

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for uniform
service availability charges in
Duval, Nassau, and St. Johns
Counties by United Water Florida
Inc.

DOCKET NO. 000610-WS
ORDER NO. PSC-01-0857-PAA-WS
ISSUED: April 2, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER APPROVING UNIFORM SERVICE AVAILABILITY CHARGES
AND
PROPOSED AGENCY ACTION DENYING REGULATORY ACCOUNTING TREATMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein denying the requested
regulatory accounting treatment is preliminary in nature and will
become final unless a person whose interests are substantially
affected files a petition for a formal proceeding, pursuant to Rule
25-22.029, Florida Administrative Code.

BACKGROUND

United Water Florida Inc. (UWF or utility), is a Class A
utility providing service to approximately 31,000 water customers
and 24,000 wastewater customers in Duval, Nassau, and St. Johns
Counties.

By Order No. PSC-97-0618-FOF-WS, issued May 30, 1997, in
Docket No. 960451-WS, (May Order), we approved a rate increase and
ordered UWF to file a service availability application
(Application) within three years of the issuance of that Order. On

DOCUMENT NUMBER-DATE

04047 APR-25

PSC-REGS/REPORTING

June 16, 1997, UWF filed a Motion for Reconsideration of the May Order regarding the level of rate increase approved. On September 30, 1997, we issued Order No. PSC-97-1146-FOF-WS, (September Order), Granting in Part and Denying in Part Motion for Reconsideration and Amending Order No. PSC-97-0618-FOF-WS.

On May 19, 2000, UWF filed a Motion for Clarification of Time or in the alternative, Motion for Extension of Time in which to file its application. By Order No. PSC-00-1242-PCO-WS, issued July 10, 2000, we denied UWF's Motion for Clarification and approved the utility's Motion for Extension of Time to July 30, 2000.

On July 25, 2000, UWF filed its Application Regarding Service Availability Charges and Policies for Duval, Nassau and St. Johns Counties, Florida, and Petition for Approval of Regulatory Accounting Treatment. On August 8, 2000, our staff notified the utility that the filing was deficient. On September 1, 2000, the utility responded to the notice of deficiency. We have reviewed the additional material filed by the utility, and have determined that the filing meets the requirements of Rule 25-30.565, Florida Administrative Code. Therefore, September 1, 2000 is the official filing date.

By Order No. PSC-00-1986-PCO-WS, issued October 26, 2000, we suspended the utility's requested service availability charges pursuant to Section 367.091(6), Florida Statutes. This Order addresses UWF's application for uniform service availability charges and its petition for approval of regulatory accounting treatment. We have jurisdiction pursuant to Sections 367.091, 367.101 and 367.121, Florida Statutes.

SERVICE AVAILABILITY CHARGES

In paragraph 6 of its application, UWF states that it is requesting uniform service availability charges and policies for its single system. The utility is requesting a water plant capacity charge of \$391 per equivalent residential connection (ERC), and a wastewater plant capacity charge of \$1,316 per ERC. The utility also states in this paragraph that it is not seeking to establish separate capacity charges for its water transmission and distribution facilities or its wastewater collection facilities. UWF's currently approved plant capacity charges vary by service

area; these charges range from \$100 to \$410 for water, and from \$210 to \$510 for wastewater. UWF supported its request by providing schedules containing the information required by Rule 25-30.565(4), Florida Administrative Code. The utility supplemented this information with clarifications upon request.

The utility published the required public notice pursuant to Rule 25-30.4345, Florida Administrative Code. By letter dated August 3, 2000, Mr. Gregory E. Matovina commented on UWF's petition. Mr. Matovina is the president of Matovina & Company, a developer of residential communities in UWF's service area. In his letter, Mr. Matovina states his opinion that the proposed service availability charges would result in an increase in the cost of new homes in the service area sufficient to prevent first time home buyers from purchasing homes in the area. Mr. Matovina suggested a phase-in of the increase. As discussed below, UWF's contributions-in-aid-of-construction (CIAC) percentage is currently substantially below the guidelines contained in Rule 25-30.580(2), Florida Administrative Code. Therefore, we find that any increase should be implemented as soon as possible to allow the utility to move toward full compliance with this rule.

Mr. Matovina also suggested that any increase not apply to developments with utility agreements in place as of the date of approval. However, we have consistently held that the applicable service availability charges are those in effect at the time of actual connections, because the actual cost of maintaining sufficient capacity cannot be ascertained until that date. See H. Miller & Sons, Inc. v. Hawkins, 373 So. 2d 913, 916 (Fla. 1979); see also Order No. PSC-95-0241-FOF-WS, issued February 21, 1995, in Docket No. 940056-WS. Although the developer has paid the contractual amount, we have the authority to modify private contracts between the developer and the utility. Increasing service availability charges prevents current customers from subsidizing costs associated with future plant capacity. See 373 So. 2d at 915.

