a wholly-owned subsidiary of Utilities, Inc. In Mid-County's last rate case, the company accrued AFUDC charges without the Commission's prior approval. By Order No. PSC-93-1713-FOF-SU, issued November, 30, 1993, we allowed the accrued charges to remain in rate base. Our decision was based on the fact that since the acquisition of this utility in 1991, Utilities, Inc., had made substantial plant upgrades to bring this utility into compliance with the current Department of Environmental Protection standards.

However, in Utilities, Inc.'s next rate filing, we denied a retroactive AFUDC rate. Order No. PSC-95-0574-FOF-WS, issued May 9, 1995, states:

By the actions in the Mid-County case, we find that the utility was specifically noticed of the Commission's past history of denying retroactive application of an AFUDC rate. We further believe, that if this utility was truly concerned about this issue, it would

have filed an AFUDC application soon after the order was issued in the Mid-County rate case.

In course with Order No. PSC-95-0574-FOF-WS, we find that Utilities, Inc. was on notice from the Mid-County case about our history of denying retroactive application of an AFUDC rate. Additionally, we believe that a utility should file for an AFUDC rate before construction begins. Therefore, since LUSI's construction was initiated in 1994, we hereby deny LUSI's request for a retroactive AFUDC rate beginning January 1, 1994.

Pursuant to Rule 25-30.116(2), Florida Administrative Code, and Order No. PSC-95-0982-FOF-WS, we find it appropriate to establish LUSI's AFUDC rate at 10.03% and a discounted monthly rate of .835658%, effective January 1, 1995. Our calculations of LUSI's AFUDC rates are attached in Schedule No. 3.

LAKE PLACID UTILITIES, INC.

Lake Placid requested an AFUDC rate of 10.01%, based on the weighted cost of capital for the year ended December 31, 1994. The utility requested that the approved AFUDC rate be applied to the year beginning January 1, 1995. Lake Placid's calculation was made using Utilities Inc.'s capital structure, since its capital structure is 100% equity.

Pursuant to Rule 25-30.116(2), Florida Administrative Code, and Order No. PSC-95-0982-FOF-WS, we find it appropriate to establish Lake Placid's AFUDC rate at 10.25% and a discounted monthly rate of .853637%, effective January 1, 1995. Our calculations of Lake Placid's AFUDC rates are attached in Schedule No. 4.

TIERRE VERDE UTILITIES, INC.

Tierre Verde requested an AFUDC rate of 8.72%, based on the weighted cost of capital for the year ended December 31, 1994. Tierre Verde's capital structure was used since it has its own debt and the cost rate is much lower than the parent's.

Pursuant to Rule 25-30.116(2), Florida Administrative Code, and Order No. PSC-95-0982-FOF-WS, we find it appropriate to establish Tierre Verde's AFUDC rate at 8.99% and a discounted monthly rate of .748858%, effective January 1, 1995. Our calculations of Tierre Verde's AFUDC rates are attached in Schedule No. 5.

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Upon expiration of the protest period, if no timely protest is received, this docket shall be closed.

Therefore, it is

ORDERED by the Florida Public Service Commission that Utilities, Inc. of Florida's application for Marion and Pinellas Counties for a retroactive allowance for funds used during construction rate, effective January 1, 1993, is hereby granted. It is further

ORDERED that Utilities, Inc. of Florida's application for Marion and Pinellas Counties for an allowance for funds used during construction rate effective January 1, 1995 is hereby granted. It is further

ORDERED that Lake Utilities Services, Inc.'s application for a retroactive allowance for funds used during construction rate is hereby denied. Is it further

ORDERED that the application for an allowance for funds used during construction rate by Lake Utility Services, Inc., Lake Placid Utilities, Inc., and Terre Verde Utilities, Inc., effective January 1, 1995, is hereby granted as set forth in the body of this Order. It is further

ORDERED that all matters contained in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that all provisions of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at her office at 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that this docket shall be closed upon expiration of the protest period, if no timely protest is received.

