

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 100379-SU

SETTLEMENT PROPOSAL FOR POSSIBLE
OVEREARNINGS BY MID-COUNTY
SERVICES, INC. IN PINELLAS COUNTY.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 16

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER NATHAN A. SKOP
COMMISSIONER RONALD A. BRISÉ

DATE: Tuesday, October 26, 2010

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734



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P R O C E E D I N G S

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3 **CHAIRMAN GRAHAM:** That being said, let's move
4 on to Item 16. Thank you, Staff.

5 Mr. Fletcher.

6 **MR. FLETCHER:** Commissioners, Bart Fletcher
7 with Commission Staff.

8 Item 16 is Staff's recommendation to approve a
9 settlement proposal for possible overearnings by
10 Mid-County Services, Inc., in Pinellas County. Staff is
11 available to answer any questions the Commissioners may
12 have.

13 **CHAIRMAN GRAHAM:** Thank you, Mr. Fletcher.

14 Mr. Friedman, any comments from you?

15 **MR. FRIEDMAN:** I don't, I don't have any
16 comments at this time. I'll reserve some comments in
17 case Public Counsel raises something that may need
18 responding to.

19 **CHAIRMAN GRAHAM:** Public Counsel.

20 **MR. REILLY:** Congratulations, Commissioner
21 Graham.

22 **CHAIRMAN GRAHAM:** Thank you, sir.

23 **MR. REILLY:** Commissioners, just a small point
24 of clarification.

25 **CHAIRMAN GRAHAM:** I just, I need your name for

1 the record, please.

2 **MR. REILLY:** Steve Reilly with the Office of
3 Public Counsel.

4 **CHAIRMAN GRAHAM:** Thank you.

5 **MR. REILLY:** And we just wanted to, the
6 recommendation to be a little more specific on defining
7 the refund requirements, so we were asking that the,
8 that the recommendation and of course the subsequent
9 order specify that all customers of record for the
10 calendar year 2009 would be the ones receiving the
11 refund and that the refund should be calculated based
12 upon 1.92 percent of all the 2009 billings, just to
13 clarify that. I do understand that the Company does not
14 object to that clarifying language.

15 The part in the recommendation that talks
16 about doing it pursuant to the rule covers some of this,
17 but there's some issue as to whether it would really
18 specify the time period. So we were just asking for
19 that clarification.

20 **CHAIRMAN GRAHAM:** Thank you, Mr. Reilly.

21 **MR. REILLY:** And I understand that there's no
22 objection from the Company.

23 **MR. FRIEDMAN:** Yeah. We think it's already
24 covered in the rule, but, so we obviously have no
25 objection with that clarification.

1 **CHAIRMAN GRAHAM:** Thank you, sir.

2 Staff.

3 **MR. FLETCHER:** We have no objections.

4 **CHAIRMAN GRAHAM:** Oh, I love it when this
5 happens.

6 All right. Commission board? Commissioner
7 Skop.

8 **COMMISSIONER SKOP:** Thank you. Just a
9 question to Staff. On page 3 of the Staff
10 recommendation it talks about the across-the-board rate
11 reduction of \$35,842 or 1.92 percent of the total
12 revenue, as well as refund of \$35,842.

13 A question I have, unlike the prior item that
14 we just discussed, the prior item on page 29 discussed
15 that refund should be made with interest. However, the
16 Staff recommendation is silent as to whether interest
17 would be applied to the refund amount.

18 Looking at the applicable rule, which is Rule
19 25-30.360, Refunds, it talks about the manner in which
20 in the case of re -- or for interest in the case of
21 refunds which the Commission orders to be made with
22 interest, the interest rate shall be based on a 30-day
23 commercial paper rate for high grade unsecured notes
24 sold through dealers, yada, yada, yada, yada.

25 The recommendation is silent with respect to

1 the disposition of the interest as it would accrue to
2 the refund amount, and it's also silent as to
3 specifically when that refund would be expected to be
4 made, noting that the applicable rule requires that a
5 credit would be made on customers' bills.

6 So can Staff speak to those two issues?
7 First, when is the refund expected to be made? And,
8 second, does the refund amount include interest or has
9 interest been omitted from that amount shown on page 3?