The utility submitted schedules and exhibits supporting the calculation of its requested service availability charges. These included actual data based on UWF's 1999 Annual Report, projections based on construction in progress or under contract, and projections of planned construction and customer growth through the

year 2004. The requested service availability charges were computed by dividing the projected utility plant-in-service, net of accumulated depreciation, by the projected capacity of that plant in ERCs. The utility provided detailed descriptions of its projection methodologies. We have reviewed the methodologies and the resulting projections and find them to be reasonable and consistent.

We have also analyzed the proposed service availability charges for compliance with the requirements of Rule 25-30.580, Florida Administrative Code, which states:

A utility's service availability policy shall be designed in accordance with the following guidelines:

(1) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75% of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity; and

(2) The minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems. (emphasis added)

We find that the utility's requested service availability policy is in compliance with Rule 25-30.580, Florida Administrative Code.

The schedules and exhibits provided by UWF indicate that, as of December 31, 1999, net water transmission and distribution plant and net wastewater collection plant represented 55.94% of total net plant, while net CIAC represented only 32.10% of total net plant (see Schedule 1-A). We analyzed the utility's projections of plant additions and retirements and of CIAC expected to be generated by the plant capacity charges which are the subject of this proceeding, as well as from developer contributions. As shown in Schedule 1-B, based on these projections, as of December 31, 2004, net water transmission and distribution plant and net wastewater collection plant would represent 54.71% of total net plant, while net CIAC would represent 44.39% of total net plant. In both cases,

the CIAC percentage is well below the 75% maximum guideline contained in Rule 25-30.580(1), Florida Administrative Code.

The projected CIAC percentage at plant capacity is less than the guideline contained in Rule 25-30.580(2), Florida Administrative Code. However, we note that the guidelines established by Rule 25-30.580, Florida Administrative Code, are discretionary, and merely represent what should be followed when designing service availability policy. We also note that implementation of the proposed service availability charges would narrow the gap significantly as compared with the ratios as of December 31, 1999. Further, as shown in Schedule 1-C, we have calculated that the plant capacity charges which could raise the utility's CIAC level to the minimum guideline would be \$1,184 and \$2,695 per ERC for water and wastewater, respectively. We find that these amounts are excessive, and they are far above the amounts charged by other utilities operating in the same areas. We further note that, while UWF's existing CIAC levels are low, this is partially due to the utility's acquisition of smaller systems which were under-contributed. The utility now requires developers to contribute all on-site and off-site lines. Accordingly, we find that UWF's requested charges will result in a service availability policy which complies with the intent of the rule.

In summary, we find that the utility's requested plant capacity charges of \$391 per ERC for water and \$1,316 per ERC for wastewater, and the policies included in its proposed tariffs, are reasonable and in compliance with applicable rules, and they shall be approved. UWF shall be authorized to implement these charges for connections made on or after the stamped approval date on the tariff sheets, provided customers have received notice, pursuant to Rule 25-30.475(2), Florida Administrative Code.

If a protest is received, the tariff shall go into effect on an interim basis, subject to refund, pending the outcome of the protest, and the utility shall set up an interest bearing escrow account to guarantee the funds collected subject to refund (the difference between \$391 per ERC for water and \$1,316 per ERC for wastewater; and the respective current charge). The account shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. This Commission shall be a party to the written escrow agreement and a

signatory to the escrow account. The written escrow agreement shall state the following: that the account is established at the direction of this Commission for the purpose set forth above; that no withdrawals of funds shall occur without the prior approval of the Commission through the Director of the Division of Records and Reporting; that the account shall be interest bearing; that information concerning the escrow account shall be available from the institution to this Commission or its representative at all times; and that pursuant to Consentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments. The utility shall deposit into the escrow account, on a timely basis, the difference between its current service availability charges and the \$391 per ERC charge for water and the \$1,316 per ERC charge for wastewater. If a refund is not required, the interest earned by the escrow account shall revert to the utility.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total monies collected subject to refund. Should a refund be required, the refund shall be made with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the utility. The utility shall keep an accurate and detailed account of all monies it receives.

REGULATORY ACCOUNTING TREATMENT

In its application, UWF included a request that we approve its accounting treatment of the costs incurred in connection with this application. The utility further stated that it intends to defer the costs associated with this application, to create a regulatory asset, and to have such costs considered in its next rate case before this Commission. UWF proposes that amortization of such costs would not commence until after our action in the next rate case.

