

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Rates, Charges)	DOCKET NO. 861112-SU
of SANIBEL SEWER SYSTEM PARTNERS, LTD.,)	ORDER NO. 20723
for sewer service in Lee County.)	ISSUED: 2-10-89

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
GERALD L. GUNTER

ORDER CONFIRMING REFUND REQUIREMENT

BY THE COMMISSION:

By Order No. 16621, issued on September 22, 1986, we initiated an investigation of the sewer rates and charges of Sanibel Sewer System Partners, Ltd (utility). The basis of the investigation was a desk audit of the utility's 1985 Annual Report which suggested that the utility was achieving a 34.55% rate of return, far in excess of the 10.06% maximum overall rate of return calculated in accordance with Section 367.082, Florida Statutes. We also found preliminarily that a 58% reduction in existing service availability charges would allow a 75% level of contributions-in-aid-of-construction (CIAC) at design capacity.

Subsequently, the utility and Commission Staff entered into settlement negotiations. In November 1987, the utility filed a proposed Stipulation in Settlement. By Order No. 18529, issued December 11, 1987, we approved the proposed stipulation in settlement as a fair and reasonable resolution to the investigation.

As part of the settlement, the utility agreed to refund all cash service availability charges collected in excess of \$300 per Equivalent Residential Connection (ERC) from July 1, 1984 through December 1, 1987, the approval date of the settlement. The refund was to be made within one year of December 1, 1987. The utility agreed to file a service availability case, which it did and which is presently being processed under Docket No. 880420-SU.

The utility has proceeded to make the refunds and indicates that it has refunded the excess collections of CIAC to all but three customers. In Docket No. 880420-SU, the utility, in its Second Amendment to Request by Sanibel Sewer System Partners, Ltd. for a Review of its Service Availability Policy, stated that it has been its "intent to ask that it not be required to refund the \$98,750.00 previously paid by the three (3) named customers related to the extension of the West Gulf Drive Line." The utility further stated "that if this money is refunded to the customers, that all customers in the Sanibel Sewer System will be unfairly burdened by having to pay higher rates and charges for service than would normally be expected."

Upon consideration, we are not persuaded to modify the stipulation in settlement which we approved on December 1, 1987. A stipulation is a compromise agreement to reasonably resolve the matters in dispute. As stated above, in Order No. 18529, we indicated that the majority of the refunds in the stipulation were service availability charges to property

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owners of record. The result of a CIAC refund is to increase the level of utility investment, which has the effect of mitigating the utility's overearnings problems. Had the stipulation in settlement not been accepted, we would have proceeded to hearing. The outcome of the hearing could have been higher or lower CIAC and revenue refunds than were in the stipulation, and perhaps a rate reduction on a going-forward basis. However, a reasonable stipulation was offered by the utility and accepted by this Commission. Since there have been no unexpected changes in the circumstances of the utility since our acceptance of the stipulation, we do not believe we have been shown anything to warrant modifying the stipulation set forth in Order No. 18529. The utility shall proceed with the completion of the refunds within ten days of February 7, 1989, the date of our vote at the Agenda Conference. Interest shall continue to accrue up to the date of the refund.

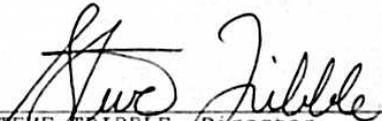
We note that the utility's books and records are in compliance with the NARUC Uniform System of Accounts.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Sanibel Sewer System Partners, Ltd. shall complete the refunds of \$98,750, plus interest, by February 17, 1989, as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open pending verification of performance of the refund.

By ORDER of the Florida Public Service Commission,
this 10th day of FEBRUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NSD

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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

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Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.