10 **MR. FLETCHER:** Commissioner, we basically --
11 Staff referenced the rule, and it's on page 5 in the
12 recommendation paragraph. And basically within that
13 rule encapsulates that it will be made with interest.
14 It will be upon a final Commission decision within that
15 rule provision. It will be made within 90 days of a
16 final Commission order. So all those are kind of -- and
17 they can make it sooner, but it is with interest with
18 the 30-day average commercial paper rate.

19 **COMMISSIONER SKOP:** Okay. Where, where
20 specifically in the Staff recommendation?

21 **MR. FLETCHER:** Page 5 in the recommendation
22 paragraph. We only cite the rule, and that rule with
23 all the provisions encapsulates with interest and the
24 date of the filing.

25 **COMMISSIONER SKOP:** Actually, with all due

1 respect, that's not what the rule says. Under for
2 interest, Paragraph A, In the case of refunds which the
3 Commission, which the Commission orders to be made with
4 interest, the word interest is not included there.
5 Therefore, that's my concern to the extent that the
6 prior Staff recommendation on page 23 specifically
7 states with interest as to the refund amount, and this
8 recommendation references the rule. And the rule does
9 refer to interest, but it also requires in the case of
10 refunds which the Commission orders to be made with
11 interest. And as the recommendation is silent, that's
12 why I'm seeking clarification to have taken it off the
13 move Staff list. Thank you.

14 **MR. JAEGER:** Commissioner Skop, it was Staff's
15 understanding that the interest would be made in -- with
16 interest. And I don't believe the Utility has --

17 **COMMISSIONER SKOP:** Okay. So do we need to do
18 an oral Staff modification or will that be commenced in
19 the order?

20 **MR. FLETCHER:** Yes. We can clarify in the
21 order that the refund will be made with interest.

22 **COMMISSIONER SKOP:** All right. Thank you.
23 And I know that the refund will be made within 90 days
24 of the Commission's order pursuant to the rule, but
25 that's where interest became important. If the refund

1 was going to be credited tomorrow, obviously there's
2 little or no need to accrue interest, which is probably
3 negligible anyway. But at the end of the day, it's
4 important with respect to refunds to clearly articulate
5 whether they're with interest or without interest, and I
6 did not see that embodied within the Staff
7 recommendation. So I just was seeking clarification.

8 **CHAIRMAN GRAHAM:** Ms. Helton? Mary Anne, are
9 we sufficient with the comments back and forth here
10 today to just move Staff recommendation?

11 **MS. HELTON:** I think if we ask the parties if
12 they have the same understanding and they are
13 comfortable, I will be comfortable and I think you could
14 be comfortable.

15 **CHAIRMAN GRAHAM:** Let's start with
16 Mr. Friedman.

17 **MR. FRIEDMAN:** Yes, we're okay with that.
18 Like, like Commissioner Skop pointed out, the amount of
19 interest involved in calculating it or the amount that
20 they're entitled to is so small that it would be a waste
21 of time to argue with it, frankly. Whether we thought
22 it should be or not, it's not worth the money.

23 **CHAIRMAN GRAHAM:** Mr. Reilly.

24 **MR. REILLY:** We agree with interest, yes.

25 **CHAIRMAN GRAHAM:** Once again, I love it.

1 All right. Can I get a motion?

2 **COMMISSIONER EDGAR:** Mr. Chair.

3 **CHAIRMAN GRAHAM:** Commissioner Edgar.

4 **COMMISSIONER EDGAR:** Thank you. Mr. Chair,
5 then, per our discussion, I would move the Staff
6 recommendation with a further direction that the order
7 include the clarification requested and described by the
8 Office of Public Counsel and by Commissioner Skop.

9 **CHAIRMAN GRAHAM:** Do I have a second?

10 **COMMISSIONER SKOP:** Second.

11 **CHAIRMAN GRAHAM:** All in favor, say aye.

12 (Unanimous vote.)

13 Those opposed. By your action, we've approved
14 Item 16.

15 (Agenda item concluded.)

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STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 1st day of November, 2010.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
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