In support of its request, the utility stated:

The Commission found it appropriate to order United Water Florida to file this service availability application, and, therefore, the Commission must have determined that it was beneficial for United Water Florida to file such an application and incur the associated costs. Among the many benefits of this Application will be the establishment of uniform service availability charges and policies, which in turn will provide consistency and reduce confusion.

The utility did not provide an estimate of the costs expected to be incurred, nor did it provide any data to indicate that the incurrence of these costs would cause it to earn below the range of its last authorized rate of return on equity. Rates were last set for UWF in Order No. PSC-99-1070-FOF-WS, issued May 25, 1999, in Docket No. 980214-WS. UWF's Annual Report for 1999 does not include a full year of earnings at the new rates, and the Annual Report for 2000 has not yet been filed.

We agree with the utility that, in view of the fact that we ordered the utility to file the application, UWF's incurrence of reasonable costs in connection with the application is prudent. However, we do not believe that it is appropriate to permit an indefinite deferment of recognition of the costs until the next full rate case. We find that such treatment would not meet the criteria for establishing a regulatory asset pursuant to Financial Accounting Standard (FAS) 71, which states in relevant part:

9. Rate actions of a regulator can provide reasonable assurance of the existence of an asset. An enterprise shall capitalize all or part of an incurred cost which would otherwise be charged to expense if both of the following criteria are met:

a. It is probable that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for rate-making purposes.

b. Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of

similar future costs. If the revenue will be provided through an automatic rate-adjustment clause, this criterion requires that the regulator's intent clearly be to permit recovery of the previously incurred cost.

We find that the "reasonable assurance" criterion required by FAS 71 is not met in this instance. There is no way for us to know when UWF will next file a rate case. Also, the absence of any quantification of the costs in this petition increases the uncertainty of our future action. Accordingly, the utility's request to defer the costs until its next rate case and begin amortization at that time shall be denied.

We also considered the alternative of authorizing UWF to capitalize the costs, but to begin amortization immediately upon the effective date of the Consummating Order (or Final Order, if protested) in this docket. We disregarded this alternative because the lack of information on the specific costs included make it impossible to determine their prudence, and because there is no information available as to whether inclusion of the costs in the year(s) incurred would cause the utility to earn below the range of its authorized rate of return on equity.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that United Water Florida Inc.'s application for uniform service availability charges is hereby approved. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that the schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the tariffs shall become effective in accordance with Rule 25-30.475(2), Florida Administrative Code. It is further

ORDERED that the service availability charges approved herein shall be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(2),

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Florida Administrative Code, provided the customers have received notice. It is further

ORDERED that in the event a protest is filed within 21 days of the issuance date of this Order, the tariffs shall remain in effect with any increase in revenues held in escrow, subject to refund, pending resolution of the protest. It is further

ORDERED that in the event of a protest, United Water Florida Inc. shall submit monthly reports by the 20th of each month indicating the monthly and total monies held in escrow, subject to refund. It is further

ORDERED that should a refund be required, the refund shall be made with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. It is further

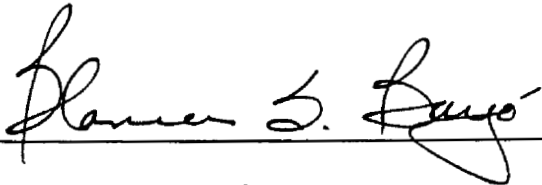
ORDERED that United Water Florida Inc.'s Petition for Regulatory Accounting Treatment is hereby denied. It is further

ORDERED that the provisions of this Order shall become final unless an appropriate petition in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that if no timely protest is received from a substantially affected person within twenty-one days of the issuance of this Order, this Order shall become final and effective upon the issuance of a Consummating Order, and the docket shall be closed.

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By ORDER of the Florida Public Service Commission this 2nd
day of April, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JKF

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision approving uniform service availability charges is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records

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and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 23, 2001.

