

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint motion requesting approval of settlement agreement, by Office of Public Counsel and North Florida Community Water Systems, Inc.

DOCKET NO. 20240085-WS
ORDER NO. PSC-2024-0218-PAA-WS
ISSUED: June 25, 2024

The following Commissioners participated in the disposition of this matter:

MIKE LA ROSA, Chairman
ART GRAHAM
GARY F. CLARK
ANDREW GILES FAY
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING SETTLEMENT AGREEMENT
ADDRESSING POTENTIAL OVEREARNINGS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (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 (F.A.C.).

Background

North Florida Community Water Systems, Inc. (NFCWS or Utility) owns six water and three wastewater systems in Duval, Alachua, Leon, Okaloosa, Franklin, and Washington counties. The Utility provides service to approximately 2,471 water and 243 wastewater customers. The Utility's water and wastewater system in Duval County, formerly known as Duval Waterworks, Inc. (DWI), serves approximately 51 water customers and 33 wastewater customers. In February of 2023, we acknowledged the corporate reorganization and name change of several systems, including DWI, to NFCWS.¹ The corporate reorganization resulted in no

¹ Order No. PSC-2023-0097-FOF-WS, issued February 22, 2023 in Docket No. 20220199-WS, *In re: Joint application for acknowledgement of corporate reorganization and approval of name changes on Certificate Nos. 641-W and 551-S in Duval County, Certificate No. 555-W in Alachua County, Certificate Nos. 678-W and 672-W in Leon County, Certificate No. 676-W in Okaloosa County, and Certificate Nos. 501-W and 435-S in Washington County from Duval Waterworks, Inc., Gator Waterworks, Inc., Lake Talquin Waterworks, Inc., Seminole Waterworks, Inc., Okaloosa Waterworks, Inc., and Sunny Hills Utility Company to North Florida Community Water Services, Inc.*

change in ownership or control of the utilities, and each FCWS system continued to charge its own Commission-approved rates and charges.

Based on our review of DWI's 2021 and 2022 Annual Reports, the Utility was identified as potentially overearning. By letter dated July 22, 2022, NFCWS acknowledged our jurisdiction over revenues in excess of the maximum of the allowed Return on Equity (ROE) for 2022. NFCWS has worked with us as well as with the Office of Public Counsel (OPC) to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE ("overearnings"). On May 7, 2024, NFCWS and OPC filed a Joint Motion requesting our approval of a Settlement Agreement to resolve the disposition of the 2022 and 2023 overearnings.² The Settlement Agreement only addresses customers of the Utility's water and wastewater systems in Duval County.

The Joint Motion and Settlement Agreement have been attached as Attachment A to this Order. We has jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

Decision

As part of our ongoing surveillance activities, we identified possible overearnings based upon its review of DWI's 2021 and 2022 Annual Reports, filed in 2022 and 2023, respectively. In further examining possible overearnings, we requested and obtained updated data over several months to evaluate the Utility's financial position, the likelihood of continued overearnings, and to examine the level of operating revenues necessary to support ongoing utility operations. Our analysis also incorporated the Utility's needs for continuing capital improvements and operating expenses.

In addition to working with us, NFCWS also worked with OPC to discuss the potential disposition of any overearnings. On May 7, 2024, NFCWS and OPC filed a Joint Motion requesting our approval of a Settlement Agreement to resolve the disposition of the 2022 and 2023 overearnings. Within the Settlement Agreement, NFCWS agrees to refund customers of its Duval County system, formerly DWI customers, 14.18 percent of water revenues and 32.38 percent of wastewater revenues billed for the calendar year 2022. NFCWS also agrees to refund 12.68 percent of water revenues and 15.27 percent of wastewater revenues billed for the calendar year 2023.

In keeping with our long-standing policy and practice of encouraging parties to settle issues whenever possible, we approve the Joint Motion and Settlement Agreement by the Parties. The refunds shall be made to customers of record as of the date of this Order approving this Settlement pursuant to Rule 25-30.360(3), F.A.C. This refund credit shall be based upon each individual customer's billed amounts for the respective calendar year. We note that this Order is consistent with our previous decisions regarding possible overearnings.³ The proposed

² Document No. 02926-2024, dated May 7, 2024.

