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Public Service Commission

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: October 14, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Fletcher, Maurey) *BF ALM*
Office of the General Counsel (Jaeger) *CRB* *ma*
KEF for JSC

RE: Docket No. 100379-SU – Settlement proposal for possible overearnings by Mid-County Services, Inc. in Pinellas County.

AGENDA: 10/26/10 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100379.RCM.DOC

Case Background

Utilities, Inc. (UI) is an Illinois corporation which owns approximately 75 subsidiaries throughout 15 states including 15 water and wastewater utilities within the State of Florida. Mid-County Services, Inc. (Mid-County or Utility) is one of the aforementioned subsidiaries in Florida.

Rates were last established for this utility in 2009.¹ On February 20, 2010, the Commission approved a 2009 index and pass-through rate adjustment which represented a \$26,582 revenue increase. Staff's review of the 2009 Annual Report for Mid-County revealed

¹ See Order No. PSC-09-0373-PAA-SU, issued May 27, 2009, in Docket No. 080250-SU, In re: Application for increase in wastewater rates in Pinellas County by Mid-County Services, Inc.

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FPSC-COMMISSION CLERK

possible overearnings of approximately 1.92 percent of total revenues. Subsequently, staff engaged in discussions with the Utility regarding these possible overearnings. Staff notes that the Office of Public Counsel (OPC) was involved in these discussions. In a letter dated August 16, 2010, Mid-County proposed a settlement offer to address the possible overearnings. Mid-County proposed to withdraw its 2010 index application and refund and reduce the rates for the 2009 index. Further, any incremental 2009 overearnings above the amount of the 2009 index would also be refunded concurrent with the 2009 index refund. The Utility's proposed settlement is attached to this recommendation as Attachment A.

On September 13, 2010, the Utility, OPC, and staff met to discuss Mid-County's settlement offer to address possible overearnings. The purpose of this recommendation is to present the Utility's settlement proposal to the Commission for approval. The Commission has jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission accept the settlement offer proposed by Mid-County Services, Inc.?

Recommendation: Yes. Pursuant to the settlement proposal, Mid-County will make an across-the-board rate reduction of \$35,842 or 1.92 percent of total revenues, as well as refund \$35,842. The Utility should file a proposed customer notice within 15 days of the Commission vote which is consistent with its decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice. (Fletcher)

Staff Analysis: As stated in the Case Background, staff reviewed the Utility's 2009 Annual Report, which revealed possible overearnings. Staff notes that this amount represents possible overearnings because the annual report analysis is unaudited and the Utility's books and records have not been examined by staff auditors for the 2009 calendar year.

By letter dated August 16, 2010, Mid-County proposed a settlement to address possible overearnings. Specifically, the Utility agreed to withdraw its 2010 index application (submitted on May 20, 2010) and refund and reduce rates by the amount of the previously approved 2009 index. Further, any 2009 overearnings above the amount of the 2009 index would be refunded concurrent with the 2009 index refund. This settlement represents an across-the-board rate reduction of \$35,842 or 1.92 percent of total revenues, as well as a refund of \$35,842.

Possible Overearnings	\$35,842
2009 Index Amount	<u>26,582</u>
Difference	<u>\$9,260</u>
Proposed Rate Reduction	<u>\$35,842</u> <u>(1.92%)</u>
Proposed Refund	<u>\$35,842</u>

On September 3, 2010, based on concerns expressed by the OPC, staff requested that Mid-County provide its actual achieved rate of return for the first six months of 2010. In its response dated September 10, 2010, the Utility stated that its actual achieved rate of return for the first six months of 2010 was 5.40 percent.²

On September 13, 2010, the Utility, OPC, and staff met to discuss Mid-County's settlement offer to address possible overearnings. Most notably, OPC had expressed a desire for the Utility to agree to hold revenues subject to refund at some point in the fourth quarter of 2010 until such time that a review of calendar year-end 2010 is completed to determine if any further

² Based on the authorized maximum ROE of 12.83 percent, the authorized maximum rate of return is 8.56 percent.

refunds are appropriate. In response, Mid-County asserted that it would agree to hold revenues subject to refund, if there was a reciprocal agreement by the Commission and OPC that rates would be increased up to the lower limit of the Utility's last authorized return on equity (ROE), if the 2010 earnings review revealed that it had in fact underearned. OPC was not in favor of Mid-County's suggested reciprocal agreement.

In addition, it should be noted that OPC is not in total agreement with the proposed settlement. However, staff believes that Mid-County's proposed settlement is a reasonable resolution because it will address the possible overearnings on a prospective basis. Further, staff believes that it is in the public interest for the Commission to approve the settlement proposal because this settlement offer promotes administrative efficiency, avoiding the time and expense of a formal earnings investigation.

