

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in Marion County by C.F.A.T. H2O, Inc. | DOCKET NO. 100126-WU
ORDER NO. PSC-10-0739-PCO-WU
ISSUED: December 20, 2010

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
RONALD A. BRISÉ
EDUARDO E. BALBIS

ORDER SUSPENDING PROPOSED FINAL RATES
AND GRANTING INTERIM RATES SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

CFAT H2O, Inc. (CFAT or Utility) is a Class C utility providing water service to approximately 221 water customers in Marion County. CFAT is in a water use caution area of the St. Johns River Water Management District. Water rate base was last established for the Utility in 1994.¹

On September 27, 2010, CFAT filed its application for rate increase at issue in the instant docket. The Utility had several deficiencies in the Minimum Filing Requirements (MFRs). As of the filing of this order, those deficiencies remain outstanding. Although the MFRs are deficient, we must address CFAT's interim request within 60 days of the date of filing such request by statute. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the simple average period ended December 31, 2009.

CFAT requested interim rates designed to generate annual water revenues of \$89,429. This represents a revenue increase on an annual basis of \$45,850 (105.21 percent). The Utility requested final rates designed to generate annual water revenues of \$95,079. This represents a revenue increase of \$51,500 (118.18 percent).

¹ See Order No. PSC-94-0701-FOF-WS, issued June 8, 1994, in Docket No. 931080-WS, In re: Application for transfer of Certificate Nos. 552-W and 481-S in Marion County from THE RESOLUTION TRUST CORPORATION to C.F.A.T. H2O, Inc. (While rate base was established in this Order, an authorized return on equity was not set for the Utility.)

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

The original 60-day statutory deadline for us to suspend the Utility's requested final rates is November 27, 2010. However, by letter dated November 3, 2010, the Utility agreed to extend the statutory time frame through November 30, 2010. This Order addresses the suspension of CFAT's requested final rates and the Utility's requested interim rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

SUSPENSION OF RATES

Section 367.081(6), F.S., provides that we may, for good cause, withhold consent of 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 from the official date of filing if: (1) we have not acted upon the requested rate increase; or (2) if our 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. We find that it is necessary to require further investigation of this information, including on-site investigations by our staff accountants and engineers. Based on the foregoing, we find it appropriate to suspend the Utility's proposed rate increase.

INTERIM RATES

On an interim basis, the Utility shall be authorized to collect annual water revenues as indicated below:

	<u>Adjusted Test</u> <u>Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue</u> <u>Requirement</u>	<u>% Increase</u>
Water	\$44,090	\$42,792	\$86,882	97.06%

On September 27, 2010, CFAT filed its rate base, cost of capital, and operating statements to support its requested interim increase in water rates. Pursuant to Section 367.082(1), F.S., in order to establish a prima facie entitlement for interim relief, the Utility shall demonstrate that it is earning outside the range of reasonableness on its rate of return. Pursuant to Section 367.081(2)(a), F.S., in a proceeding for an interim increase in rates, we shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return. Based on the Utility's filing and our adjustments below, we find that the Utility has demonstrated a prima facie entitlement in accordance with Section 367.082(1), F.S.

Pursuant to Section 367.082(5)(b)1, F.S., the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with adjustments made in the Utility's most recent rate proceeding and annualizing any rate changes. We have reviewed CFAT's

interim request, as well as Order No. PSC-94-0701-FOF-WS, in which we last established 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. Rate base is labeled as Schedule No. 1-A. Capital structure is labeled as Schedule No. 2. Operating income is labeled as Schedule No. 3-A, with adjustments shown on Schedule No. 3-B.

RATE BASE

In accordance with Rule 25-30.433(2), Florida Administrative Code (F.A.C.), the Utility calculated its working capital allowance based on the formula method, which is one-eighth of operation and maintenance (O&M) expenses. As discussed below, we approve adjustments to O&M expense, resulting in a reduction of \$3,652. As such, we find that CFAT's working capital allowance shall be reduced by \$452. Therefore, we find that CFAT's rate base for purposes of determining interim rates shall be \$374,815.

