

ADE & SCHILDBERG, P.A.

One Independent Drive
Suite 2000
Jacksonville, Florida 32202

James L. Ade
Scott G. Schildberg

James L. Ade
Direct Dial No.
(904) 358-8818 ext. 3026

Facsimile No.
(904) 354-5842

Scott G. Schildberg
Direct Dial No.
(904) 358-8818 ext.
3035

March 9, 2001

VIA FACSIMILE AND FIRST CLASS MAIL

Ms. Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED-FPSC
01 MAR 12 AM 10:07
RECORDS AND REPORTING

Re: Application by United Water Florida Inc.
Regarding Service Availability Charges and
Policies in Duval, Nassau and St. Johns
Counties, Florida, Docket No. 000610-WS
("Service Availability Application")

Dear Ms. Bayo:

In the Staff Recommendation issued in this docket on March 1, 2001 ("Recommendation"), the Staff recommended that United Water Florida Inc.'s ("United Water Florida") request for approval of deferral accounting be denied, despite the Staff's agreement that "in view of the Commission's order to file this application, UWF's incurrence of reasonable costs in connection with the application is prudent." The Recommendation reached this conclusion because "[t]here is no way for the Commission to know when UWF will next file a rate case," no estimates of costs anticipated to be incurred were provided, and no data was provided to indicate that the incurrence of these costs would cause United Water Florida to earn below the last authorized rate of return on equity. United Water Florida would like to take this opportunity to address the three reasons given by the Recommendation for the denial.

On July 25, 2000, United Water Florida filed its Application Regarding Service Availability Charges and Policies for Duval, Nassau, and St. Johns Counties, Florida, and Petition for Approval of Regulatory Accounting Treatment. United Water Florida previously had confirmed with the Staff that the Commission did not have a rule setting forth the requirements for a petition for approval of regulatory accounting. United Water Florida used the

REC
REC
SEC
SER
OTH

DOCUMENT NUMBER-DATE

03095 MAR 12

FPSC-RECORDS/REPORTING

Ms. Blanca Bayo, Director
March 9, 2001
Page 2

two step process discussed by the Commission in some of the orders on deferral accounting. See Order Nos. PSC-98-0329-FOF-GU, PSC-98-1243-FOF-WS, and PSC-98-1583-FOF-WS. The first step is to request approval of the accounting treatment and the second step is to have the deferred costs considered in a rate case context. In Order No. PSC-98-1583-FOF-WS, the Commission quoted an OPC witness who testified that:

If the Company had a basis to recover these expenses, it was to file a rate case at the time the expenses were being incurred and ask for the recovery as part of a rate case, or to come before the Commission and ask for an Accounting Order allowing for the deferral of the legal fees to be considered in a single issue rate case. The Company has not done so, and has merely decided to retroactively attempt to recover these expenses from ratepayers. (emphasis added).

United Water Florida's filing properly requested only the first step: approval of its accounting mechanism to defer the costs for consideration in a future rate case. In its filing, United Water Florida did not request the second step - recovery of the costs in a rate case context.

After reviewing United Water Florida's filing, the Staff notified United Water Florida that its filing required additional information. United Water Florida filed the information requested in the deficiency notification. The Staff then notified United Water Florida that the minimum filing requirements had been completed. United Water Florida believed that it had satisfied the Commission's information requirements. There were no subsequent data requests from the Commission related to the proposed accounting treatment, the costs, or the impact on rate of return on equity.

However, as discussed above, the Recommendation noted that United Water Florida's filing did not contain an estimate of the costs expected to be incurred or information showing that such costs would cause it to earn below the range of its authorized rate of return on equity (8.57%-10.57%). United Water Florida did not provide any estimate of costs because it was not asking for the recovery of such costs at that time or in this docket and because

Ms. Blanca Bayo, Director
March 9, 2001
Page 3

it had no information on which to estimate costs involved with processing the case. Rather, United Water Florida was seeking to establish an accounting mechanism to capture actual costs for future review and consideration by the Commission. Accordingly, estimated costs would not be relevant when it is actual costs that are to be considered in the future. Now that actual costs are becoming known, in order to satisfy the Recommendation, United Water Florida has attached a Schedule of Breakdown Costs for Filing SAC, which includes the costs which have been recorded through February 2000. This schedule assumes that there will not be a protest or hearing on this matter. In the event of a protest and hearing, the costs will increase substantially. United Water Florida will supplement the schedule in the future to include costs which have not been recorded and costs which will be incurred in the future.

Information regarding the authorized rate of return on equity is provided in the attached schedules. As noted above, United Water Florida was not seeking a recovery in rates, just an approval of an accounting mechanism. Furthermore, the Staff has determined that it was prudent for United Water Florida to incur the costs involved. If the costs are later determined to be reasonable, United Water Florida should be entitled to recover the costs for complying with the Commission's order. As shown on the attached schedules on return on equity, United Water Florida's earnings are already below the range of its authorized rate of return on equity and, of course, if the costs sought to be deferred in this docket are not deferred, but required to be expensed, the rate of return on equity will be further eroded.

