

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

DOCKET NO. 080248-SU
ORDER NO. PSC-08-0762-PCO-SU
ISSUED: November 17, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER SUSPENDING RATES AND
APPROVING INTERIM REVENUE INCREASE

BY THE COMMISSION:

BACKGROUND

Tierra Verde Utilities, Inc. (Tierra Verde or Utility) is a Class B utility providing wastewater service to approximately 1,033 customers in Pinellas County. The Utility is a wholly-owned subsidiary of Utilities, Inc. (UI). Tierra Verde's service area is located entirely on a barrier island at the mouth of Tampa Bay. All the Utility's sewage treatment service is purchased from the City of St. Petersburg. Wastewater rates were last established for Tierra Verde in its 2006 rate proceeding.¹

On August 27, 2008, Tierra Verde filed its application for approval of final and interim rate increases in the instant docket. The Utility had a few deficiencies in the Minimum Filing Requirements (MFRs) and they remain outstanding. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure. The test year established for interim and final rates is the historical twelve-month period that ended December 31, 2007.

Tierra Verde requested interim rates designed to generate annual wastewater revenues of \$923,677, an increase of \$142,978 or 18.31 percent. The Utility requested final rates designed to generate wastewater revenues of \$1,132,684, an increase of \$351,954 or 45.08 percent.

The sixty-day statutory deadline for us to suspend the Utility's requested final rates was October 26, 2008. However, by letter dated September 8, 2008, Tierra Verde agreed to extend

¹ See Order No. PSC-07-0082-PAA-SU, issued January 29, 2007, in Docket No. 060255-SU, In Re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc. Consummating Order No. PSC-07-0164-CO-SU, issued February 23, 2007, made Order No. PSC-07-0082-PAA-SU final and effective.

DOCUMENT NUMBER-DATE

10684 NOV 17 8

FPSC-COMMISSION CLERK

the statutory time frame through October 28, 2008. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

DISCUSSION AND DECISION

Section 367.081(6), F.S., provides that we may, for good cause, withhold consent to the implementation of the requested rates within 60 days after the date the rate request is filed. Further, Section 367.081(8), F.S., permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months if: (1) we have not acted upon the requested rate increase; or (2) the PAA action is protested by a party other than the Utility.

We have reviewed the filing and have considered the information filed in support of the rate application and the proposed final rates. It is necessary to require further investigation of this information, including on-site investigations by staff accountants and engineers. Therefore, we find that it is appropriate to suspend the Utility's proposed rate increase.

In its MFRs, Tierra Verde requested interim rates designed to generate annual revenues of \$923,677. This represents a wastewater revenue increase of \$142,948 (18.31 percent). The Utility has filed rate base, cost of capital, and operating statements to support its requested wastewater increase.

Pursuant to Section 367.082(5)(b)1., F.S., the achieved rate of return for interim purposes must be calculated by applying appropriate adjustments consistent with those made in a utility's most recent rate proceeding. We have reviewed Tierra Verde's interim request, as well as prior orders concerning the Utility's rate base. Our approved adjustments are discussed below. We have attached accounting schedules to illustrate the approved rate base, capital structure, and test year operating income amounts. The rate base schedule is shown on Schedule No. 1-A, with adjustments shown on Schedule No. 1-B; the capital structure schedule is shown on Schedule No. 2, and the operating income schedule is shown on Schedule No. 3-A, with the adjustments shown on Schedule No. 3-B.

RATE BASE

Tierra Verde filed a simple-average wastewater rate base for the calendar year ended December 31, 2007. The Utility made adjustments to allocated plant, construction work in progress (CWIP), accumulated depreciation, acquisition adjustments, accumulated amortization of acquisition adjustments, and working capital. We reviewed the Utility's MFRs and Order No. PSC-07-0082-PAA-SU for consistency with the last rate proceeding. As a result of this review, we find that one adjustment to the rate base should be made.