COST OF CAPITAL

For purposes of its interim request, CFAT used a return on equity (ROE) of 10.85 percent. Because we have not previously set an ROE for CFAT, the Utility's use of our current leverage formula is appropriate pursuant to Sections 367.081(4)(f) and 367.082(5)(b)3, F.S. However, pursuant to Section 367.082(2)(a), F.S., the appropriate ROE for purposes of determining an interim rate increase is the minimum of the ROE range. The Utility's 10.85 percent ROE represents a mid-point.² Based on our current leverage formula³ and an equity ratio of 24.69 percent, the indicated ROE is 10.85 percent. With a range of plus or minus 100 basis points, the appropriate ROE for purposes of determining interim rates shall be 9.85 percent and the resulting overall cost of capital shall be 6.07 percent.

NET OPERATING INCOME

Pursuant to Section 367.082(5)(b)1, F.S., the only adjustments that shall be made to the interim test year are adjustments consistent with the most recent individual rate proceeding or adjustments to annualize rate changes occurring during the interim test year. Based upon our review of the Utility's most recent rate proceeding, we find that an adjustment to operating revenues is appropriate. Thus, we approve increase operating revenues by \$511 to reflect the appropriate amount of annualized revenues.

Additionally, we find that an adjustment to operating expenses is necessary. CFAT included adjustments to increase water expenses by \$1,763 for salaries, \$360 for healthcare costs, and \$1,529 for bad debt expense. However, we find that these proposed adjustments are pro forma because they are outside the interim test year. As such, we adjust CFAT's pro forma expense adjustments and remove them from the interim net operating income calculation.

² Using the 10.85 percent mid-point ROE resulted in a requested interim overall cost of capital of 6.28 percent.

³ See Order Nos. PSC-10-0401-PAA-WS, issued June 18, 2010, and PSC-10-0446-CO-WS, issued July 13, 2010, in Docket No. 100006-WS, In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

Based on the above, we find that the appropriate test year operating loss, before any revenue increase, is \$18,124.

REVENUE REQUIREMENT

Based on the above adjustments, we approve a revenue requirement of \$86,882. This represents an interim increase in annual revenues of \$42,792 (or 97.06 percent). This increase will allow the Utility the opportunity to recover its operating expenses and earn a 6.07 percent return on its rate base.

INTERIM WATER RATES

We find that interim water service rates for CFAT shall be designed to allow the Utility the opportunity to generate annual operating revenues of \$86,882. Before removal of miscellaneous revenues, this shall result in an increase of \$42,792 or 97.06 percent. To determine the appropriate percentage increase to apply to the service rates, miscellaneous service revenues shall be removed from the test year revenues. However, because the Utility does not have any miscellaneous service revenues, the percentage increase does not change. The calculation is as follows:

Water		
1	Total Test Year Revenues	\$44,090
2	Less: Miscellaneous Revenues	<u>0</u>
3	Test Year Revenues from Service Rates	<u>\$44,090</u>
4	Revenue Increase	\$42,792
5	% Service Rate Increase (Line 4/Line3)	<u>97.06%</u>

The interim rate increase of 97.06 percent shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2009. 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 verifies that the tariff sheets are consistent with our decision here today, the proposed customer notice is adequate, and the required security 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 current rates, proposed interim and final rates, and our approved interim 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 rate ordered by us. As approved above, the total annual interim increase is \$42,792. In accordance with Rule 25-30.360, F.A.C., we have calculated the potential refund of revenues and interest collected under interim conditions to be \$24,980. This amount is based on an estimated seven months of revenue being collected from our approved interim rates over the Utility's current authorized rates shown on Schedule No. 4.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We have reviewed CFAT's 2007, 2008 and 2009 financial statements to determine the financial condition of the Utility. CFAT has inadequate liquidity, profitability, ownership equity, and interest coverage to guarantee any potential refund. Based on this analysis, we find that CFAT shall be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refunds of water revenues. This brief financial analysis is only appropriate for deciding if the Utility can support a corporate undertaking in the amount proposed and shall not be considered a finding regarding our findings on other issues in this proceeding.

