

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

DOCKET NO. 000694-WU  
ORDER NO. PSC-04-0791-AS-WU  
ISSUED: August 12, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE COMMISSION:

Case Background

Water Management Services, Inc. (WMSI or utility) is a Class B water utility providing service to approximately 1,730 water customers in Franklin County. For the year ended December 31, 2003, the utility reported in its annual report operating revenues of \$1,057,043 and utility operating income of \$145,403. The utility's water rates were last established in a rate case by Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU.

On June 6, 2000, WMSI filed an application, pursuant to Section 367.0822, Florida Statutes, for a limited proceeding to increase its water rates to cover the cost of building a new water transmission main to connect its wells on the mainland to its service territory on St. George Island. In its petition, the utility stated that it was notified by the Florida Department of Transportation (DOT) that the existing bridge to St. George Island, to which WMSI's water main is attached, was to be demolished and replaced by a new bridge with an expected in-service date of March 2003. Upon completion of the new bridge, WMSI would have to make alternative arrangements to provide service to its certificated service area. The utility's petition set forth its plan to construct a new main to be attached to the new bridge, along with ancillary modifications to its system, and requested an increase in its rates to provide funding for the proposed construction.

A customer meeting was held at the Franklin County Courthouse in Apalachicola on September 12, 2000, in order to allow the utility's customers the opportunity to comment on WMSI's petition. More than 100 customers attended, and 13 customers made statements. In general, the speakers believed that the projected cost of the project was excessive and that the

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utility should have planned for this contingency in such a way as to avoid such a large rate increase. There was also great concern over the utility's ability to provide fire protection.

WMSI originally requested that we approve two tiers of temporary increases, to be approved concurrently, described as Phase 1 and Phase 2, in its initial consideration of this matter. Phase 1 would cover preliminary costs and Phase 2 would cover estimated total costs of the project. The utility then proposed a true-up, described as Phase 3, which would set final rates after the project was complete and all costs were verified.

By Order No. PSC-00-2227-PAA-WU, issued November 21, 2000 (consummated by Order No. PSC-00-2405-CO-WU, issued December 14, 2000), we found that construction of the new water transmission main was justified, and that the prudent costs to be incurred by WMSI in this project should be recovered through a three phase mechanism. Further, we found that replacement of the existing 8-inch main with a 12-inch water main was prudent, and that the used and useful percentage for the new main should be 100 percent. The prudence of constructing a new line from Well No. 1 to Well No. 4 in connection with the replacement project was approved as well. In addition, we approved a Phase 1 increase and deferred consideration of a temporary Phase 2 increase until the utility filed more complete and detailed cost information. The approved Phase 1 increase was 11.3 percent, or an annual revenue increase of \$82,707.

On May 14, 2003, WMSI filed a Supplemental Petition for Limited Proceeding (supplemental petition), requesting revised rates for the Phase 2 rate increase. In its supplemental petition, the utility stated that numerous changes have occurred since the filing of the original petition. First, the projected bridge in-service date was changed from March 2003 to October 2003. Second, the estimated capital cost of the new transmission main and the other approved work on the mainland has decreased. Third, WMSI has obtained financial support from the State Revolving Fund (SRF) loan program administered by the Department of Environmental Protection (DEP). Finally, WMSI's eminent domain case was unsuccessful.

Since the net effect of the above mentioned changes substantially reduced the total project cost, WMSI requested the inclusion of fire flow protection improvement measures in its supplemental petition for limited proceeding. The utility stated that fire flow protection is an issue of great importance to the utility's customers, as communicated at the customer meeting. The overall rate increase requested in the supplemental petition was designed to generate annual Phase 2 revenue of \$568,657 above the expected revenue from the previously approved Phase 1 rates, or an additional increase of 50.2 percent.

By Order No. PSC-03-1005-PAA-WU (PAA order), issued September 8, 2003, we approved a Phase 2 revenue requirement of \$490,959, or an increase of 42.1 percent in base facility and gallonage charges. We also approved the utility's request to include the cost of improved fireflow protection in this proceeding, and established a depreciable life of 35 years for the portion of WMSI's transmission main which will be attached to the new bridge.

On September 29, 2003, the Office of Public Counsel (OPC) timely filed a Petition on Proposed Agency Action. OPC objected to that portion of the utility's plan which called for removing the existing 150,000 gallon elevated water storage tank and replacing it with a new 200,000 gallon tank. OPC stated that the existing tank is in good working order, and that removing it is not prudent or justified, and is not in the public interest. The rationale stated by OPC is that WMSI's service area is subject to extreme peak demands which are most economically met by storage capacity. OPC also alleged that the ultimate cost of replacing the loss of the existing 150,000 gallon storage capacity will be many times greater than the net salvage value of the existing tank.