Accumulated Depreciation

In Tierra Verde's last rate proceeding, we decreased the test year average balance in Acct No. 351.1 – Accumulated Depreciation – Organization to zero. In its MFRs, the Utility recorded a test year average balance in Acct No. 351.1 Accumulated Depreciation – Organization, but did not have an average test year balance for the plant Acct No. 351.1 –

Organization. See Order No. PSC-07-0082-PAA-SU, p. 6. In the instant case, Tierra Verde made similar entries in its MFR schedules. On MFR Schedule A-10, Line 2, the Utility recorded a test year average balance of \$123,213 for Acct No. 351.1 – Accumulated Depreciation – Organization, but did not record a test year average balance on MFR Schedule A-6, Line 2, for wastewater plant Acct. No. 351.1 - Organization. Therefore, as required by Section 367.082(5), F.S., the same adjustment made in the prior rate case shall be applied in this case for interim purposes. Accordingly, we find that the Accumulated Depreciation shall be reduced by \$123,213.

Based on the adjustment above, the interim rate base is \$1,278,623. Schedule No. 1-A details the approved interim rate base, with adjustments reflected on Schedule No. 1-B.

COST OF CAPITAL

In its MFRs, Tierra Verde used a simple-average capital structure consisting of allocated investor sources of capital from UI. The Utility included a zero balance in customer deposits. We reviewed Tierra Verde's requested capital structure and find that the Utility erred in calculating its cost rate for common equity. Section 367.082(5)(b)3., F.S., requires that the minimum of the range of the last authorized rate of return on equity (ROE) be used when calculating the cost of capital for an interim rate increase. In Tierra Verde's last rate case, the midpoint of the authorized ROE was established as 11.45 percent, with a range of 10.45 percent to 12.45 percent. See Order No. PSC-07-0082-PAA-SU, p. 9. Therefore, for interim purposes, we find that the appropriate cost of equity shall be 10.45 percent. Accordingly, the weighted cost of capital for interim purposes is 7.50 percent. Schedule No. 2 details the approved capital structure.

NET OPERATING INCOME

Section 367.082(5)(b)1., F.S., states that the achieved rate of return is calculated by applying adjustments consistent with the Utility's last rate proceeding and annualizing any rate changes occurring during the interim test year. For purposes of the interim application, Tierra Verde chose the test period that ended December 31, 2007. The Utility implemented the rates approved in its previous rate case on February 22, 2007. Tierra Verde subsequently implemented a price index and pass through rate increase on April 11, 2007, followed by a price index rate increase on September 19, 2007, and a pass through rate increase on February 21, 2008. The Utility then annualized its revenues for the test year using the rates currently in effect on February 21, 2008. The revenues shall be annualized using the rates in effect at the end of the test year. We reviewed Tierra Verde's revenues for the test year and find that operating revenues shall be reduced by \$29,325 to reflect the appropriate amount of annualized revenues.

Based on these adjustments, we find that the appropriate test year operating income, before any revenue increase, is \$5,431. Schedule No. 3-A details the approved net operating income, with adjustments reflected on Schedule No. 3-B.

REVENUE REQUIREMENT

The Utility requested an interim revenue requirement of \$923,677. Based on the above, we approve an interim revenue requirement of \$903,210. This represents an interim revenue increase of \$151,806, or 20.20 percent. This will allow Tierra Verde the opportunity to recover its operating expenses and earn a 7.50 percent return on its rate base.

In summary, we find that on an interim basis, the Utility shall be authorized to collect annual wastewater revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Wastewater	\$751,404	\$151,806	\$903,210	20.20%

Interim wastewater service rates for Tierra Verde shall be designed to allow the Utility the opportunity to generate annual operating revenues of \$903,210. This reflects an increase of \$151,806, or 20.20 percent, before removal of miscellaneous revenues. To determine the appropriate percentage increase to apply to the service rates, miscellaneous service revenues shall be removed from the test year revenues. In its MFRs, Tierra Verde included miscellaneous revenues of \$450. The calculation is as follows:

	<u>Wastewater</u>
1 Total Test Year Revenues	\$751,404
2 Less: Miscellaneous Revenues	<u>450</u>
3 Test Year Revenues from Service Rates	\$750,954
4 Revenue Increase	<u>\$151,806</u>
5 % Service Rate Increase (Line 4/Line3)	<u>20.22%</u>

The interim rate increase of 20.22 percent for wastewater shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2007. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until our staff has verified that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security discussed below has been filed. The Utility shall provide proof of the date notice was given within 10 days after the date of notice.