In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings,³ staff recommends that the Commission approve the settlement proposal. Schedule No. 1 reflects the Commission-approved rates from the 2008 rate case, the rates from the 2009 index and pass-through rate adjustment, and staff's recommended rates per the Utility's settlement proposal. Staff will continue to monitor the earnings for the Utility, and if any subsequent overearnings are identified, staff may open a formal earnings investigation.

Staff also recommends that the Utility file a proposed customer notice within 15 days of the Commission vote which is consistent with its decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice.

³ See Order Nos. PSC-09-0711-AS-WS, issued October 26, 2009, in Docket No. 080249-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.; PSC-08-0640-AS-WU, issued October 3, 2008, in Docket No. 070601-WU, In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply; and PSC-07-0534-AS-WS, issued June 26, 2007, in Docket No. 060261-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.

Issue 2: Should this docket be closed?

Recommendation: No. If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively. (Jaeger, Fletcher)

Staff Analysis: If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively.

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August 16, 2010

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Ann Cole, Commission Clerk
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RE: Docket No. 100001-OT; Investigation into possible overearnings of Mid-County Services, Inc.
Our File No.: 30057.190

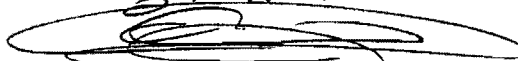
Dear Ms. Cole:

On June 30, 2010, Mid-County Services, Inc. (the "Utility"), the Office of Public Counsel and Staff of the Florida Public Service Commission held an informal meeting to discuss Mid-County Services, Inc. In light of these discussions, Staff has requested that the Utility file a proposal to settle the above-referenced matter.

To that end, the Utility would agree to withdraw its 2010 Index Application and refund and reduce the rates for the 2009 Index. Any 2009 overearnings above the amount of the 2009 Index refund would be refunded at the same time as the 2009 Index refund. The Utility would agree that the refund should be calculated based on the adjustments made in the last rate case (Docket No. 080250-SU). As such, the Utility would agree to a reduction in current rates by (1) the 2009 Index amount and (2) a further reduction by the amount of 2009 overearnings not alleviated by the 2009 Index reduction, net of Project Phoenix and relocation adjustments. This proposal would avoid the time and expense of multiple refunds and audits, and the customers would get an immediate benefit.

Should you or the Staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



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Mid-County Services, Inc.		Schedule No. 1	
Wastewater Bi-Monthly Service Rates		Docket No. 100379-SU	
Test Year Ended 12/31/09			
	Comm. Approve 2008 RC	2009 I & P/T 3/20/2010	Staff Recommend Rates
<u>Residential</u>			
Base Facility Charge All Meter Sizes:	\$38.27	\$38.71	\$37.97
Gallonage Charge per 1,000 gallons (20,000 gallon bi-monthly cap)	\$3.93	\$3.97	\$3.89
<u>General Service</u>			
Base Facility Charge by Meter Size:			
1"	\$98.20	\$99.32	\$97.42
1-1/2"	\$220.96	\$223.48	\$219.20
2"	\$392.82	\$397.29	\$389.68
2" (UI)	\$392.82	\$397.29	\$389.68
3"	\$884.09	\$894.16	\$877.02
4"	\$1,571.28	\$1,589.18	\$1,558.72
6"	\$3,535.87	\$3,576.15	\$3,507.62
Gallonage Charge per 1,000 Gallons	\$4.72	\$4.77	\$4.68
<u>Multi-Residential - Metered</u>			
Base Facility Charge by Meter Size:			
Flat Rate	\$75.26	76.12	\$74.66
5/8" x 3/4"	\$38.27	\$38.71	\$37.97
1"	\$98.20	\$99.32	\$97.42
1-1/2"	\$220.96	\$223.48	\$219.20
2"	\$392.82	\$397.29	\$389.68
3"	\$884.09	\$894.16	\$877.02
4"	\$1,571.28	\$1,589.18	\$1,558.72
6"	\$3,535.87	\$3,576.15	\$3,507.62
Gallonage Charge per 1,000 Gallons	\$5.66	\$5.72	\$5.61
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>			
3,000 Gallons	\$50.06	\$50.62	\$49.64
5,000 Gallons	\$57.92	\$58.56	\$57.42
10,000 Gallons	\$77.57	\$78.41	\$76.87
(Gallonage Cap - 20,000 Gallons Bi-Monthly)			