

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc. | DOCKET NO. 060255-SU
| ORDER NO. PSC-06-0675-PCO-SU
| ISSUED: August 7, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER SUSPENDING PROPOSED FINAL RATES
AND APPROVING INTERIM RATE INCREASE SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

Tierra Verde Utilities, Inc. (Tierra Verde or utility) is a Class B utility providing wastewater service to approximately 2,411 customers in Pinellas County. The utility is a wholly-owned subsidiary of Utilities, Inc. (UI). Wastewater rates were last established for Tierra Verde in its 1985 rate proceeding.¹ On June 30, 1992, UI purchased the assets of Seagull Utility Company (Seagull) and transferred them to a separate wholly-owned subsidiary (Tierra Verde).² In the transfer proceeding, the utility's rate base was established. In a 2001 earnings investigation, the Commission approved a settlement agreement ordering refunds, but, rates were not changed at that time.³

On May 15, 2006, Tierra Verde filed its Application for Rate Increase in this docket. The utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The utility had deficiencies in its Minimum Filing Requirements (MFRs). The deficiencies will not be corrected until after the statutory 60-day timeframe to suspend the requested interim rates, and therefore the official filing date has not been established. The test year established for interim and final rates is the historical twelve-month period ended December 31, 2005.

¹ See Order No. 16781, issued October 27, 1986, in Docket No. 850883-SU, In Re: Application of Seagull Utility Company for increased sewer rates to its customers in Pinellas County, Florida.

² See Order No. PSC-93-0364-FOF-SU, issued March 9, 1993, in Docket No. 920716-SU, In Re: Application For Transfer of Certificate No. 58-S from Seagull Utility Company to Tierra Verde Utilities, Inc. in Pinellas County

³ See Order No. PSC-02-0778-PAA-SU, issued June 10, 2002, in Docket No. 011190-SU, In re: Investigation of possible overearnings by Tierra Verde Utilities, Inc. in Pinellas County.

DOCUMENT NUMBER-DATE

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Tierra Verde requested interim rates designed to generate annual wastewater revenues of \$728,171, an increase of \$109,767 or 17.75%. It requested final rates designed to generate wastewater revenues of \$825,139, an increase of \$206,735 or 33.44%.

The original 60-day statutory deadline to suspend the utility's requested final rates was July 14, 2006, but by letter dated June 5, 2006, the utility agreed to extend the time by which we are required to authorize interim rates. This Order addresses the suspension of Tierra Verde's requested final rates and its requested interim rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

DECISION

Suspending Requested Final Rates

Section 367.081(6), Florida Statutes., provides that we may, for good cause, withhold consent to the implementation of the requested rates by a vote to that effect within 60 days of the date the rate request is filed. Further, Section 367.081(8), Florida Statutes, permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months if: (1) we have not acted upon the requested rate increase; or (2) if our Proposed Agency Action order is protested by a party other than the utility.

Upon review of the utility's filing and after considering the information provided in support of the rate application and the proposed final rates, we find that further investigation of this information, including on-site investigations by our staff accountants and engineers, is necessary. Therefore we suspend Tierra Verde's proposed rate increase pending that further investigation.

Interim Rate Approval

We find that Tierra Verde shall be authorized to collect annual wastewater revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Wastewater	\$618,404	\$109,767	\$728,171	17.75%

The utility filed rate base, cost of capital and operating statements to support its requested wastewater increase. Pursuant to Section 367.082(5)(b)1, Florida Statutes, the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with those used in the utility's most recent rate proceeding and annualizing any rate changes. Our determination of the appropriate interim rates is based on a review of the utility's interim request, as well as Order No. PSC-93-0364-FOF-SU, which last established rate base, and Order No.

16781, which last established rates. We discuss the necessary adjustments below. The attachments to this Order include the accounting schedules that illustrate the appropriate rate base, capital structure, and test year operating income amounts. The rate base schedule is labeled as No. 1-A. The capital structure schedule is No. 2, and the operating income schedule is labeled as No. 3-A, with adjustments shown on No. 3-B. Schedule 4 reflects the monthly service rates.