The Utility's test year, proposed interim and final wastewater rates, and the approved interim wastewater rates are shown on Schedule No. 4.

SECURITY FOR REFUND

Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a Commission-approved rate. As discussed above, the total annual interim increase is \$151,806. In accordance with Rule 25-30.360, F.A.C., we calculated the potential refund of revenues and interest collected under interim conditions to be \$89,515. This amount is based on an estimated seven months of revenue being collected from the interim rates over the Utility's current authorized rates shown on Schedule No. 4.

Tierra Verde is a wholly-owned subsidiary of UI, which provides all investor capital to its subsidiaries. UI has requested a corporate undertaking to secure any interim increases granted in Docket Nos. 080247-SU, 080249-WS, and 080250-SU. Our consideration of interim rates for those dockets was also decided at the October 28, 2008, Agenda Conference. The cumulative corporate undertaking amount for those dockets is \$257,529. At present, UI has a corporate undertaking for Miles Grant Water & Sewer Company (Miles Grant) and Lake Utility Services, Inc. (LUSI), for a combined corporate undertaking of \$528,209.² As such, we reviewed the financial statements of the parent company. As a result of our decisions in all of the above dockets, and the previously-approved corporate undertaking amount for Miles Grant and LUSI, the total requested cumulative corporate undertaking amount is \$875,253, which includes \$89,515, subject to refund for this docket. UI's total guarantee shall be equal to the outstanding amount of \$528,209, plus the amount approved in this docket and Docket Nos. 080247-SU, 080249-WS, and 080250-SU.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We have reviewed UI's financial statements from 2005 to 2007 to determine the financial condition of the parent company. UI's relative level of liquidity has decreased compared to 2006. The Utility has also experienced a decline in interest coverage ratio and relative level of net income over the three year review period. However, UI's equity ratio has increased to 44.48 percent in 2007 from 40 percent in 2006. In addition net income has been on average three times greater than the requested interim undertaking amount. UI's financial performance has demonstrated adequate levels of both equity capitalization and profitability on an absolute basis to offset the decline in interest coverage and profitability on a relative basis. Based upon this analysis, we find that a cumulative corporate undertaking of \$875,253 is acceptable, contingent upon the receipt of the written guarantee of UI and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

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. If a refund is

² See Order Nos. PSC-08-0338-PCS-WS, issued May 27, 2008 in Docket No. 070695-WS, In re: Application for rate increase in water and wastewater in Martin County, by Miles Grant Water & Sewer Company; and PSC-08-0308-PCO-WS, issued May 12, 2008 in Docket No. 070693-WS, In re: Application for rate increase in water and wastewater Lake County by Lake Utility Services, Inc.

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 should be borne by, the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the final wastewater rates proposed by Tierra Verde Utilities, Inc. are hereby suspended. It is further

ORDERED that the request for an interim rate increase for wastewater rates by Tierra Verde Utilities, Inc., is hereby granted, subject to our modifications, as set forth in the body of this Order. It is further

ORDERED that all matters contained in the schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the approved interim rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1)(a), F.A.C. It is further

ORDERED that the interim rates shall not be implemented until Commission staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. It is further

ORDERED that Tierra Verde Utilities, Inc. shall provide proof of the date notice was given within 10 days after the date of notice. It is further

ORDERED that Utilities, Inc., shall file a corporate undertaking on behalf of its subsidiaries to guarantee any potential refunds of revenues collected under interim conditions, as set forth in the body of this Order, contingent upon receipt of the written guarantee of UI and written confirmation of UI's continued attestation that it does not have any outstanding guarantees on behalf of UI-owned utilities in other states, and in the cumulative amount of \$875,253, which includes \$89,515, subject to refund in this docket. 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 this docket shall remain open pending the Commission's final action on the Utility's requested rate increase.

