

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Settlement proposal for possible  
overearnings by Tierra Verde Utilities, Inc. in  
Pinellas County.

DOCKET NO. 100446-SU  
ORDER NO. PSC-11-0012-PAA-SU  
ISSUED: January 4, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
NATHAN A. SKOP  
RONALD A. BRISÉ  
EDUARDO E. BALBIS

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING PROPOSED SETTLEMENT

BY THE COMMISSION:

BACKGROUND

Utilities, Inc. (UI) is an Illinois corporation which owns approximately 75 subsidiaries throughout 15 states including 15 water and wastewater utilities within the State of Florida. Tierra Verde Utilities, Inc. (Tierra Verde or Utility) is one of the aforementioned subsidiaries in Florida.

Rates were last established for this utility in 2009.<sup>1</sup> On March 20, 2010, we approved a 2009 index and pass-through rate adjustment which represented a \$20,271 revenue increase. Commission staff's review of the 2009 Annual Report for Tierra Verde revealed possible overearnings of approximately 4.39 percent of total revenues. Subsequently, staff engaged in noticed discussions with the Utility and the Office of Public Counsel regarding these possible overearnings. In a letter dated November 18, 2010, Tierra Verde proposed a settlement offer to address the possible overearnings. Tierra Verde proposed to withdraw its 2010 index application and refund with interest and reduce rates by the amount of the 2009 index that was previously approved. Further, the Utility stated it would reduce rates by any incremental 2009 overearnings above the amount of the 2009 index. The Utility's proposed settlement is attached to this Order as Attachment A. We have jurisdiction over this matter pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

<sup>1</sup> See Order No. PSC-09-0372-PAA-SU, issued May 27, 2009, in Docket No. 080248-SU, In re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

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FPSC-COMMISSION CLERK

DECISION TO APPROVE PROPOSED SETTLEMENT

As stated previously, Commission staff reviewed the Utility's 2009 Annual Report, which revealed possible overearnings. We note that this amount represents possible overearnings because the annual report analysis is unaudited and the Utility's books and records have not been examined by our staff auditors for the 2009 calendar year.

By letter dated November 18, 2010, Tierra Verde proposed a settlement to address possible overearnings. Specifically, the Utility agreed to withdraw its 2010 index application (submitted on May 24, 2010) and refund with interest and reduce rates by the amount of the previously approved 2009 index. Further, the Utility stated it would reduce rates by any incremental 2009 overearnings above the amount of the 2009 index. This settlement represents an across-the-board rate reduction of \$39,681 or 4.39 percent, as well as a refund of \$20,271 with interest.

Possible Overearnings	\$39,681
2009 Index Amount	<u>20,271</u>
Difference	<u>\$19,410</u>
Proposed Rate Reduction	<u>\$39,681</u> <u>(4.39%)</u>
Proposed Refund	<u>\$20,271</u>

In the Tierra Verde's last rate case, the Utility's purchased wastewater expense was reduced because of excessive inflow and infiltration (I&I). In the last case, we granted \$13,720 annually for a video inspection project of the Utility's collection system. On September 21, 2010, Tierra Verde provided an I&I calculation as of June 30, 2010, which showed no excessive I&I. We believe the above-mentioned inspection project has enabled Tierra Verde to identify areas of the collection system needing repair. Based on the above, we made no adjustment to purchased wastewater expense in its 2009 earnings calculation for the Utility.

We find that Tierra Verde's proposed settlement is a reasonable resolution because it will address the possible overearnings on a prospective basis. Further, it is in the public interest for this Commission to approve the settlement proposal because this settlement offer promotes administrative efficiency, avoiding the time and expense of a formal earnings investigation.

In keeping with our long-standing practice of encouraging parties to settle contested proceedings,<sup>2</sup> we hereby approve the settlement proposal. Schedule No. 1 reflects the Commission-approved rates from the 2008 rate case, the rates from the 2009 index and pass-

<sup>2</sup> See Order Nos. PSC-09-0711-AS-WS, issued October 26, 2009, in Docket No. 080249-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.; PSC-08-0640-AS-WU, issued October 3, 2008, in Docket No. 070601-WU, In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply; and PSC-07-0534-AS-WS, issued June 26, 2007, in Docket No. 060261-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.

through rate adjustment, and our approved rates per the Utility's settlement proposal. Commission staff will continue to monitor the earnings of the Utility, and if any subsequent overearnings are identified, staff may open a formal earnings investigation.