The action proposed herein, denying the regulatory accounting treatment, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 23, 2001.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Actual - 12/31/1999		Schedule 1-A	
Water:			
Transmission & Distribution Plant (T & D)			
Utility Plant	\$51,010,402		
Accumulated Depreciation	<u>(8,751,470)</u>		
Net	<u>42,258,932</u>		
Total Water Plant			
Utility Plant	\$73,700,244	CIAC	\$27,722,401
Accumulated Depreciation	<u>(13,453,234)</u>	Accum. Amortization	<u>(6,632,022)</u>
Net	<u>60,247,010</u>	Net	<u>\$21,090,379</u>
T & D as % of Total Water Plant	<u>70.14%</u>	CIAC Pct.	<u>35.01%</u>
Wastewater (WW):			
Collection Plant			
Utility Plant	\$57,530,461		
Accumulated Depreciation	<u>(14,215,628)</u>		
Net	<u>\$43,314,833</u>		
Total Wastewater Plant			
Utility Plant	\$121,737,660	CIAC	\$41,485,799
Accumulated Depreciation	<u>(29,015,606)</u>	Accum. Amortization	<u>(13,479,998)</u>
Net	<u>\$92,722,054</u>	Net	<u>\$28,005,801</u>
Collection as % of Total WW Plant	<u>46.71%</u>	CIAC Pct.	<u>30.20%</u>
Combined Water and Wastewater:			
Transmission, Distribution and Collection (T, D, & C)			
Utility Plant	\$108,540,863		
Accumulated Depreciation	<u>(22,967,098)</u>		
Net	<u>\$85,573,765</u>		
Total Plant			
Utility Plant	\$195,437,904	CIAC	\$69,208,200
Accumulated Depreciation	<u>(42,468,840)</u>	Accum. Amortization	<u>(20,112,020)</u>
Net	<u>\$152,969,064</u>	Net	<u>\$49,096,180</u>
T, D & C as % of Total Plant	<u>55.94%</u>	CIAC Pct.	<u>32.10%</u>

Projected - At Plant Capacity		Schedule 1-B	
Water:			
Transmission & Distribution Plant (T & D)			
Utility Plant	\$64,587,402		
Accumulated Depreciation	<u>(\$15,646,942)</u>		
Net	<u>\$48,940,460</u>		
Total Water Plant			
Utility Plant	\$94,979,744	CIAC	\$39,240,143
Accumulated Depreciation	<u>(\$22,858,970)</u>	Accum. Amortization	<u>(\$7,386,731)</u>
Net	<u>\$72,120,774</u>	Net	<u>\$31,853,412</u>
T & D as % of Total Water Plant	<u>67.86%</u>	CIAC Pct.	<u>44.17%</u>
Wastewater (WW):			
Collection Plant			
Utility Plant	\$72,845,461		
Accumulated Depreciation	<u>(\$22,235,105)</u>		
Net	<u>\$50,610,356</u>		
Total Wastewater Plant			
Utility Plant	\$160,892,460	CIAC	\$64,093,959
Accumulated Depreciation	<u>(\$51,064,823)</u>	Accum. Amortization	<u>(\$15,178,396)</u>
Net	<u>\$109,827,637</u>	Net	<u>\$48,915,564</u>
Collection as % of Total WW Plant	<u>46.08%</u>	CIAC Pct.	<u>44.54%</u>
Combined Water and Wastewater:			
Transmission, Distribution and Collection (T, D & C)			
Utility Plant	\$137,432,863		
Accumulated Depreciation	<u>(\$37,882,047)</u>		
Net	<u>\$99,550,816</u>		
Total Plant			
Utility Plant	\$255,872,204	CIAC	\$103,334,102
Accumulated Depreciation	<u>(\$73,923,793)</u>	Accum. Amortization	<u>(\$22,565,127)</u>
Net	<u>\$181,948,411</u>	Net	<u>\$80,768,975</u>
T, D & C as percentage of Total Plant	<u>54.71%</u>	CIAC Pct.	<u>44.39%</u>

Calculation of Plant Capacity Charge Needed to Meet Minimum Requirement at Plant Capacity		Schedule 1-C	
	<u>Water</u>	<u>Wastewater</u>	
Net Transmission & Distribution/Collection Plant	<u>\$48,940,460</u>	<u>\$50,610,356</u>	
Net CIAC	<u>\$31,853,412</u>	<u>\$48,915,564</u>	
Increase Needed to Net CIAC	<u>\$7,407,123</u>	<u>\$11,374,718</u>	
Gross-up Percentage for Estimated Accum. Amort.	94.82%	93.62%	
Gross Increase Needed	\$7,811,698	\$12,149,827	
Remaining ERCs	9,855	8,810	
Increase Needed in Plant Capacity Charge (PCC)	\$793	\$1,379	
Plant Capacity Charge Proposed by Utility & Approved by the Commission	<u>\$391</u>	<u>\$1,316</u>	
Total PCC Needed to Meet Minimum at Plant Capacity	<u>\$1,184</u>	<u>\$2,695</u>	
Current UWF Plant Capacity Charges	\$100 - \$410	\$210 - \$510	