By ORDER of the Florida Public Service Commission this 17th day of November, 2008.



ANN COLE
Commission Clerk

(S E A L)

KY

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 this order, which is non-final in nature, may request (1) reconsideration within 15 days pursuant to 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Tierra Verde Utilities, Inc. Schedule of Wastewater Rate Base Test Year Ended 12/31/07			Schedule No. 1-A Docket No. 080248-SU		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Approved Adjust- ments	Adjusted Test Year
1 Plant in Service	\$3,901,999	\$1,123	3,903,122	0	3,903,122
2 Land and Land Rights	234	0	234	0	234
3 Non-used and Useful Components	0	0	0	0	0
4 Accumulated Depreciation	(2,135,206)	6,887	(2,128,319)	(123,213)	(2,251,532)
5 CIAC	(1,687,658)	0	(1,687,658)	0	(1,687,658)
6 Amortization of CIAC	1,226,192	0	1,226,192	0	1,226,192
7 CWIP	116,722	(116,722)	0	0	0
8 Acquisition Adjustment – Net	269,960	(269,960)	0	0	0
9 Working Capital Allowance	<u>0</u>	<u>88,265</u>	<u>88,265</u>	<u>0</u>	<u>88,265</u>
10 Rate Base	<u>\$1,692,243</u>	<u>(\$290,407)</u>	<u>\$1,401,836</u>	<u>(\$123,213)</u>	<u>\$1,278,623</u>

Tierra Verde Utilities, Inc. Adjustments to Rate Base Test Year Ended 12/31/07		Schedule No. 1-B Docket No. 080248-SU
Explanation		Wastewater
<u>Accumulated Depreciation</u> To zero out the balance in Acct No. 351.1 - Organization		<u>(\$123,213)</u>

Tierra Verde Utilities, Inc. Capital Structure-Simple Average Test Year Ended 12/31/07						Schedule No. 2 Docket No. 080248-SU			
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
Per Utility									
1 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$179,291,510)	\$708,490	50.54%	6.65%	3.36%	
2 Short-term Debt	7,750,000	0	7,750,000	(7,719,493)	30,507	2.18%	2.44%	0.05%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	139,282,132	0	139,282,132	(138,733,902)	548,230	39.11%	11.70%	4.58%	
5 Customer Deposits	0	0	0	0	0	0.00%	6.00%	0.00%	
6 Deferred Income Taxes	<u>114,609</u>	<u>0</u>	<u>114,609</u>	<u>0</u>	<u>114,609</u>	<u>8.18%</u>	0.00%	<u>0.00%</u>	
10 Total Capital	<u>\$327,146,741</u>	<u>\$0</u>	<u>\$327,146,741</u>	<u>(\$325,744,905)</u>	<u>\$1,401,836</u>	<u>100.00%</u>		<u>7.99%</u>	
Per Commission									
11 Long-term Debt	\$180,000,000	0	\$180,000,000	(\$179,296,486)	\$703,514	50.51%	6.65%	3.36%	
12 Short-term Debt	7,750,000	0	7,750,000	(7,719,710)	30,290	2.17%	2.44%	0.05%	
13 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
14 Common Equity	139,282,132	0	139,282,132	(138,737,760)	544,372	39.09%	10.45%	4.08%	
15 Customer Deposits	0	0	0	0	0	0.00%	6.00%	0.00%	
16 Deferred Income Taxes	<u>114,609</u>	<u>0</u>	<u>114,609</u>	<u>0</u>	<u>114,609</u>	<u>8.23%</u>	0.00%	<u>0.00%</u>	
20 Total Capital	<u>\$327,146,741</u>	<u>\$0</u>	<u>\$327,146,741</u>	<u>(\$325,868,117)</u>	<u>\$1,392,785</u>	<u>100.00%</u>		<u>7.50%</u>	
						<u>LOW</u>	<u>HIGH</u>		
RETURN ON EQUITY						<u>10.45%</u>	<u>12.45%</u>		
OVERALL RATE OF RETURN						<u>7.16%</u>	<u>7.94%</u>		