If the security provided is an escrow account, said account shall be established between the Utility and an independent financial institution pursuant to a written escrow agreement. We shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following: that the account is established at our direction for the purpose set forth above; that no withdrawals of funds shall occur without the prior approval by us through the Office of Commission Clerk; the account shall be interest bearing; information concerning that escrow account shall be available from the institution to us or our representative at all times; the amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt; and, pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla 3d DCA 1972), escrow accounts are not subject to garnishments.

If the security provided is an escrow account, the Utility shall deposit 49.25 percent of water revenues into the escrow account each month. The escrow agreement shall also state that if a refund to the customers is required, all interest earned on the escrow account shall be distributed to the customers, and if a refund to the customers is not required, the interest earned on the escrow account shall revert to the Utility.

If the security provided is a surety bond or a letter of credit, said instrument shall be in the amount of \$24,980. If the Utility chooses a surety bond as security, the surety bond shall state that it will be released or terminated only upon subsequent order by us. If the Utility chooses to provide a letter of credit as security, the letter of credit shall state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the Utility or requiring a refund.

Regardless of the type of security provided, the Utility shall keep an accurate and detailed account of all monies it receives. 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. Should a refund be 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. Such costs are the responsibility of, and shall be borne by, the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the final water rates proposed by C.F.A.T. H2O, Inc. are hereby suspended. It is further

ORDERED that the request for an interim rate increase for water rates by C.F.A.T. H2O, 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 C.F.A.T. H2O, Inc. shall provide proof of the date notice was given within 10 days after the date of notice. It is further

ORDERED that C.F.A.T. H2O, Inc. shall be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refunds of water revenues collected under interim conditions as set forth in the body of this Order. It is further.

ORDERED that pursuant to Rule 25-30.360(6), F.A.C., C.F.A.T. H2O, Inc. shall provide a report by the 20th day 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 our final action on C.F.A.T. H2O, Inc.'s requested rate increase.

By ORDER of the Florida Public Service Commission this 20th day of December, 2010.

ANN COLE
Commission Clerk

By: Dorothy E. Mehasco
Dorothy E. Mehasco
Chief Deputy Commission Clerk

(SEAL)

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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 this order, which is non-final in nature, may request (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 25-22.0376, 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.

CFAT H2O, Inc. Schedule of Water Rate Base Test Year Ended 12/31/09			Schedule No. 1-A Docket No. 100126-WS		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
1 Plant in Service	\$537,632	\$0	\$537,632	\$0	\$537,632
2 Land and Land Rights	19,500	0	19,500	0	19,500
3 Accumulated Depreciation	(127,972)	0	(127,972)	0	(127,972)
4 CIAC	(114,421)	0	(114,421)	0	(114,421)
5 Amortization of CIAC	55,292	0	55,292	0	55,292
6 Acquisition Adjustments	46,269	(46,269)	0	0	0
7 Working Capital Allowance	<u>0</u>	<u>5,236</u>	<u>5,236</u>	<u>(452)</u>	<u>4,784</u>
8 Rate Base	<u>\$416,300</u>	<u>(\$41,033)</u>	<u>\$375,267</u>	<u>(\$452)</u>	<u>\$374,815</u>

CFAT H2O, Inc.
Capital Structure-Simple Average
Test Year Ended 12/31/09

Schedule No. 2
Docket No. 100126-WS

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	\$388,880	\$0	\$388,880	(\$115,867)	\$273,013	65.96%	5.69%	3.75%	
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	127,483	0	127,483	(37,984)	89,499	21.62%	10.85%	2.35%	
5 Customer Deposits	18,167	0	18,167	(5,413)	12,754	3.08%	6.00%	0.18%	
6 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%	
7 Total Capital	<u>\$534,530</u>	<u>\$0</u>	<u>\$534,530</u>	<u>(\$159,264)</u>	<u>\$375,266</u>	<u>90.66%</u>		<u>6.28%</u>	
Per Commission									
8 Long-term Debt	\$388,880	\$0	\$388,880	(\$116,195)	\$272,685	65.96%	5.69%	3.75%	
9 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
11 Common Equity	127,483	0	127,483	(38,091)	89,392	21.62%	9.85%	2.13%	
12 Customer Deposits	18,167	0	18,167	(5,428)	12,739	3.08%	6.00%	0.18%	
13 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%	
14 Total Capital	<u>\$534,530</u>	<u>\$0</u>	<u>\$534,530</u>	<u>(\$159,714)</u>	<u>\$374,816</u>	<u>90.66%</u>		<u>6.07%</u>	
						LOW	HIGH		
RETURN ON EQUITY						<u>9.85%</u>	<u>11.85%</u>		
OVERALL RATE OF RETURN						<u>6.07%</u>	<u>6.50%</u>		