On September 29, 2003, the utility also timely filed a Petition on Proposed Agency Action. WMSI stated that its petition was in response to its understanding that OPC was also filing a protest. WMSI's petition addressed the rate case expense that would be incurred as a result of a formal hearing.

On May 28, 2004, WMSI and OPC filed a Joint Motion Requesting Commission Approval of Settlement Agreement to address both parties' protests. This Order addresses the settlement agreement. We have jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

#### Settlement Agreement

As discussed in the Case Background, WMSI and OPC protested PAA Order No. PSC-03-1005-PAA-WU. This matter was never set for hearing at the request of WMSI and OPC, as they engaged in settlement negotiations immediately upon the filing of the protests. On May 28, 2004, WMSI and OPC filed a Joint Motion Requesting Commission Approval of Settlement Agreement with the settlement agreement attached. The settlement agreement filed by the parties is Attachment A to this Order.

In support of the joint motion, WMSI and OPC assert that they have entered into a settlement agreement that avoids the time, expense, and uncertainty associated with adversarial litigation. The parties further assert that the settlement agreement is in keeping with our long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. The parties state that the settlement agreement serves the public interest, and accordingly request that we expeditiously accept and approve the settlement agreement as filed without modification.

In the settlement agreement, WMSI and OPC agree to the following, in pertinent part:

- 1) The utility's 150,000 gallon elevated storage tank shall not be dismantled but shall remain in place to provide emergency storage for the water system.
- 2) As authorized by the PAA Order, the utility has been expending funds to improve the water distribution system by looping water mains, using its own service

personnel and equipment. OPC and WMSI agree that this is the most prudent and cost effective way to install the new mains. Further, with respect to the approximately 6.2 million dollars of capital projects undertaken by the company since the Fall of 2000, the Commission shall verify specifically what work was done, who did the work, what was paid to each and every contractor, subcontractor, vendor and supplier, and the reasonableness and prudence of each expenditure prior to approving Phase 3 – Final Rates and Charges in this docket.

- 3) WMSI shall expend the approximately \$400,000 that would have been spent replacing the utility's elevated storage tank to complete the looping of the water mains that serve the service territory from Bob Sikes Cut to the State Park. This authorization to spend money to complete the looping of the water mains is limited to the funds that are the subject of this protest.
- 4) Upon completion of the above improvements to the distribution system, WMSI shall furnish two complete copies of the as-built drawings of the utility's water distribution system to OPC. One copy shall be retained at OPC's office and the second shall be retained by the customers at the main Fire Station on St. George Island, Florida.
- 5) Upon completion of the above improvements to the distribution system, WMSI will conduct actual field measurements recording over time the actual water pressure produced throughout the length of the system. The results of these measurements will be furnished to OPC, which will share them with the customers.
- 6) The submission of this settlement agreement is in the nature of an offer to settle. Consequently, if this settlement agreement is not accepted and approved without modification by Commission order, this settlement agreement is rejected and shall be considered null and void and neither party may use the attempted agreement in this or any other proceeding.
- 7) This settlement agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission's issuing a final order approving the settlement agreement, both Petitions shall be deemed to be resolved, with both parties bearing their own expenses associated with this proceeding (OPC on behalf of the customers and the shareholders of the company on behalf of WMSI).

We have reviewed the settlement agreement filed by the parties in this matter and find that it is a reasonable resolution to the protests. Further, we find that it is in the public interest to approve the settlement agreement in its entirety. Therefore, we hereby approve the settlement agreement in its entirety.

We note that WMSI and OPC are the only parties of record in this docket. All interested persons were given a point of entry in this matter by the PAA Order and could have protested the PAA order, as WMSI and OPC did. No other interested persons protested the PAA Order. Thus, we find that this Order is appropriately issued as final agency action, resolving the protests of WMSI and OPC as well as finalizing the unprotested issues in the PAA Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement agreement between Water Management Services, Inc. and the Office of Public Counsel is hereby approved. It is further

ORDERED that the protests of Order No. PSC-03-1005-PAA-WU by Water Management Services, Inc. and the Office of Public Counsel are hereby resolved. It is further

ORDERED that the remaining unprotested issues of Order No. PSC-03-1005-PAA-WU are now final. It is further

ORDERED that Attachment A to this Order is hereby incorporated by reference. It is further

ORDERED that this docket shall remain open pending Commission action on the utility's request for permanent rates, which will be addressed in Phase 3 of this proceeding.

