

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of rates ) DOCKET NO. 960011-WS  
of Indiantown Company, Inc. in ) ORDER NO. PSC-96-0595-FOF-WS  
Martin County for possible ) ISSUED: May 7, 1996  
overearnings. )  
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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

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

BACKGROUND

Indiantown Company, Inc. (Indiantown or utility) is a Class B utility providing water and wastewater service for approximately 1,677 water and 1,585 wastewater customers in Martin County. The utility's systems are located in the St. Johns River Water Management District Water Conservation Area, which is a designated critical water use area. For the test year ended December 31, 1994, the utility reported water operating revenues of \$449,029 and a net operating income of \$82,218. For the same year, the utility's wastewater operating revenues were \$502,022 with a net operating income of \$61,486.

We last set Indiantown's rates and charges in Order No. 11891, issued on April 27, 1983, in Docket No. 810037-WS. In that order, we determined the utility's rate base and authorized an overall rate of return of 9.87%. In Order No. PSC-95-1328-FOF-WS, issued on November 1, 1995, in Docket No. 950371-WS, we re-established the utility's return on equity at 10.43%. The utility was granted index increases in 1986, 1987, 1988, 1989, 1993 and 1994, and a pass-through increase in 1991.

On February 6, 1996, we issued Order No. PSC-96-0169-FOF-WS, in which we ordered that an investigation of the water rates and charges of Indiantown be initiated. We further ordered that the utility shall collect water service revenues of \$118,066 on an annual basis subject to refund and that it shall provide a corporate undertaking of \$92,428 to secure a potential refund of water revenues collected in the interim period. We found the utility's water system to be earning an 89.39% overall rate of

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return and the wastewater system to be earning an overall rate of return of 6.40%. We established the utility's overall rate of return for interim purposes to be 9.61%. On February 20, 1996, the utility filed a motion for reconsideration of Order No. PSC-96-0169-FOF-WS.

MOTION FOR RECONSIDERATION

In its motion for reconsideration, Indiantown contended that we erred as a matter of law in ordering an investigation only of one aspect of the utility's operations. With reference to the Commission's statutory obligation to fix rates which are just, reasonable, compensatory, and not unfairly discriminatory, the utility noted that, while its water operations may appear to be overearning, its wastewater operations appear to be underearning. It argued that "the Commission has just as much legal obligation to adjust one inequity as the other." The utility requested that we issue a revised order requiring it to collect instead water service revenues subject to refund offset by the amount by which wastewater service revenues are less than the minimum of its authorized range of rate of return or permitting it as well to collect increased interim wastewater rates subject to refund.

Rule 25-22.060(1), Florida Administrative Code, permits a party who is adversely affected by an order of the Commission to file a motion for reconsideration of that order. It is well-established in the law that the purpose of reconsideration is to bring to the Commission's attention some point that the Commission overlooked or failed to consider or a mistake of fact or law. The standard for reconsideration is set forth in Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962):

The purpose of a petition for rehearing is merely to bring to the attention of the trial court or, in this instance, the administrative agency, some point which it overlooked or failed to consider when it rendered its order in the first instance. (citations omitted) It is not intended as a procedure for re-arguing the whole case merely because the losing party disagrees with the judgment or order.

Id. at 891.

Upon consideration, we find that we fully considered both the potential for overearnings in Indiantown's water operations and the potential for underearnings in its wastewater operations in deciding to order a formal investigation only of the water operations' earnings. In Order No. PSC-96-0169-FOF-WS, we stated:

[W]e find it appropriate that \$126,779, or 27.84%, of test year water revenues shall be held subject to refund pending our final determination of the utility's water revenue requirement, pursuant to Section 367.082(2)(b), Florida Statutes. The wastewater system is earning an overall rate of return of 6.40%, which is less than the minimum of the range of authorized overall rates of return.

Order at 3.

The utility appeared before us at the January, 1996, Agenda Conference, at which we ordered the overearnings investigation opened, and advanced its present argument, that is, that its wastewater operations' underearnings warrant an offsetting consideration. Thus, we find that it can not be said, applying Diamond Cab, supra, that, in Order No. PSC-96-0169-FOF-WS, we erred as a matter of law or overlooked a point of fact or law. Accordingly, we find it appropriate to deny Indiantown's motion for reconsideration of Order No. PSC-96-0169-FOF-WS.

In Order No. PSC-96-0169-FOF-WS, we ordered that an investigation of Indiantown's water service rates and charges be initiated. Hence, this docket shall remain open for that purpose.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration of Order No. PSC-96-0169-FOF-WS of Indiantown Company, Inc., is denied. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 7th day of May, 1996.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay J. [Signature]  
Chief, Bureau of Records

( S E A L )

CJP

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NOTICE OF 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 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 wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.