CFAT H2O, Inc.		Schedule No. 3-A						
Statement of Water Operations		Docket No. 100126-WS						
Test Year Ended 12/31/09								
Description	Test Year Per Utility	Utility Adjustments	Adjusted Test Year Per Utility	Commission Adjustments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement	
1	Operating Revenues:	<u>\$43,579</u>	<u>\$45,850</u>	<u>\$89,429</u>	<u>(\$45,339)</u>	<u>\$44,090</u>	<u>\$42,792</u> 97.06%	<u>\$86,882</u>
	Operating Expenses							
2	Operation & Maintenance	\$38,235	\$3,688	\$41,923	(\$3,652)	\$38,271		\$38,271
3	Depreciation	18,923	0	18,923	0	18,923		18,923
4	Amortization	0	0	0	0	0		0
5	Taxes Other Than Income	2,957	2,063	5,020	0	5,020	1,926	6,946
6	Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7	Total Operating Expense	<u>\$60,115</u>	<u>\$5,751</u>	<u>\$65,866</u>	<u>(\$3,652)</u>	<u>\$62,214</u>	<u>\$1,926</u>	<u>\$64,140</u>
8	Operating Income	<u>(\$16,536)</u>	<u>\$40,099</u>	<u>\$23,563</u>	<u>(\$41,687)</u>	<u>(\$18,124)</u>	<u>\$40,866</u>	<u>\$22,742</u>
9	Rate Base	<u>\$416,300</u>		<u>\$375,267</u>		<u>\$374,815</u>		<u>\$374,815</u>
10	Rate of Return	<u>(3.97%)</u>		<u>6.28%</u>		<u>(4.84%)</u>		<u>6.07%</u>

CFAT H2O, Inc. Adjustment to Operating Income Test Year Ended 12/31/09		Schedule No. 3-B Docket No. 100126-WS
Explanation	Water	
<u>Operating Revenues</u>		
1	Remove requested final revenue increase	(\$45,850)
2	To reflect the appropriate amount of annualized revenues.	511
	Total	<u>(\$45,339)</u>
<u>Operation and Maintenance Expense</u>		
1	Remove pro forma salaries.	(\$1,763)
2	Remove pro forma healthcare costs.	(360)
3	Remove pro forma bad debt expense.	(1,529)
4	Total	<u>(\$3,652)</u>
<u>Taxes Other Than Income</u>		
	RAFs on revenue adjustments above	<u>(\$2,040)</u>

CFAT H2O, Inc.		Schedule No. 4		
Water Monthly Service Rates		Docket No. 100126-WS		
Test Year Ended 12/31/09				
	Rates Prior to Filing	Utility Requested Interim	Utility Requested Final	Commission Approved. Interim
<u>Residential Service</u>				
Base Facility Charge by Meter Size:				
5/8" x 3/4"	\$9.97	\$20.23	\$21.48	\$19.65
Gallonage Charge, per 1,000 Gallons	\$1.63	\$3.30	\$3.51	\$3.21
<u>General Service</u>				
5/8" x 3/4"	\$9.97	\$20.23	\$21.48	\$19.65
1"	\$24.93	\$50.88	\$53.77	\$49.13
1-1/2"	\$49.86	\$101.15	\$107.42	\$98.25
2"	\$79.78	\$161.84	\$171.89	\$157.21
3"	\$159.58	\$323.72	\$343.80	\$314.46
4"	\$249.33	\$492.13	\$519.73	\$491.32
Gallonage Charge, per 1,000 Gallons	\$1.63	\$3.30	\$3.51	\$3.21
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>				
3,000 Gallons	\$14.86	\$30.13	\$32.01	\$29.28
5,000 Gallons	\$18.12	\$36.73	\$39.03	\$35.71
10,000 Gallons	\$26.27	\$53.23	\$56.58	\$51.77