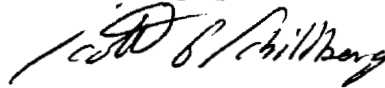
The Recommendation also indicates that because the Commission does not know when United Water Florida will next file a rate case, the "reasonable assurance" criterion in FAS 71 is not met. However, the section of FAS 71 cited in the Recommendation does not contain limitations on the dates for future rate proceedings. Under the Recommendation's approach, no deferral could ever be allowed under FAS 71 unless there is a date established for a rate case at the time of the deferral. Clearly, the section cited by the Recommendation does not contain any such requirement. Such a requirement would be inappropriate and unwise. Part of the reason for deferral accounting is to preserve costs for consideration in future rate cases rather than requiring a utility company to continually and constantly file for multiple rate cases. In addition, it is appropriate for future customers to pay for the respective costs because they are the parties benefited by the

Ms. Blanca Bayo, Director
March 9, 2001
Page 4

higher service availability charges being approved in this docket. The collection of higher service availability charges will act to lower the utility's rate base in future rate cases, and, thereby, act to lower rates for future customers. Accordingly, if the costs are found to be reasonable, they should be recovered from such future customers.

United Water Florida has incurred prudent costs in filing an application ordered by the Commission in a rate case. Had such prudent costs been incurred during the rate case, United Water Florida could have recovered such rate case expenses in the rate case. The accounting mechanism sought by United Water Florida will allow the costs to be reviewed by the Commission for reasonableness and to be recovered from the appropriate customer group - future customers. United Water Florida has provided the information required by the minimum filing requirements and has also provided the cost and rate of return information discussed in the Recommendation. The Commission should grant the request for deferral accounting.

Sincerely yours,



Scott G. Schildberg

SGS:arh

Enclosures

cc: Walton Hill
Mark Gennari
Greg Roupp
Gary R. Moseley
Todd Mackey
David B. deNagy
John Guastella, Sr.
John Guastella, Jr.
Jason Fudge

**United Water Florida
Breakdown Costs for Filing of SAC
To Date***

| | |
|------------------------|----------------|
| Legal Fees | \$ 7,554 |
| Guastella & Associates | 129,206 |
| UW M&S Charges | 28,257 |
| Miscellaneous | <u>2,397</u> |
| Total | \$ 167,414 |

*Final costs will depend upon whether there is a protest to the proposed PAA

United Water Florida
Calculation of Earnings for the 12 Months Ending 12/31/00

Income Statement for 12 Months Ending 12/31/00

| | |
|---|---------------------|
| Revenues | \$ 31,211,262 |
| Operating & Maintenance Expenses | \$ 13,540,167 |
| Depreciation | 5,136,599 |
| General Taxes | 3,535,970 |
| Income Taxes | 2,395,255 |
| Total Operating Expenses | \$ 24,607,991 |
| Operating Income | <u>\$ 6,603,271</u> |
| Interest Expense | 4,597,350 |
| Other Expense (Income) | (802,944) |
| Net Income for the 12 Months Ending 12/31/00 | \$ 2,808,865 |
| 13 Month Average Capitalization | \$ 109,099,607 |
| % Equity from Order PSC-99-1071- FOF-WS | 43.83% |
| Equity Component | \$ 47,818,358 |
| Return on Equity | 5.87% |
| Allowed ROE | 9.57% |

United Water Florida
Calculation of Earnings for the 12 Months Ending 12/31/00
Calculation of Equity Component

| | 12/31/1999 | 1/31/2000 | 2/29/2000 | 3/31/2000 | 4/30/2000 | 5/31/2000 | 6/30/2000 | 7/31/2000 | 8/31/2000 | 9/30/2000 | 10/31/2000 | 11/30/2000 | 12/31/2000 | 13 Month Average 12/31/ 00 |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------------------------|
| Common Stock Issued | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000 |
| Additional Paid in Capital | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 | 86,145,957 |
| Retained Earnings | 21,811,574 | 21,824,603 | 21,728,598 | 21,653,985 | 22,159,637 | 22,528,815 | 22,810,152 | 22,918,775 | 23,516,746 | 23,607,291 | 24,105,637 | 24,479,550 | 24,620,438 | 22,903,650 |
| Total Equity | \$108,007,531 | \$108,020,760 | \$107,922,553 | \$108,149,552 | \$108,351,794 | \$108,724,772 | \$109,006,108 | \$109,114,732 | \$109,712,703 | \$109,803,248 | \$110,301,584 | \$110,675,507 | \$110,816,395 | \$108,099,807 |
| % Equity from Order PSC 09-1071-FOF-WS | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% | 43.83% |
| Equity Component | \$ 47,339,701 | \$ 47,345,499 | \$ 47,302,455 | \$ 47,401,949 | \$ 47,490,591 | \$ 47,654,068 | \$ 47,777,378 | \$ 47,824,967 | \$ 48,067,078 | \$ 48,126,764 | \$ 48,345,189 | \$ 48,508,075 | \$ 48,570,826 | \$ 47,818,358 |