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By ORDER of the Florida Public Service Commission, this 1st
day of December, 1995.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a solid horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MSN

Commissioner Kiesling dissents from the retroactive approval of AFUDC following a rate case in which AFUDC was requested, but not ruled on. Further, she dissents from the decision of the majority where AFUDC is approved retroactively on a case-by-base basis without any articulated criteria or standards.

Commissioner Garcia dissents without opinion.

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 22, 1995.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.

UTILITIES, INC. OF FLORIDA
 MARION AND PINELLAS COUNTIES
 AFUDC RATES - 12 MONTH AVERAGE
 YEAR ENDED DECEMBER 31, 1992

SCHEDULE NO. 1
 DOCKET NO. 950337-WS

CLASS OF CAPITAL	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS	ADJUSTED TEST YEAR	% TO TOTAL CAPITAL	COST RATE	WEIGHTED COST	DISCOUNTED MONTHLY RATE
1 COMMON EQUITY	167,345	0	167,345	40.03%	10.64%	4.26%	
2 LONG-TERM DEBT	39,505	0	39,505	9.45%	6.00%	0.57%	
3 INTERCOMPANY PAYABLES	162,447	0	162,447	38.86%	9.47%	3.68%	
4 CUSTOMER DEPOSITS	7,035	0	7,035	1.68%	6.00%	0.10%	
5 TAX CREDITS-ZERO COST	16,499	0	16,499	3.95%	0.00%	0.00%	
6 TAX CREDITS-WEIGHTED COST	0	0	0	0.00%	0.00%	0.00%	
7 DEFERRED INCOME TAXES	<u>25,247</u>	<u>0</u>	<u>25,247</u>	<u>6.04%</u>	<u>0.00%</u>	<u>0.00%</u>	
TOTAL	<u>418,078</u>	<u>0</u>	<u>418,078</u>	<u>100.00%</u>		<u>8.61%</u>	<u>0.00716920712</u>

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UTILITIES, INC. OF FLORIDA
 MARION AND PINELLAS COUNTIES
 AFUDC RATES - 12 MONTH AVERAGE
 YEAR ENDED DECEMBER 31, 1994

SCHEDULE NO. 2
 DOCKET NO. 950337-WS

CLASS OF CAPITAL	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS	ADJUSTED TEST YEAR	% TO TOTAL CAPITAL	COST RATE	WEIGHTED COST	DISCOUNTED MONTHLY RATE
1 COMMON EQUITY	207,595	0	207,595	44.86%	10.64%	4.77%	
2 LONG-TERM DEBT	15,684	0	15,684	3.39%	6.00%	0.20%	
3 INTERCOMPANY PAYABLES	172,684	0	172,684	37.32%	9.52%	3.55%	
4 CUSTOMER DEPOSITS	9,377	0	9,377	2.03%	6.00%	0.12%	
5 TAX CREDITS-ZERO COST	19,032	0	19,032	0.00%	0.00%	0.00%	
6 TAX CREDITS-WEIGHTED COST	0	0	0	0.00%	0.00%	0.00%	
7 DEFERRED INCOME TAXES	38,341	0	38,341	0.00%	0.00%	0.00%	
TOTAL	462,713	0	462,713	87.60%		8.65%	0.00720666666

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LAKE UTILITY SERVICES, INC.
 AFUDC RATES - 12 MONTH AVERAGE
 YEAR ENDED DECEMBER 31, 1994

SCHEDULE NO. 3
 DOCKET NO. 950337-WS

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1 COMMO
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 4 CUSTOM
 5 TAX CRE
 6 TAX CRE
 7 DEFERR
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ADJUSTED TEST YEAR	% TO TOTAL CAPITAL
34,311	49.67%
33,557	48.58%
0	0.00%
192	0.28%
0	0.00%
0	0.00%
1,022	1.48%
<u>69,082</u>	<u>100.00</u>

