

M E M O R A N D U M

September 26, 2001

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COMMISSION
CLERK

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: DIVISION OF LEGAL SERVICES (BRUBAKER) *JB*

RE: DOCKET NO. 011188-WS - INVESTIGATION OF POSSIBLE OVEREARNINGS BY SANLANDO UTILITIES CORPORATION IN SEMINOLE COUNTY.

Please file the attached letter in the above-referenced docket. Also, please note that the original letter was sent to staff, and this copy was sent via facsimile on July 23, 2001, in the above-captioned docket.

JSB/lw

Attachment

cc: Division of Economic Regulation (B. Davis, Merchant)

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FPSC-COMMISSION CLERK

UTILITIES, INC.

2335 Sanders Road
Northbrook, Illinois 60062-6196
Telephone 847 498-6440
Facsimile 847 498-2066

July 23, 2001

Mr. Marshall W. Willis, CPA
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

via Fax (850) 413-6915 and U.S. Mail

RE: Earnings Issues for 2000, 2001 and 2002

Dear Marshall:

This letter is in response to your June 21, 2001 fax regarding earnings issues for 2000 and 2001 for various Utilities, Inc. subsidiaries. I appreciate the opportunity to discuss these issues with you and other members of the Florida PSC Staff on an informal basis in order to avoid the time and expense of formal proceedings. Perhaps after you have had an opportunity to review my response and discuss it with your staff, it may be prudent to arrange a meeting in Tallahassee. Let me know your thoughts.

You have developed a list of four issues that need to be addressed:

1. Staff believes that various companies have "excessive" authorized returns. Staff proposes to lower the Authorized ROR to 10.0% for each of the five companies listed. The five companies targeted for this adjustment are: Alafaya, Lake Grove, Miles Grant, Terre Verde, and UI Longwood. According to your schedule, with the exception of Terre Verde, the four other companies had an Achieved ROR below their respective Authorized ROR. Moreover, with the exception of Terre Verde, the four other companies had an Achieved ROR below the 10.0% proposed ROE. As such, I do not think it is necessary to adjust the Authorized ROR for these companies at this time.
2. You have proposed to lower Terre Verde revenues by 3.67%. According to your analysis, agreeing to lower Terre Verde's rates would still allow the Company to earn at the high end of the Authorized ROR discussed above. I believe that increased costs in 2001 for energy, health insurance and labor will more than offset the 3.67% rate reduction proposed.

Additionally, your schedule indicates that many of Utilities, Inc.'s Florida subsidiaries are earning below either their Authorized ROR or the Calculated ROR using the 10% Proposed ROE. Therefore, I think it is only fair that if we are going to discuss lower rates for Terre Verde without the time, expense and delay of a rate case, we should discuss increasing rates for the companies on your list that are not earning the Calculated ROE.

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3. Staff believes that Lake Utility Services has excess earnings. Staff also acknowledges that this is a temporary situation in light of the fact that a \$4.7 million capital expenditure is currently in progress. Your proposal to defer revenues from 2000 and 2001, into 2002, is an acknowledgement that the main interconnection project will ameliorate the potential for overearnings under the current rate structure.

Furthermore, the principle of retroactive ratemaking is a two-edged sword. I am not aware of any situation in which a company has been allowed to charge prospective rates to make-up an earnings shortfall in a prior period. Consequently, it is unfair to ask the Company to defer revenues from prior periods.

4. I was shocked when I read that you were proposing to rewrite the terms of the Commission-approved settlement that the OPC, the Staff and Sanlando negotiated last year.

That settlement was the result of discussing and planning the reuse system over several years. You may recall that Sanlando was unwilling to commit to constructing the reuse system without first removing the uncertainty regarding Sanlando's revenue stream. On the basis of the Commission-approved settlement, Sanlando began construction of the reuse system. To date, Sanlando has spent approximately on half of the \$5.8 million budgeted expenditure.

All of the parties involved in the negotiations knew that the settlement was based upon estimated revenues, earnings, capital costs and construction costs. While "overearnings" in 2000 and 2001 may exceed estimates, the cost of the project and the "underearnings" in the two years following completion of the project may exceed estimates also. Determining the ultimate merits of the settlement will not be known until our two-year holdout period is over.

Regardless of whether those estimates are ultimately proven to be accurate is irrelevant, however. The settlement was negotiated in good faith and approved by the Commission. Sanlando intends to honor the settlement agreement and expects the other parties to do the same.

Please let me know your thoughts on these issues. As always, I am willing to meet you in person to discuss a resolution of these issues.

Respectfully submitted,



Carl J. Wenz
Vice President, Regulatory Matters