Tierra Verde Utilities, Inc. Statement of Wastewater Operations Test Year Ended 12/31/07						Schedule No. 3-A Docket No. 080248-SU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Approved Adjust- ments	Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$690,922</u>	<u>\$232,755</u>	<u>\$923,677</u>	<u>(\$172,273)</u>	<u>\$751,404</u>	<u>\$151,806</u> 20.20%	<u>\$903,210</u>
Operating Expenses							
2 Operation & Maintenance	645,324	60,793	706,117	0	706,117		706,117
3 Depreciation	14,180	10,266	24,446	0	24,446		24,446
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	35,388	10,820	46,208	(7,752)	38,456	6,831	45,287
6 Income Taxes	<u>(43,791)</u>	<u>78,780</u>	<u>34,989</u>	<u>(58,035)</u>	<u>(23,046)</u>	<u>54,554</u>	<u>31,509</u>
7 Total Operating Expense	<u>651,101</u>	<u>160,659</u>	<u>811,760</u>	<u>(65,787)</u>	<u>745,973</u>	<u>61,385</u>	<u>807,359</u>
8 Operating Income	<u>\$39,821</u>	<u>\$72,096</u>	<u>\$111,917</u>	<u>(\$106,486)</u>	<u>\$5,431</u>	<u>\$90,421</u>	<u>\$95,851</u>
9 Rate Base	<u>\$1,692,243</u>		<u>\$1,401,836</u>		<u>\$1,278,623</u>		<u>\$1,278,623</u>
10 Rate of Return	<u>2.35%</u>		<u>7.98%</u>		<u>0.42%</u>		<u>7.50%</u>

Tierra Verde Utilities, Inc.		Schedule 3-B
Adjustment to Operating Income		Docket No. 080248-SU
Test Year Ended 12/31/07		
Explanation		Wastewater
<u>Operating Revenues</u>		
1	Remove requested interim revenue increase	(\$142,948)
2	To reflect the appropriate amount of annualized revenues.	<u>(29,325)</u>
	Total	<u>(\$172,273)</u>
<u>Taxes Other Than Income</u>		
	RAFs on revenue adjustments above	<u>(\$7,752)</u>
<u>Income Taxes</u>		
	To adjust to test year income tax expense	<u>(\$58,035)</u>

Tierra Verde Utilities, Inc.		Schedule No. 4			
Wastewater Bi-Monthly Service Rates		Docket No. 080248-SU			
Test Year Ended 12/31/07		Test Year	Utility	Utility	Commission
		Rates on	Requested	Requested	Approved
		12/31/07	Interim	Final	Interim
<u>Residential</u>					
Base Facility Charge For All Meter Sizes:	\$72.29	\$87.82	\$107.69	\$86.90	
Gallage Charge Per 1,000 Gallons (10,000 gallon cap)	\$0	\$0	\$0	\$0	
<u>General Service</u>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$46.79	\$57.12	\$70.04	\$56.25	
1"	\$116.99	\$142.81	\$175.13	\$140.64	
1-1/2"	\$233.96	\$285.50	\$350.22	\$281.26	
2"	\$374.34	\$456.96	\$560.36	\$450.01	
3"	\$748.67	\$913.92	\$110.71	\$900.01	
4"	\$1,169.80	\$1,428.00	\$1,751.12	\$1,406.28	
6"	\$2,339.60	\$2,855.99	\$3,502.23	\$2,812.55	
8"	\$0.00	\$0.00	\$0.00	\$0.00	
Gallage Charge, per 1,000 Gallons	\$2.30	\$2.80	\$3.44	\$2.76	
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>					
3,000 Gallons	\$72.29	\$87.82	\$107.69	\$86.90	
5,000 Gallons	\$72.29	\$87.82	\$107.69	\$86.90	
10,000 Gallons	\$72.29	\$87.82	\$107.69	\$86.90	
(Wastewater Gallage Cap - 10,000 Gallons)					