CLASS OF CAPITAL	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS	ADJUSTED TEST YEAR	% TO TOTAL CAPITAL	COST RATE	WEIGHTED COST	DISCOUNTED MONTHLY RATE
1 COMMON EQUITY	379,944	0	379,944	48.35%	11.29%	5.46%	
2 LONG-TERM DEBT	371,591	0	371,591	47.29%	9.52%	4.50%	
3 SHORT-TERM DEBT	0	0	0	0.00%	0.00%	0.00%	
4 CUSTOMER DEPOSITS	9,583	0	9,583	1.22%	6.00%	0.07%	
5 TAX CREDITS - ZERO COST	0	0	0	0.00%	0.00%	0.00%	
6 TAX CREDITS - WEIGHTED COST	0	0	0	0.00%	0.00%	0.00%	
7 DEFERRED INCOME TAXES	<u>24,680</u>	<u>0</u>	<u>24,680</u>	<u>3.14%</u>	<u>0.00%</u>	<u>0.00%</u>	
TOTAL	<u>785,798</u>	<u>0</u>	<u>785,798</u>	<u>100.00%</u>		<u>10.03%</u>	<u>0.0083565803</u>

LAKE PLACID UTILITIES, INC.
 AFUDC RATES - 12 MONTH AVERAGE
 YEAR ENDED DECEMBER 31, 1994

CLASS OF CAPITAL	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS	ADJUSTED TEST YEAR	% TO TOTAL CAPITAL
1 COMMON EQUITY	34,311	0	34,311	49.67%
2 LONG-TERM DEBT	33,557	0	33,557	48.58%
3 SHORT-TERM DEBT	0	0	0	0.00%
4 CUSTOMER DEPOSITS	192	0	192	0.28%
5 TAX CREDITS-ZERO COST	0	0	0	0.00%
6 TAX CREDITS-WEIGHTED COST	0	0	0	0.00%
7 DEFERRED INCOME TAXES	1,022	0	1,022	1.48%
TOTAL	69,082	0	69,082	100.00%

LAKE UTILITY SERVICES, INC.
 AFUDC RATES - 12 MONTH AVERAGE
 YEAR ENDED DECEMBER 31, 1994

CLASS OF CAPITAL	TOTAL CAPITAL
1 COMMON EQUITY	379,944
2 LONG-TERM DEBT	371,591
3 SHORT-TERM DEBT	0
4 CUSTOMER DEPOSITS	9,583
5 TAX CREDITS-ZERO COST	0
6 TAX CREDITS-WEIGHTED COST	0
7 DEFERRED INCOME TAXES	24,680
TOTAL	785,798

TIERRE VERDE UTILITIES, INC.
 AFUDC RATES - 12 MONTH AVERAGE
 YEAR ENDED DECEMBER 31, 1994

SCHEDULE NO. 5
 DOCKET NO. 950337-WS

CLASS OF CAPITAL	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS	ADJUSTED TEST YEAR	% TO TOTAL CAPITAL	COST RATE	WEIGHTED COST	DISCOUNTED MONTHLY RATE
1 COMMON EQUITY	391,834	0	391,834	59.19%	10.55%	6.24%	
2 LONG-TERM DEBT	283,266	0	283,266	42.79%	5.79%	2.48%	
3 SHORT-TERM DEBT	0	0	0	0.00%	0.00%	0.00%	
4 CUSTOMER DEPOSITS	0	0	0	0.00%	6.00%	0.00%	
5 TAX CREDITS-ZERO COST	0	0	0	0.00%	0.00%	0.00%	
6 TAX CREDITS-WEIGHTED COST	0	0	0	0.00%	0.00%	0.00%	
7 DEFERRED INCOME TAXES	<u>(13,068)</u>	<u>0</u>	<u>(13,068)</u>	<u>-1.97%</u>	<u>0.00%</u>	<u>0.00%</u>	
TOTAL	<u>662,032</u>	<u>0</u>	<u>662,032</u>	<u>100.00%</u>		<u>8.72%</u>	<u>0.69914589155</u>

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