

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate) DOCKET NO. 921261-WS
increase in Lee County by HARBOR) ORDER NO. PSC-94-1316-FOF-WS
UTILITIES COMPANY, INC.) ISSUED: October 26, 1994
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JOE GARCIA

ORDER ACKNOWLEDGING NOTICE OF VOLUNTARY DISMISSAL
AND REQUIRING REFUND OF INTERIM RATES

BY THE COMMISSION:

Background

Harbor Utilities Company, Inc. (Harbor or utility) is a Class C water and wastewater utility in Lee County which provides service to 644 water and 439 wastewater customers. It is a wholly-owned subsidiary of Imperial Harbor Association. The utility's rates were last established by Order No. 10704, issued April 7, 1982. The utility received a price index adjustment in 1986. Harbor is in an area which has been designated by the South Florida Water Management District as a critical water supply area.

On June 14, 1993, Harbor filed an application for approval of interim and permanent rate increases pursuant to Sections 367.081 and 367.082, Florida Statutes. However, the information submitted did not satisfy the minimum filing requirements (MFRs) for a general rate increase and the utility was advised of the deficiencies. Subsequently, on July 26, 1993, the utility satisfied the MFRs for a rate increase, and that date was designated the official filing date. The utility asked the Commission to process this case using the Proposed Agency Action (PAA) procedure, pursuant to Section 367.081(8), Florida Statutes.

Harbor requested to implement its permanent rates in two phases. The first phase is based on the twelve month period ended December 31, 1993. The second phase is based on the twelve month test year period ending December 31, 1994. The projected test years are based on the historical period ending December 31, 1992.

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FPSC-RECORDS/REPORTING

The MFRs indicate that Harbor had adjusted test year revenues in 1992 of \$108,309 and \$50,430 recorded for the respective water and wastewater systems. The corresponding net operating loss amounts were \$16,251 and \$35,375. The final rates requested for phase one are designed to generate annual revenues of \$166,499 and \$127,291 for water and wastewater, respectively. These 1993 revenues exceed the 1992 test year revenues by \$58,190 or 53.73% for water and \$76,862 or 152.41% for wastewater. The final rates requested for phase two are designed to generate annual revenues of \$199,610 and \$185,508 for water and wastewater, respectively. These revenues exceed the 1992 test year revenues by \$91,300 or 84.30% for water and \$135,079 or 267.85% for wastewater.

By Order No. PSC-93-1450-FOF-WS, issued October 5, 1993, Harbor was granted interim water and wastewater rates designed to generate annual revenues of \$135,235 and \$98,826, respectively. These revenues exceed test year water revenues by \$27,072 or 25.03% for water and \$48,361 or 95.83% for wastewater.

By PAA Order No. PSC-94-0075-FOF-WS, issued January 21, 1994, the Commission denied any increase in final water and wastewater rates for Harbor. On February 11, 1994, Harbor timely filed a protest to Order No. PSC-94-0075-FOF-WS. An administrative hearing for this docket was originally scheduled for September 21-23, 1994.

On September 12, 1994, Harbor filed a Notice of Voluntary Dismissal of Rate Case Application, pursuant to Rule 25-22.0375, Florida Administrative Code, and Rule 1.420(a)(1), Florida Rules of Civil Procedure. Along with the Notice, Harbor filed revised tariff sheets reflecting the prior Commission-approved rates. These are the rates that were implemented prior to the utility's filing of the rate case. On September 13, 1994, the Chairman's office cancelled the hearing. The Notice of Voluntary Dismissal, the approval of revised tariff sheets, and the refund of interim rates are the subject of this Order.

Notice of Voluntary Dismissal

As stated earlier, on September 12, 1994, Harbor filed a Notice of Voluntary Dismissal of Rate Case Application, pursuant to Rule 25-22.0375, Florida Administrative Code, and Rule 1.420(a)(1), Florida Rules of Civil Procedure, wherein it requested that its rate increase application be withdrawn. In its notice, Harbor states that it will refund the interim rates pursuant to Rule 25-30.360, Florida Administrative Code. Because the dismissal does not preclude Harbor from filing another application for a rate increase at a later date without prejudice, we find it appropriate to acknowledge the Notice of Voluntary Dismissal.

Tariff Sheets

The revised tariff sheets shall be effective for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice. The tariff sheets shall be approved upon Staff's verification that they are consistent with the Commission's decision and the proposed customer notice is adequate. The utility shall provide proof that the customers have received notice within 10 days after the date of notice.

Refund of Interim Revenues

In its notice, Harbor stated that the process of calculating the refund due to its customers, pursuant to Rule 25-30.360, Florida Administrative Code, is already in progress. Harbor also stated that a copy of its refund computation will be provided as soon as it is complete. The utility shall refund all interim rates collected. The refund shall be made with interest in accordance with Rule 25-30.360, Florida Administrative Code. The utility shall file refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. Pursuant to Rule 25-30.360(8), Florida Administrative Code, the utility shall treat any unclaimed refunds as contributions in aid of construction.

This docket shall be closed upon Staff's verification that the utility has completed the required refund and upon Staff's approval of the revised tariff sheets. The utility's letter of credit shall be released upon Staff's verification that the refund has been completed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Harbor Utilities Company, Inc.'s Notice of Voluntary Dismissal is hereby acknowledged. It is further

ORDERED that the revised tariff sheets shall be effective for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice. It is further

ORDERED that the tariff sheets shall be approved upon Staff's verification that the tariff sheets are consistent with the decision herein and the customer notice is adequate. Harbor Utilities Company, Inc., shall provide proof that the customers have received notice within ten days after the date of notice. It is further

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ORDERED that Harbor Utilities Company, Inc., shall refund all interim rates collected. The refund shall be made with interest in accordance with Rule 25-30.360, Florida Administrative Code. It is further

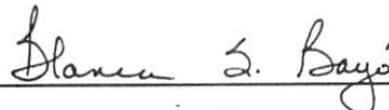
ORDERED that Harbor Utilities Company, Inc., shall file refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. It is further

ORDERED that Harbor Utilities Company, Inc., shall treat any unclaimed refunds as contributions in aid of construction, pursuant to Rule 25-30.360(8), Florida Administrative Code. It is further

ORDERED that this docket shall be closed upon Staff's verification that Harbor Utilities Company, Inc., has completed the required refund and upon Staff's approval of the revised tariff sheets. It is further

ORDERED that Harbor Utilities Company, Inc.'s, letter of credit shall be released upon Staff's verification that the refund has been completed.

By ORDER of the Florida Public Service Commission, this 26th day of October, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MSN

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.