

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into ) DOCKET NO. 930084-WU  
potential overearnings of ) ORDER NO. PSC-93-0282-FOF-WU  
COUNTYWIDE UTILITY COMPANY in ) ISSUED: 02/23/93  
Marion County. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON  
LUIS J. LAUREDO

ORDER INITIATING INVESTIGATION OF POSSIBLE OVEREARNINGS  
AND HOLDING REVENUES COLLECTED SUBJECT TO REFUND

BY THE COMMISSION:

Background

Countywide Utility Company (Countywide or the utility) is a Class C water utility located in Marion County, Florida. Certificate No. 390-W was issued to Countywide on January 18, 1984. During the 1991 calendar year, the utility served 308 water customers.

Section 367.082, Florida Statutes, authorizes the Commission to initiate an investigation of a utility's earnings upon a preliminary demonstration that the utility is earning a rate of return which is outside the range of reasonableness. To the extent that the achieved rate of return exceeds the required rate of return applied to an average investment rate base or an end-of-period investment rate base, the Commission may require revenues to be collected subject to refund during the investigation.

A desk audit of Countywide's 1991 Annual Report indicates that the utility is earning an overall rate of return of 43.13 percent. It appears that Countywide is currently achieving a rate of return in excess of the return authorized in Order No. 12899, issued January 18, 1984. By Order No. 12899, the Commission authorized a rate of return of 11.56 percent. Based on the utility's 1991 annual report, the current capital structure is 100 percent debt at

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a cost of 7.00 percent. Therefore, the utility's required rate of return is 7 percent. Based on this analysis, it appears that the utility is overearning by 36.13 percent. Therefore, we find it appropriate to initiate an investigation of this utility's earnings for water service. The test year for the investigation shall be based on the most recent 12-month period. During that period, the utility recorded operating revenues of \$44,604 and operating expenses of \$39,633, resulting in test period operating income of \$4,971.

Revenues Subject to Refund

The utility's existing rate structure is a declining block rate structure. A schedule of the utility's existing rates follows:

RESIDENTIAL AND GENERAL SERVICE

MONTHLY RATES

Flat Charge (0 - 22,500 Gallons) \$ 9.95  
Flat Charge (Over 22,500 Gallons) 36.47

Gallonage Charge:

3,751 Gallons - 22,500 Gallons \$ 1.41  
Over 22,500 Gallons 0.76

The revenues collected by this utility which shall be held subject to refund, with interest are \$3,538. The utility shall continue collecting its existing rates, pending a final determination of overearnings. The revenues collected and reported in the 1991 Annual Report reflect the existing rates.

Security

Countywide shall provide a bond or letter of credit in the amount of \$3,538, or an escrow agreement. Evidence of the bond, letter of credit, or escrow agreement with an independent financial institution shall be filed with the Commission within 30 days of the date of this Order.

If the utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission finds that the utility is not in an overearnings position; or
- 2) If the Commission does find that the utility is overearning, the utility shall refund the amount of revenues collected that are attributable to the overearnings.

If the utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either finding that the utility is overearning and ordering a refund, or finding that the utility is not overearning.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission.
- 2) The escrow account shall be an interest bearing account.
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s)

set forth in its order requiring such account. Pursuant to Consentino v. Elson, 263 So.2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

- 8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as result of the overearnings should be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

The utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, during the period of time the utility is required to escrow a portion of its revenues attributable to overearnings, the utility shall file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected in excess of our preliminary determination of the appropriate revenue requirement during the investigation.

This docket shall remain open pending the completion of the investigation of Countywide for possible overearnings.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that an investigation of Countywide Utility Company for possible overearnings shall be initiated. It is further

ORDERED that revenues collected by Countywide Utility Company in the amount of \$3,538 shall be held subject to refund, with interest. It is further

ORDERED that Countywide Utility Company shall continue collecting its existing rates pending a final determination of overearnings. It is further

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ORDERED that Countywide Utility Company shall provide a bond or letter of credit in the amount of \$3,538, or an escrow agreement. Evidence or the bond, letter of credit, or escrow shall be filed with the Commission within 30 days of the date of this Order.

By ORDER of the Florida Public Service Commission this 23rd day of February, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.