³ Order Nos. PSC-2015-0173-PAA-WS, issued May 5, 2015, in Docket No. 20150069, *In re: Settlement proposal for possible overearnings by Southlake Utilities, Inc. in Lake County*; PSC-11-0012-PAA-SU, issued January 4,

Settlement Agreement adequately addresses the potential overearnings identified in 2022 and 2023. The refunds shall be made in accordance with Rule 25-30.360, F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed Settlement Agreement, attached hereto, is approved. As outlined in the Settlement Agreement, North Florida Community Water Systems, Inc. shall refund customers of its Duval County system 14.18 percent of water revenues and 32.38 percent of wastewater revenues billed for the calendar year 2022. North Florida Community Water Systems, Inc. shall also refund 12.68 percent of water revenues and 15.27 percent of wastewater revenues billed for the calendar year 2023.

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, F.A.C., 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 or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be remain open to allow Florida Public Service Commission staff to verify completion of the refunds approved herein. Once verification is received that the refunds have been made in accordance with Rule 25-30.360, F.A.C., this docket shall be closed administratively.

2011, in Docket No. 100446-SU, *In re: Settlement proposal for possible overearnings by Tierra Verde Utilities, Inc. in Pinellas County*; PSC-10-0680-PAA-SU, issued November 15, 2010 in Docket No. 100379-SU, *In re: Settlement proposal for possible overearnings by Mid-County Services, Inc. in Pinellas County*; and PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, *In re: Settlement offer for possible overearnings in Marion County by BFF Corp.*

ORDER NO. PSC-2024-0218-PAA-WS

DOCKET NO. 20240085-WS

PAGE 4

By ORDER of the Florida Public Service Commission this 25th day of June, 2024.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 July 16, 2024.

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.

DOCKET NO. 20240085-WS
FILED 5/10/2024
DOCUMENT NO. 02926-2024
FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2022 and 2023
Overearnings for:

North Florida Community Water Systems:
Duval Water & Wastewater System

Docket No. 2024_____-WS
Filed: May 7, 2024

**JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT**

The Office of Public Counsel ("OPC"), on behalf of the Citizens of the State of Florida ("Citizens") and North Florida Community Water Systems, Inc. (hereafter referred to as "Utility"), pursuant to Section 367.081 and Section 120.57(4), Florida Statutes, and Rule 28-106.301, Florida Administrative Code, file this Joint Motion respectfully requesting the Florida Public Service Commission ("Commission") to approve the Settlement Agreement, attached as Exhibit "A", as provided in this motion. In support of the Joint Motion, OPC and the Utility (the "Parties") state:


1. The staff of the Commission identified potential 2022 overearnings based upon the review of the 2021 Annual Report of the respective Utility for its Duval water and wastewater systems.
2. The Parties exchanged data regarding Utility's potential earnings above the maximum allowed returned on equity (ROE), and conducted discussions related to earnings data provided by Utility to OPC.
3. To avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues whenever possible, OPC and the Utility have entered into a Settlement Agreement.
4. This Settlement Agreement resolves the disposition of the 2022 and 2023 overearnings for North Florida Community Water Systems' water and wastewater systems in Duval County.

5. The Parties agree that this Settlement Agreement is in the public interest. The provisions of this Settlement Agreement are contingent on approval of this Settlement Agreement in its entirety by the Commission without modification.

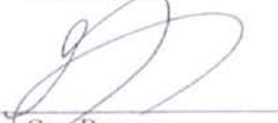
6. The Parties request expedited review and approval of this Settlement Agreement at the earliest scheduled Commission Agenda Conference.

WHEREFORE, OPC and the Utility respectfully request the Commission approve this Settlement Agreement.

Respectfully submitted this 7th day of May 2024.



Walt Trierweiler
Public Counsel



Gary Deremer
President

North Florida Community Water Systems, Inc.

