

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate Increase by GENERAL DEVELOPMENT UTILITIES, INC. (Port Malabar Division) in Brevard County. ) DOCKET NO. 911030-WS  
In Re: Application for a Rate Increase by GENERAL DEVELOPMENT UTILITIES, INC. in Charlotte, DeSoto and Sarasota Counties. ) DOCKET NO. 911067-WS  
ORDER NO. PSC-94-1238-FOF-WS  
ISSUED: October 11, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK

ORDER DISPOSING OF UNCLAIMED REFUNDS

BY THE COMMISSION:

Background

General Development Utilities, Inc. (GDU or the utility) was a wholly owned subsidiary of General Development Corporation (GDC). In early 1992, GDC reorganized and was renamed Atlantic Gulf Communities Corporation. At the time of this filing, GDU operated five divisions in Florida which were regulated by this Commission. The two divisions involved in these rate proceedings were the West Coast Division and the Port Malabar Division.

This Commission has not previously considered West Coast Division's rates within a full rate case nor has a rate of return on equity been set by this Commission. However, the Charlotte County utility regulatory authority set rates for the Charlotte County system in 1985. This Commission acquired jurisdiction over the Charlotte County system on October 1, 1989, by operation of Section 367.171(7), Florida Statutes. By Order No. 22783, issued April 9, 1990, this Commission granted the utility the West Coast Division's water and wastewater certificates.

On January 3, 1992, the utility filed its applications for a rate increase for each division. The minimum filing requirements were deficient. On January 16, 1992, the utility submitted additional data and upon review, this date was established as the

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official filing date for each docket. The test year, for final rate determination, is the projected twelve month period ended December 31, 1991. The interim test period is the twelve month period ended December 31, 1990.

For the West Coast Division, GDU requested interim water rates designed to generate annual revenues of \$1,940,138. These revenues exceed test year revenues by \$165,007, or an increase of 9.29 percent. The utility requested interim wastewater rates for the West Coast Division designed to generate annual revenues of \$2,863,349. These requested revenues exceed test year revenues by \$1,465,400, or an increase of 104.82 percent.

For the Port Malabar Division, GDU requested interim water rates designed to generate annual revenues of \$5,046,658. These revenues exceed test year revenues by \$1,143,848, or an increase of 29.31 percent. The utility has requested interim wastewater rates for the Port Malabar Division designed to generate annual revenues of \$3,153,927. These requested revenues exceed test year revenues by \$1,331,289, or an increase of 73.04 percent.

By Order No. 25684, issued February 4, 1992, the rate case applications for the West Coast Division (Docket No. 911067-WS) and the Port Malabar Division (Docket No. 911030-WS) were consolidated for purposes of hearing. By Order No. PSC-92-0095-FOF-WS, issued March 24, 1992, the Commission suspended the requested rates and schedules. By Order Nos. PSC-92-0186-FOF-WS and PSC-92-0187-FOF-WS, issued April 13, 1992, the Commission granted interim rates.

A prehearing conference was held on May 6, 1992, in Tallahassee, Florida. The dates previously set for final hearing were cancelled to allow time for the Cities of Port Malabar and North Port to finalize purchase of the systems. 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, the utility filed applications for transfer of the systems to the Cities. By Orders Nos. PSC-92-1441-FOF-WS and PSC-92-1442-FOF-WS, issued December 14, 1992, the Commission acknowledged the transfer of these two systems.

On December 9, 1992, GDU filed a Notice of Withdrawal and Dismissal With Prejudice for the West Coast Division. On December 16, 1992, GDU filed a Notice of Withdrawal and Dismissal With Prejudice for the Port Malabar Division. By Order No. PSC-93-0193-FOF-WS, issued February 9, 1993, the Commission acknowledged the utility's withdrawal and dismissed the applications for rate increase. By this Order, the Commission also ordered that all

revenues collected in Dockets Nos. 911030-WS and 911067-WS, be refunded with interest.

#### Refunds of Interim Rates

On February 23, 1994, GDU submitted its final report regarding the disposition of funds, pursuant to Rule 25-30.360(7), Florida Administrative Code. GDU also submitted proposals regarding the unclaimed refunds. The final report indicated that as of that date, interim refunds totalled \$758,346 for West Coast and \$1,626,859 for Port Malabar. Also, as of July 1994, there were 707 outstanding checks totaling \$31,078.

Included in the final report, were several proposals by GDU regarding unclaimed refunds. The proposals were that either the refunds be applied to contributions-in-aid-of-construction (CIAC) for its remaining Commission-regulated system(s), or that the outstanding refunds be delivered to the state upon the twelve month anniversary of the refund as abandoned property.

GDU further stated that it did not believe it would be appropriate to transfer these unclaimed refunds to the current government owners of these systems. GDU asserted that there are no assurances that the current owners would apply the funds in any way that would benefit the utility customers. Further, GDU contends that it would be necessary to negotiate and execute agreements with the local governments for them to accept liability in the event a customer subsequently came forward for a refund.

We believe that the best alternative for every customer, both past and present, of the Port Malabar and West Coast systems to claim any unclaimed refunds due to them is to deliver the unclaimed refunds to the State of Florida Comptroller's Office. Our Staff contacted the Comptroller's Office and determined the proper procedure for turning over abandoned property to the State. It was indicated that the property is first reported to the Comptroller's Office. Then, within the first six months, the name, address, and amount is published in newspapers throughout Florida. This is continued until the property is claimed. This procedure would assure that the customers that have subsequently moved from the utility system's service area, and therefore did not receive a refund check, have ample opportunities to claim any refunds.

We do not believe it would be equitable to either the customers of Port Labelle, which is Commission-regulated, nor the customers of Port Malabar and West Coast to apply these unclaimed refunds to the CIAC of Port Labelle, the only remaining Commission-regulated utility, where there would be no matching of CIAC funds.

Accordingly, GDU shall deliver any unclaimed refunds to the State of Florida Comptroller's Office upon the twelve month anniversary of the refund as abandoned property. Further, any checks that are requested to be reissued before that time shall be issued by GDU or its parent, Atlantic Gulf Communities Corporation. Since no further action is necessary, these dockets shall be closed.

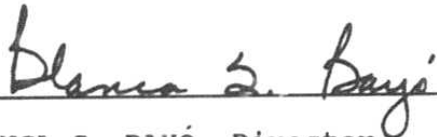
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that General Development Utilities, Inc., shall deliver all unclaimed refunds to the State of Florida Comptroller's Office upon the twelve-month anniversary of the refund as abandoned property. It is further

ORDERED that if any customer requests that a check be reissued before the twelve month period, such check shall be issued by General Development Utilities, Inc., or Atlantic Gulf Communities Corporation. It is further

ORDERED that these dockets shall be closed.

By ORDER of the Florida Public Service Commission, this 11th day of October, 1994.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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

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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.