Rate Base

Our analysis of the MFRs and Order Nos. PSC-93-0364-FOF-SU and 16781 indicates that no adjustments are necessary to the utility's rate base. We find that the interim rate base should be \$835,421.

Cost of Capital

In its MFRs, the utility used a simple average capital structure, which consisted of allocated investor sources of capital from UI and Tierra Verde's actual accumulated deferred income taxes. In its interim request, Tierra Verde used an 11.05% return on equity (ROE).

In Order No. PSC-02-0778-PAA-SU, the issue of lowering Tierra Verde's ROE was tabled, pending a decision in Docket No. 011189-WS.⁴ Order No. PSC-02-1452-FOF-WS, issued October 21, 2002, closed that docket due to the fact that there were other pending dockets before the Commission involving those utilities, and the docket would be unnecessarily duplicative. Of the utilities involved in the investigation into ROE, the Commission determined an ROE only for Alafaya Utilities, Inc.⁵ Tierra Verde's ROE was last established at 13.03% by Order No. 16781. However, the authorized ROE for Seagull in Order No. 16781 should not be used because the ROE does not survive a transfer.⁶ Therefore, we believe that the current leverage formula should be used to determine ROE for Tierra Verde, and the minimum of the range should be used pursuant to Section 367.082(5)(b)3., Florida Statutes. Using the leverage formula approved by Order No. PSC-06-0476-PAA-WS, issued June 5, 2006,⁷ the return on equity is 11.53% with a range of 10.53% - 12.53%. Using the 10.53% minimum of the range, an interim weighted average cost of capital should be 7.11%.

Net Operating Income

Upon review, we find that two adjustments to operating expenses are appropriate.

⁴ In re: Investigation into the authorized return on equity of Alafaya Utilities, Inc. in Seminole County; Lake Groves Utilities, Inc. in Lake County; Miles Grant Water and Sewer Company in Martin County; and Utilities, Inc. of Longwood in Seminole County.

⁵ See Order No. PSC-04-0363-PAA-SU, issued April 5, 2004, in Docket No. 02408-SU, In re: Application for rate increase in Seminole County by Alafaya Utilities, Inc.

⁶ See PSC-01-2094-FOF-SU, issued October 22, 2001, in Docket No. 011190-SU, In re: Investigation of possible overearnings by Tierra Verde Utilities, Inc. in Pinellas County, p. 3.

⁷ Docket No. 060006-WS, In Re: Water and Wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

Taxes Other Than Income

On MFR B-15, the utility included \$27,436 for regulatory assessment fees (RAFs) on historical per books revenues of \$606,834. Using the .045 RAF rate, pursuant to Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, we calculated RAFs of \$27,308. The utility's historical per book RAFs are overstated and should be decreased by \$128.

Income Tax

In its filing, the utility made adjustments of \$6,760 to reflect the income tax effect of operating and expense adjustments, and of \$28,377 to reflect the income tax effect of the requested interim revenue increase. The utility failed to make an adjustment to remove the negative income tax balance shown in the "per books" column of MFR Schedule B-2 (interim). We made an adjustment of \$56,675 to eliminate the negative balance. For reasons explained below, this adjustment has no impact on an interim revenue increase. We find that the appropriate interim test year operating income for wastewater, before any revenue increase, is a loss of \$30,242.

Revenue Requirement

The utility requested a revenue requirement of \$728,171. The adjustments we have made generate a revenue requirement higher than that requested by the utility. In such circumstances, it has been Commission practice to limit the revenue requirement to the level requested.⁸ Also, the interim revenue requirement is based on amounts that will be trued-up in the determination of final rates. For these reasons we approve a revenue requirement of \$728,171 for wastewater. This represents an interim increase in annual revenues of \$109,767, or 17.75%. This will allow the utility the opportunity to recover its operating expenses and earn a 4.21% return on its rate base.

Interim Wastewater rates

Interim wastewater service rates for Tierra Verde shall be designed to allow the utility the opportunity to generate annual operating revenues of \$728,171 for wastewater operations. This reflects an increase of \$109,767 for wastewater, or 17.75%, before removal of miscellaneous revenues. To determine the appropriate percentage increase to apply to the service rates, miscellaneous service revenues shall be removed from the test year revenues. The calculation is as follows:

⁸ See Order No. PSC-05-0287-PAA-SU, issued March 17, 2005, in Docket No. 040972-SU, In re: Application for rate increase in Pinellas County by Ranch Mobile WWTP, Inc. and Order No. PSC-95-0191-FOF-WS, issued February 9, 1995, in Docket No. 940917-WS, In Re: Application for rate increase for increased water and wastewater rates in Seminole, Orange, and Pasco Counties by Utilities, Inc. of Florida.