The Utility shall file a proposed customer notice reflecting our decision within 15 days of the vote. The approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after our staff has verified that the proposed customer notice is adequate and this notice has been provided to the customers. The Utility shall provide proof that the customers have received notice within 10 days after the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed settlement by Tierra Verde Utilities, Inc. is hereby approved. It is further

ORDERED that Tierra Verde Utilities, Inc. shall make an across-the-board rate reduction of \$39,681 or 4.39 percent of total revenues, as well as a refund of \$20,271 with interest. It is further

ORDERED that Tierra Verde Utilities, Inc. shall file a proposed customer notice reflecting our decision herein within 15 days of our vote. The approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after Commission staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Utility shall provide proof that the customers have received notice within 10 days after the date of the notice. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open to allow our staff to verify completion of the refund discussed herein and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. It is further

ORDERED that once our staff has verified that the refunds have been made in accordance with Rule 25-30.360, Florida Administrative Code, the docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 4th day of January, 2011.



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ANN COLE  
Commission Clerk

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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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 25, 2011.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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

LAW OFFICES  
**ROSE, SUNDBSTROM & BENTLEY, LLP**

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Please Respond to the Lake Mary Office

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November 18, 2010

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ROBERT M.C. ROSE, (1924-2006)

E-FILING

Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RE: Docket No. 100000; Investigation into possible overearnings of Tierra Verde Utilities,  
Inc.  
Our File No.: 30057.192

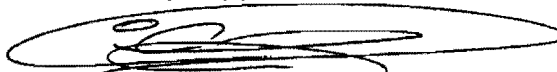
Dear Ms. Cole:

On September 13, 2010, Tierra Verde Utilities, Inc. (the "Utility"), the Office of Public Counsel and Staff of the Florida Public Service Commission held an informal meeting to discuss the alleged overearnings by Tierra Verde Utilities, Inc. In light of these discussions, Staff has requested that the Utility file a proposal to settle the above-referenced matter.

To that end, the Utility would agree to (1) withdraw its 2010 Index Application, (2) refund revenues collected from the 2009 index with interest, (3) reduce rates by the amount of the 2009 index, and (4) reduce rates by the rest of the 2009 overearnings. The Utility would agree that the rate reduction should be calculated based on the adjustments made in the last rate case (Docket No. 080248-SU), except that the calculations will recognize the Utility's investment to correct Inflow and Infiltration since the last rate case. This proposal would avoid the time and expense of multiple refunds and audits, and the customers would get an immediate benefit.

Should you or the Staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



CHRISTIAN W. MARCELLI  
For the Firm

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<b>Tierra Verde Utilities, Inc.</b>		<b>Schedule No. 1</b>	
<b>Wastewater Bi-Monthly Service Rates</b>		<b>Docket No. 100446-SU</b>	
<b>Test Year Ended 12/31/09</b>			
	<b>Comm. Approved 2008 RC</b>	<b>2009 I &amp; P/T 3/24/2010</b>	<b>Commission Approved Rates</b>
<b><u>Residential</u></b>			
Flat Bi-Monthly Rate	\$102.44	\$104.29	\$99.71
<b><u>General Service</u></b>			
Base Facility Charge by Meter Size:			
5/8" x 3/4"	\$65.35	\$66.53	\$63.61
1"	\$163.38	\$166.33	\$159.03
1-1/2"	\$326.76	\$332.66	\$318.07
2"	\$522.82	\$532.26	\$508.91
3"	\$1,045.64	\$1,064.53	\$1,017.83
4"	\$1,633.81	\$1,663.32	\$1,590.35
6"	\$3,267.63	\$3,326.65	\$3,180.71
Gallonage Charge, per 1,000 Gallons	\$3.41	\$3.47	\$3.32
<b><u>Typical Residential Bills 5/8" x 3/4" Meter</u></b>			
6,000 Gallons	\$102.44	\$104.29	\$99.71
10,000 Gallons	\$102.44	\$104.29	\$99.71
20,000 Gallons	\$102.44	\$104.29	\$99.71
(Bi-Monthly Wastewater Gallonage Cap - 20,000 Gallons)			