

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate) DOCKET NO. 911067-WS
increase by GENERAL DEVELOPMENT)
UTILITIES, INC. in Charlotte,)
DeSoto and Sarasota Counties)
_____)

In re: Application for a rate) DOCKET NO. 911030-WS
increase by GENERAL DEVELOPMENT) ORDER NO. PSC-93-0193-FOF-WS
UTILITIES, INC. (Port Malabar) ISSUED: 02/09/93
Division) in Brevard County)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
LUIS J. LAUREDO

ORDER ACKNOWLEDGING WITHDRAWAL,
DISMISSING APPLICATIONS FOR RATE INCREASE
AND REQUIRING REFUND

BY THE COMMISSION:

BACKGROUND

On January 3, 1992, General Development Utilities, Inc. (GDU) filed its applications for a rate increase for its Port Malabar and West Coast Divisions. The minimum filing requirements (MFRs) were deficient. On January 16, 1992, the utility submitted additional data and upon review, this date was established as the official filing date for each docket. By Orders Nos. PSC-92-0186-FOF-WS and PSC-92-0187-FOF-WS, issued April 13, 1992, the Commission granted interim rates. A final hearing on the rates was not held in these dockets prior to the sale of the two divisions to governmental entities. The West Coast Division was sold on December 9, 1992. The sale of the Port Malabar Division was completed on December 16, 1992.

On November 2, 1992, GDU filed applications for transfer of the systems to the Cities. The transfer applications were acknowledged and the appropriate certificates cancelled by Orders

DOCUMENT NUMBER-DATE

01551 FEB-93

FPSC-RECORDS/REPORTING

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Nos. PSC-92-1441-FOF-WS (West Coast) and PSC-92-1442-FOF-WS (Port Malabar), issued on December 14, 1992.

WITHDRAWAL OF PENDING RATE CASES

On December 9, 1992, and December 16, 1992, GDU filed a Notice of Withdrawal and Dismissal With Prejudice for both the West Coast Division and the Port Malabar Division. In the Notices of Withdrawal, GDU requests to withdraw its pending applications for general rate increases for Port Malabar and West Coast and to have the Commission order the refund of interim rates.

As grounds for the withdrawal, the utility states that: 1) on October 19, 1992, and October 28, 1992, GDU entered into agreements with the Cities of North Port and Palm Bay, whereby the Cities would purchase, pursuant to the terms of circuit court orders, the assets of their respective utilities; 2) GDU agreed, under the terms of the agreement, to withdraw the pending rate applications; and 3) GDU agreed to refund any interim rates collected from the customers.

Pursuant to Section 367.082(7), Florida Statutes, if a utility system becomes exempt from Commission regulation or jurisdiction during the pendency of a rate case, the request for rate relief is deemed to have been withdrawn. As discussed, above this Commission has already acknowledged the transfers of these systems to governmental entities and cancelled GDU's certificates for the systems. Therefore, we find it appropriate to acknowledge GDU's Notices of Withdrawal and Dismissal With Prejudice and deem the request for rate relief withdrawn.

REFUND OF INTERIM RATES

On April 13, 1992, the Commission issued Order No. PSC-92-0187-FOF-WS in Docket No. 911030-WS, which authorized interim revenue increases for the Port Malabar division in the amount of \$818,888 for water and \$1,281,262 for wastewater. Also, on that same date, the Commission issued Order No. PSC-92-0186-FOF-WS in Docket No. 911067-WS which authorized interim revenue increases for the West Coast Division in the amount of \$19,167 for water and \$1,468,024 for wastewater.

Under the operation of Section 367.082(7), Florida Statutes, when the request for rate relief is deemed withdrawn, interim rates must be discontinued and any money collected pursuant to the interim rate relief must be refunded to the customers of the

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utility with interest. Therefore, we find it appropriate to require all revenues collected in Dockets Nos. 911030-WS and 911067-WS as a result of interim rate relief be refunded with interest. The refund shall be in conformity with Rule 25-30.360, Florida Administrative Code.

These dockets may be closed administratively upon the utility's completion of the required refund and refund reports and staff's verification of them.

It is therefore,

ORDERED by the Florida Public Service Commission that the requests for rate relief filed by General Development Utilities, Inc. for the West Coast and Port Malabar Divisions are hereby deemed withdrawn. It is further

ORDERED that all revenues collected in Dockets Nos. 911030-WS and 911067-WS as a result of interim rate relief be refunded with interest and that said refund shall be made in conformity with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that these dockets may be closed administratively upon the utility's completion of the required refund and refund reports and staff's verification of them.

By ORDER of the Florida Public Service Commission this 9th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB/LJ

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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 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.