	<u>Wastewater</u>
1 Total Test Year Revenues	\$618,404
2 Less: Miscellaneous Revenues	<u>0</u>
3 Test Year Revenues from Service Rates	\$618,404
4 Revenue Increase	<u>\$109,767</u>
5 % Service Rate Increase (Line 4/Line3)	<u>17.75%</u>

The interim rate increase of 17.75% for wastewater shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2005. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. The utility shall provide proof of the date notice was given within 10 days after the date of notice.

The utility's test year, proposed interim and final wastewater rates, and our approved interim wastewater rates are shown on Schedule No. 4.

Security

Pursuant to Section 367.082, Florida Statutes, revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking, subject to refund with interest at a rate ordered by the Commission. In this case, the total annual interim increase is \$109,767 for wastewater. In accordance with Rule 25-30.360, Florida Administrative Code, we calculated the potential refund of revenues and interest collected, under interim conditions to be \$64,969. This amount is based on an estimated seven months of revenue collected under our approved interim rates over the utility's current authorized rates shown on Schedule No. 4.

Tierra Verde is a wholly-owned subsidiary of UI, which provides all investor capital to its subsidiaries. UI has requested a corporate undertaking to secure any interim increases granted in the current rate cases of its subsidiaries, which are filed in Dockets Nos. 060254-SU, 060255-SU, 060256-SU, 060257-WS, 060258-WS, 060260-WS, 060261-WS, and 060262-WS. Considering all of these dockets the estimated total corporate undertaking amount for UI is \$718,575, which includes \$64,969 subject to refund for this docket.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. A review of UI's financial statements from 2003 to 2005 shows that UI has experienced a significant decline in liquidity and interest coverage during 2005 compared to prior years. However, UI's average equity ratio

over the three-year period has been 40%. Also, net income has been on average six times greater than the requested cumulative corporate undertaking amount. UI's financial performance has demonstrated adequate levels of both profitability and equity capitalization to offset the recent decline in liquidity and interest coverage. For these reasons we find that a cumulative corporate undertaking of \$718,575 is acceptable, contingent upon receipt of UI's written guarantee and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tierra Verde Utilities, Inc.'s proposed final rates and schedules are suspended pending further proceedings in this docket. It is further

ORDERED that Tierra Verde Utilities, Inc.'s requested interim rates are approved to the extent set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

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

ORDERED that the difference between the interim rates granted herein and Tierra Verde's previously authorized rates shall be collected subject to refund with interest, in accordance with Rule 25-30.360, Florida Statutes. It is further

ORDERED that as security for the revenues collected under interim rates, Utilities, Inc. shall provide a cumulative corporate undertaking of \$718,575, which includes \$64,969 subject to refund for this docket, contingent upon the receipt of the written guarantee of Utilities, Inc., and written confirmation that Utilities, Inc. does not have any outstanding guarantees on behalf of Utilities, Inc.-owned utilities in other states. It is further

ORDERED that prior to implementation of the interim rates approved herein, Tierra Verde Utilities, Inc. shall file and have approved tariff pages revised in accordance with the provisions of this Order, the appropriate security for the refund and a proposed customer notice. It is further

ORDERED that the interim rates approved shall be effective for service rendered on or after the stamped approval date of tariff sheets, provided the customers have received notice. It is further

ORDERED that Tierra Verde Utilities, Inc. shall provide proof to our staff of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that the tariff sheets will be stamped approved upon verification that they are consistent with our decision made herein, that the proposed customer notice is adequate, and that the appropriate security is provided. It is further

ORDERED that during the time the interim rates are in effect, Tierra Verde Utilities, Inc. shall file a report by 20th of each month indicating the monthly and total revenue collected subject to refund pursuant to Rule 25-30.360(6), Florida Administrative Code. It is further

ORDERED that in the event a refund is required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that this docket shall remain open pending our final action on Tierra Verde Utilities, Inc.'s requested final rate increase.