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2022 and 2023
Overearnings for:
North Florida Community Water Systems -
Duval Water & Wastewater System
_____ /

Docket No. 2024 _____

Filed: May 6, 2024

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 6th day of May, 2024,
by and between the following utility:

North Florida Community Water Systems, Inc.
(Duval Water and Wastewater Systems)

(hereafter referred to as "Utility" or "NFCWS"), and the Office of Public Counsel ("OPC"), on
behalf of the Citizens of the State of Florida ("Citizens") and customers of each respective Utilities
(hereafter, "Parties").

WITNESSETH

WHEREAS, the staff of the Florida Public Service Commission ("Commission" or
"FPSC") identified potential 2021 overearnings based upon the review of the 2021 Annual Report
of formerly Duval Waterworks, Inc. Now a water and wastewater system part of NFCWS;

WHEREAS, the Utility submitted a letter dated July 22, 2022 to the FPSC as
acknowledgement of and consent to the FPSC's jurisdiction over the extent to which the earned
return on common equity (ROE) for the year ending December 31, 2021 exceeds the maximum of
the allowed ROE. This letter consented jurisdiction over the 2022 revenues to the PSC;

WHEREAS, it was the Utility's understanding that any decision regarding the disposition
of any portion of such earned return above the maximum allowed ROE will be subject for
disposition after the nature and extent of any such amount above the approved ROE ranges are

known;

WHEREAS, NFCWS has met with both the Staff of the Florida Public Service Commission as well as with the Office of Public Counsel to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE ("overearnings");

WHEREAS, the Parties conducted further discussions and evaluation of additional data provided by NFCWS to OPC on such overearnings;

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this proceeding so as to maintain a degree of stability and predictability with respect to customer bills;

WHEREAS, the Parties have entered into this Settlement Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350 and 367, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the parties to this agreement each has agreed to concessions to the others with the expectation that all provisions of this Settlement Agreement will be enforced by the Commission as to all matters addressed herein with respect to all parties regardless of whether a court ultimately determines such matters to reflect Commission policy, upon acceptance of the agreement as provided herein and upon approval in the public interest; and

NOW THEREFORE, for and in consideration of the mutual covenants set forth below, the sufficiency of which is hereby acknowledged the parties agree to the following:

1. **Duval Water and Wastewater Systems:** NFCWS (Duval water and wastewater systems) agrees to refund via credit on its customers' accounts as follows: for calendar year 2022; 14.18% of the water revenues and 32.38% of the wastewater revenues billed for the calendar year 2022; and for calendar year 2023; 12.68% of the water revenues and 15.27% of the wastewater revenues

billed for the calendar year 2023. The refunds shall be made to customers of record as of a date of the Order approving this Settlement pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the respective calendar year. NFCWS acknowledges that although the Utility did not provide consent of revenues for 2023, and the 2023 Annual Report has not been reviewed by the Commission, Utility agrees to make refunds for 2023 as part of this Settlement Agreement.

2. In keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues whenever possible, the Parties submit this Settlement Agreement for review and approval. The Parties agree that this Settlement Agreement is in the public interest. The provisions of this Settlement Agreement are contingent on approval of this Settlement Agreement in its entirety by the Commission without modification. The Parties further agree that they will support this Settlement Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Settlement Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Settlement Agreement or the subject matter hereof. No Party will assert in any proceeding before the Commission that this Settlement Agreement nor any of the terms herein shall have any precedential value nor may it be used in any other proceeding. To the extent a dispute arises among the parties about the provisions, interpretation, or application of this agreement, the parties agree to meet and confer in an effort to resolve the dispute. To the extent that the Parties cannot resolve any dispute, the matter may be submitted to the Commission for resolution. Approval of this Settlement Agreement in its entirety will resolve all matters and issues discussed herein pursuant to and in accordance with Section 120.57(4), Florida Statutes. This docket should be closed administratively after Commission staff verifies the revised tariff sheets, customer notices have

been mailed, and refunds have been made.

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this Settlement Agreement by their signature.

OFFICE OF PUBLIC COUNSEL

Date: May 6, 2024

By: Walt Trierweiler

Walt Trierweiler
Public Counsel

Attorney for the Citizens
of the State of Florida

UTILITY

Date: May 7, 2024

By: Gary Deremer

Gary Deremer
President

North Florida Community Water Systems