

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

DOCKET NO. 100330-WS
ORDER NO. PSC-11-0336-PCO-WS
ISSUED: August 10, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER ACKNOWLEDGING THE IMPLEMENTATION OF PROPOSED AGENCY ACTION RATES SUBJECT TO REFUND WITH INTEREST

BY THE COMMISSION:

Background

Aqua Utilities Florida, Inc. (AUF or Utility) is a wholly-owned subsidiary of Aqua America, Inc. AUF provides water and wastewater service in 87 certificated service areas (60 water and 27 wastewater systems) in 17 counties. In the test year ended April 30, 2010, the Utility recorded total regulated operating revenues of \$8,255,766 and \$4,824,531 for water and wastewater, respectively. AUF reported regulated net operating income for the test year of \$605,852 for water and \$526,976 for wastewater. During the test year, 16,357 water and 6,789 wastewater customers received service from the Utility's regulated systems. Water and wastewater rates were last established for this Utility in a rate case initiated in 2008.¹

On September 1, 2010, the Utility filed an application for approval of interim and final rate increases for its water and wastewater systems. By Proposed Agency Action (PAA) Order No. PSC-11-0256-PAA-WS (PAA Order), issued June 13, 2011, we approved rates that were designed to generate a total water revenue requirement of \$10,134,129 and wastewater revenue requirement of \$5,910,317.

¹ See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

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FPSC-COMMISSION CLERK

On July 1, 2011, the Office of Public Counsel (OPC) and Ms. Lucy Wambsgan timely filed their protests of portions of the PAA Order. By letter dated July 1, 2011, AUF gave notice that it was electing to put the rates approved in the PAA Order into effect during the pendency of the administrative hearing pursuant to Section 367.081(8), Florida Statutes (F.S.).

On July 11, 2011, AUF and YES Companies, LLC d/b/a Arredondo Farms timely filed cross-petitions to protest the PAA Order pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.).

This Order addresses the implementation of the PAA rates by AUF and the security to guarantee the increased revenues collected subject to refund. We have jurisdiction pursuant to Section 367.081, F.S.

Acknowledgement of the Implementation of the Proposed Agency Action Rates

As discussed above, the PAA Order was protested by OPC and Ms. Wambsgan. On July 1, 2011, AUF filed notice that it has elected to implement the PAA rates pursuant to Section 367.081(8), F.S., pending the resolution of the protests filed in this docket. The Utility also submitted tariff sheets, a proposed customer notice, and a request to use a corporate undertaking to secure any potential refund.

Section 367.081(8), F.S., provides:

At the expiration of 5 months following the official filing date, if the commission has not taken action or, if the commission's action is protested by a party other than the utility, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund, upon notice to the commission and upon filing the appropriate tariffs.

The filing of OPC's and Ms. Wambsgan's objections triggers the applicability of Section 367.081(8), F.S., and AUF shall be allowed to implement the PAA rates as requested by the Utility. Although AUF had the right to implement its requested final rates, the Utility has elected to implement the rates approved by us in the PAA Order.

Our staff reviewed the tariff sheets, customer notice, and security provided by AUF, and it appears that the Utility has met the requirements of Section 367.081(8), F.S. The security for the rate increase is discussed below. Based on the above, we acknowledge the Utility's implementation of the PAA rates on a temporary basis pending the outcome of this rate proceeding.

Appropriate Security

As discussed above, the Utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund pursuant to Section 367.081(8), F.S. In addition to allowing the Utility to implement its requested rates, the statute requires that "[t]he utility shall keep accurate records of amounts received as provided by subsection (6)."

Subsection (6) specifies that “[t]he utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid.”

AUF is a wholly-owned subsidiary of AAI, which provides all investor capital to its subsidiaries. AAI’s present outstanding corporate undertaking amount in Florida is \$586,514, which relates to the interim increase granted by this Commission. AAI has requested a corporate undertaking to secure the implementation of temporary PAA rates.

In accordance with Rule 25-30.360, F.A.C., we calculate the potential refund of revenues and interest collected for the implemented PAA rates to be \$2,176,764. The total incremental amount of \$2,176,764 is based on an estimated ten months of revenue being collected. Therefore, the requested cumulative corporate undertaking amount for Florida, including the amount of \$586,514 for the interim rates, is \$2,763,278 (\$586,514 + \$2,176,764).

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Our staff reviewed the financial statements of AUF’s parent, Aqua America, Inc. (AAI or Company), to determine if AAI can support a corporate undertaking on behalf of its subsidiary. AAI’s 2010, 2009 and 2008 financial statements were used to determine the financial condition of the Company. AAI has experienced inadequate levels of liquidity during the three-year period of this analysis. AAI’s average equity ratio over the three-year period has averaged approximately 44 percent which is sufficient in this instance based on AAI’s overall financial condition. In addition, AAI has experienced an improving and adequate interest coverage ratio. Finally, net income has steadily increased over the period and has been sufficient for the requested cumulative corporate undertaking amount. AAI’s financial performance has demonstrated adequate levels of profitability, interest coverage, and equity capitalization to offset the deficient liquidity position.

Based on the above, we find AAI has adequate resources to support a corporate undertaking in the amount of \$2,763,278. Additionally, AAI shall provide written confirmation that it will not assume outstanding guarantees on behalf of AAI-owned utilities in other states in excess of \$10.8 million. The financial analysis above is only appropriate for deciding if the Utility can support a corporate undertaking in the amount proposed.

Pursuant to Rule 25-30.360(6), F.A.C., 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, F.A.C. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the notice of implementation of the Proposed Agency Action rates subject to refund with interest pursuant to Section 367.081(8), F.S., is acknowledged. It is further

ORDERED that Aqua America, Inc. shall file a corporate undertaking in the cumulative amount of \$2,763,278 on behalf of Aqua Utilities Florida, Inc., guaranteeing the refund with interest of revenues collected under the temporary Proposed Agency Action rates. It is further

ORDERED that Aqua America, Inc. (AAI) shall provide written confirmation that it will not assume outstanding guarantees on behalf of AAI-owned utilities in other states in excess of \$10.8 million (inclusive of Aqua Utilities Florida, Inc.). It is further

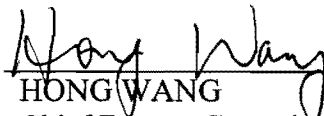
ORDERED that pursuant to Rule 25-30.360(6), F.A.C., the Utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. It is further

ORDERED that should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that in no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility. It is further

ORDERED that because protests have been filed to Order No. PSC-11-0256-PAA-WS, the docket shall remain open to complete the hearing process.

By ORDER of the Florida Public Service Commission this 10th day of August, 2011.



HONG WANG
Chief Deputy 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 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.