By ORDER of the Florida Public Service Commission this 7th day of August, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Tierra Verde Utilities, Inc. Schedule of Wastewater Rate Base Test Year Ended 12/31/05				Schedule No. 1-A Docket No. 060255-SU Interim		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Comm. Adjust- ments	Comm. Adjusted Test Year	
1 Plant in Service	\$3,271,506	\$0	\$3,271,506	\$0	\$3,271,506	
2 Land and Land Rights	\$0	\$0	0	0	0	
3 Non-used and Useful Components	\$0	\$0	0	0	0	
4 Accumulated Depreciation	(\$1,746,670)	\$0	(1,746,670)	0	(1,746,670)	
5 CIAC	(\$1,683,577)	\$0	(1,683,577)	0	(1,683,577)	
6 Amortization of CIAC	\$918,751	\$0	918,751	0	918,751	
7 CWIP	\$63,296	(\$63,296)	0	0	0	
8 Acquisition Adjustments	\$351,207	(\$351,207)	0	0	0	
9 Accum. Amort.of Acq. Adjs.	(\$81,247)	\$81,247	0	0	0	
10 Working Capital	<u>0</u>	<u>75,411</u>	<u>75,411</u>	<u>0</u>	<u>75,411</u>	
11 Rate Base	<u>\$1,093,266</u>	<u>(\$257,845)</u>	<u>\$835,421</u>	<u>\$0</u>	<u>\$835,421</u>	

Tierra Verde Utilities, Inc.
Capital Structure-Simple Average
Test Year Ended 12/31/05

Schedule No. 2
Docket No. 060255-SU
Interim

Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
per utility								
Long-term Debt	\$124,044,203	\$0	\$124,044,203	\$123,637,449	\$406,754	48.69%	6.65%	3.24%
Short-term Debt	11,347,000	0	\$11,347,000	-11,309,790	\$37,210	4.45%	2.64%	0.12%
Preferred Stock	0	0	\$0	0	\$0	0.00%	0.00%	0.00%
Common Equity	90,787,422	0	\$90,787,422	-90,489,715	\$297,707	35.64%	11.05%	3.94%
Customer Deposits	0	0	\$0	0	\$0	0.00%	6.00%	0.00%
Deferred Income Taxes	93,749	0	\$93,749	0	\$93,749	11.22%	0.00%	0.00%
Total Capital	<u>\$226,272,374</u>	<u>\$0</u>	<u>\$226,272,374</u>	<u>\$225,436,954</u>	<u>\$835,420</u>	<u>100.00%</u>		<u>7.29%</u>
per Commission								
Long-term Debt	\$124,044,203	\$0	\$124,044,203	\$123,637,444	\$406,759	48.69%	6.65%	3.24%
Short-term Debt	11,347,000	0	\$11,347,000	-\$11,309,792	37,208	4.45%	2.64%	0.12%
Preferred Stock	0	0	\$0	\$0	0	0.00%	0.00%	0.00%
Common Equity	90,787,422	0	\$90,787,422	-\$90,489,717	297,705	35.64%	10.53%	3.75%
Customer Deposits	0	0	\$0	\$0	0	0.00%	6.00%	0.00%
Deferred Income Taxes	93,749	0	\$93,749	0	93,749	11.22%	0.00%	0.00%
Total Capital	<u>\$226,272,374</u>	<u>\$0</u>	<u>\$226,272,374</u>	<u>\$225,436,953</u>	<u>\$835,421</u>	<u>100.00%</u>		<u>7.11%</u>
						LOW	HIGH	
RETURN ON EQUITY						10.53%	12.53%	
OVERALL RATE OF RETURN						7.11%	7.82%	

Tierra Verde Utilities, Inc.
Statement of Wastewater Operations
Test Year Ended 12/31/05