By ORDER of the Florida Public Service Commission this 12th day of August, 2004.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

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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.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 26th day of May, 2004, by and between the Citizens of the State of Florida ("Citizens") through the Office of Public Counsel ("OPC") and Water Management Services, Inc. ("Water Management", "Utility" or "Company").

WITNESSETH

WHEREAS, on September 8, 2003, the Florida Public Service Commission ("PSC") issued Order No. PSC-03-1005-PAA-WU which determined the prudence of certain fire flow protection improvements, appropriate depreciable life for the transmission main and appropriate the phase 2 revenue requirement; and

WHEREAS, on September 29, 2003 the Citizens filed a timely Petition on the Proposed Agency Action objecting to the Commission finding that it was prudent for the Company to spend approximately Four Hundred Thousand Dollars (\$400,000.00) to dismantle its existing 150,000 gallon elevated storage tank, and to replace it with a taller 200,000 gallon elevated storage tank; and

WHEREAS, as a result of the Citizens' Petition, the Company also filed on September 29, 2003 a timely Petition on the Proposed Agency Action preserving its right to collect additional rate case expense in the event the Citizens' Petition required a formal evidentiary hearing; and

WHEREAS, after considerable research and discussion concerning various plans to most prudently spend the approximately Four Hundred Thousand Dollars (\$400,000.00) to improve the quality of potable water service and the flow of water to the Company's fire hydrants, the Citizens



and the Company came to an agreement concerning the best resolution of the Citizens' and Company's Petitions; and

WHEREAS, the Citizens and Water Management desire to resolve their differences with regard to the two Petitions.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below the Citizens and Water Management agree as follows:

1. The Company's 150,000 gallon elevated storage tank shall not be dismantled but shall remain in place to provide emergency storage for the water system.
2. Order No. PSC-03-1005-PAA-WU had already authorized the Company to expend some funds to improve the water distribution system by looping the water mains that serve the length of the long narrow service territory. The Company has been utilizing its own service personnel and equipment to install the new water mains. Both Water Management and the Citizens believe this is the most prudent and cost effective way to install the new water mains. With regard to the approximately 6.2 million dollars of capital projects undertaken by the Company since the Fall of 2000, the Commission shall verify specifically what work was done, who did the work, what was paid to each and every contractor, subcontractor, vendor and supplier, and the reasonableness and prudence of each expenditure prior to approving Phase III – Final Rates and Charges in this docket.
3. The Company shall expend the approximately Four Hundred Thousand Dollars (\$400,000.00) that would have been spent replacing the Company's elevated storage tank to complete the looping of the water mains that serve the service territory from Bob Sikes Cut to the State Park. This authorization to spend money to complete the looping of the water mains is limited to the funds that are the subject of this protest.



4. Upon completion of the above improvements to the distribution system, Water Management shall furnish two (2) complete copies of the as-built drawings of the Company's water distribution system to OPC. One copy shall be retained at OPC's office and the second shall be retained by the customers at the main Fire Station on St. George Island, Florida.

5. Upon completion of the above improvements to the distribution system the Company will conduct actual field measurements recording over time the actual water pressure produced throughout the length of the system. The results of these measurements will be furnished to the OPC, which will share them with the customers.

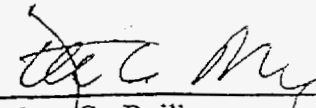
6. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

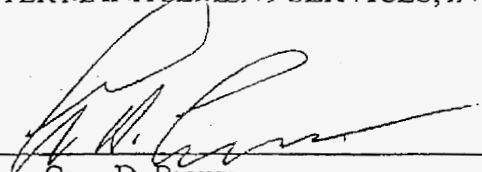
7. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving this Settlement Agreement, both Petitions shall be deemed to be resolved, with both Parties bearing their own expenses associated with this proceeding (OPC on behalf of the customers and the shareholders of the Company on behalf of Water Management).

8. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures.

9. The undersigned personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

CITIZENS OF THE STATE OF FLORIDA,  
OFFICE OF PUBLIC COUNSEL

By:   
\_\_\_\_\_  
Stephen C. Reilly  
Associate Public Counsel

WATER MANAGEMENT SERVICES, INC.  
By:   
\_\_\_\_\_  
Gene D. Brown  
President