Schedule No. 3-A
Docket No. 060255-SU
Interim

Description	Test Year Per Utility	Utility Adjustments	Adjusted Test Year Per Utility	Comm. Adjustments	Comm. Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	\$606,834	\$121,337	\$728,171	-\$109,767	\$618,404	\$109,767	\$728,171
						17.75%	
Operating Expenses							
2 Operation & Maintenance	\$603,289	\$0	\$603,289	\$0	\$603,289		\$603,289
3 Depreciation	46,547	0	46,547	0	46,547		46,547
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	33,576	5,332	38,908	-4,939	33,969	4,940	38,908
6 Income Taxes	<u>-56,675</u>	<u>35,137</u>	<u>-21,538</u>	<u>43,054</u>	<u>-35,159</u>	<u>39,447</u>	<u>4,288</u>
7 Total Operating Expense	<u>626,737</u>	<u>40,469</u>	<u>667,206</u>	<u>38,115</u>	<u>648,646</u>	<u>44,386</u>	<u>693,032</u>
8 Operating Income	<u>-\$19,903</u>	<u>\$80,868</u>	<u>\$60,965</u>	<u>-\$147,882</u>	<u>-\$30,242</u>	<u>\$65,381</u>	<u>\$35,139</u>
9 Rate Base	<u>\$1,093,266</u>		<u>\$835,421</u>		<u>\$835,421</u>		<u>\$835,421</u>
10 Rate of Return	<u>-1.82%</u>		<u>7.30%</u>		<u>-3.62%</u>		<u>4.21%</u>

Tierra Verde Utilities, Inc.
Adjustment to Operating Income
Test Year Ended 12/31/05

Schedule No. 3-B
Docket No. 060255-SU
Interim

Explanation	Wastewater
<u>Operating Revenues</u>	
1 Remove requested final revenue increase	(\$109,767)
2	\$0
3	\$0
4	<u>\$0</u>
Total	<u>(\$109,767)</u>
<u>Operation and Maintenance Expense</u>	
1	\$0
2	\$0
3	\$0
4	\$0
5 Total	<u>\$0</u>
<u>Depreciation Expense - Net</u>	
1	\$0
2	\$0
3	\$0
4	\$0
Total	<u>\$0</u>
<u>Amortization-Other Expense</u>	
	<u>\$0</u>
<u>Taxes Other Than Income</u>	
1 RAFs on revenue adjustments above	(\$4,811)
2 To reflect the appropriate historical test year RAFs	(\$128)
3	\$0
4	<u>\$0</u>
Total	<u>(\$4,939)</u>
<u>Income Taxes</u>	
1 To adjust to test year income tax expense	(\$13,621)
2 To eliminate negative income tax expense	\$56,675
Total	<u>\$43,054</u>

**Tierra Verde Utilities, Inc.
Wastewater Bimonthly Service Rates
Test Year Ended 12/31/05**

**SCHEDULE NO. 4
Docket No. 060255-SU
Interim**

	Rates Prior to Filing	Utility Requested Interim	Utility Requested Final	Comm. Approved Interim
<u>Residential</u>				
Flat Rate All Meter Sizes:	\$66.42	\$78.21	\$88.62	\$78.21
Gallonge Charge - Per 1,000 gallons (10,000 gallon cap)	\$0.00	\$0.00	\$0.00	\$0.00
<u>General Service</u>				
Base Facility Charge by Meter Size:				
5/8" x 3/4"	\$33.43	\$39.36	\$44.61	\$39.36
1"	\$83.59	\$98.43	\$111.53	\$98.43
1-1/2"	\$167.15	\$196.82	\$223.03	\$196.82
2"	\$267.45	\$314.92	\$356.86	\$314.92
3"	\$534.88	\$590.40	\$669.15	\$629.82
4"	\$835.74	\$984.08	\$1,115.13	\$984.08
6"	\$1,671.47	\$1,968.16	\$2,230.25	\$1,968.16
8"	\$0.00	\$0.00	\$0.00	\$0.00
Gallonge Charge, per 1,000 Gallons	\$1.80	\$2.12	\$2.40	\$2.12
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>				
3,000 Gallons	\$66.42	\$78.21	\$88.62	\$78.21
5,000 Gallons	\$66.42	\$78.21	\$88.62	\$78.21
10,000 Gallons	\$66.42	\$78.21	\$88.62	\$78.21
(Wastewater Gallonge Cap - 10,000 Gallons)				