

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of
possible overearnings by Tierre
Verde Utilities, Inc. in
Pinellas County.

DOCKET NO. 011190-SU
ORDER NO. PSC-02-0778-PAA-SU
ISSUED: June 10, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SETTLEMENT AGREEMENT,
ORDERING REFUNDS, AND HOLDING DOCKET OPEN

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein 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

Tierre Verde Utilities, Inc. (Tierre Verde or utility) is a
Class B utility providing wastewater service in Pinellas County.
The utility is a wholly-owned subsidiary of Utilities, Inc. By
Order No. PSC-01-2094-FOF-SU, issued October 22, 2001 (the
Investigation Order), we ordered that an investigation of the
wastewater rates and charges of Tierre Verde be initiated. We also
ordered the utility to provide a corporate undertaking in the
amount of \$25,000 as a guarantee of any potential refund of
revenues collected subject to refund.

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Subsequently, our staff engaged in a series of discussions with the utility in an effort to reach a settlement agreement. In a letter dated March 20, 2002, the utility proposed a settlement to this case.

ACCEPTANCE OF THE SETTLEMENT OFFER PROPOSED BY
TIERRE VERDE UTILITIES, INC.

As discussed in the Background, subsequent to our order initiating an earnings investigation of Tierre Verde, our staff entered into a series of negotiations with the utility in an effort to efficiently resolve the matter. Our staff and the utility reached an agreement which was memorialized in a letter from the utility dated March 20, 2002.

The utility proposes to resolve our concerns regarding the possibility of overearnings in the year 2000 by refunding \$10,000 to the current customers of the utility as soon as practical after the approval of the agreement. Further, Tierre Verde proposed to review its 2001 earnings by April 30, 2002, in order to determine if any overearnings occurred in 2001. In the event of overearnings, the utility agreed to propose a settlement for our approval to address the problem for 2001 and later years. The utility agrees that any actual or projected earnings for 2001 and 2002 in excess of the maximum of the range of the leverage formula in effect at April 30, 2002, will be subject to our continuing jurisdiction. Finally, the utility proposes, and our staff agrees, that the issue of lowering Tierre Verde's authorized return on equity and overall rate of return should be tabled, pending our decision in Docket No. 011189-WS, Investigation into the Authorized Return on Equity (ROE) of Alafaya Utilities, Inc. in Seminole County; Lake Groves Utilities, Inc. in Lake County; Miles Grant Water and Sewer Company in Martin County; and Utilities, Inc. of Longwood in Seminole County. This docket is currently scheduled for our consideration at the October 1, 2002, agenda conference.

Due to a change in management personnel, the utility was unable to complete the proposed review of its 2001 earnings by April 30, 2002. Our staff has reviewed the 2001 Annual Report filed by Tierre Verde, and, using the current leverage formula approved in Order No. PSC-01-2514-FOF-WS, issued December 24, 2001, in Docket No. 010006-WS, the utility does not appear to be

overearning for 2001. Using this formula, our staff calculated a ROE mid-point of 11.09%, with a range of 10.09% to 12.09%.

We have reviewed the settlement proposal submitted by the utility in this matter and believe that it is a reasonable resolution to this docket. Further, we believe that it is in the public interest to approve the settlement proposal, and that the settlement proposal avoids the time, expense, and uncertainty associated with adversarial litigation, in keeping with our long-standing practice of encouraging parties in contested proceedings to settle issues whenever possible.

We note that the utility's offer to hold 2001 and 2002 revenues subject to our jurisdiction will give us jurisdiction to order refunds from those years' earnings. We have already completed a preliminary review of Tierre Verde's 2001 earnings, and they appear to be within the utility's authorized range of return.

RELEASE OF THE CORPORATE UNDERTAKING

On October 24, 2001, as required by the Investigation Order, the utility filed a corporate undertaking in the amount of \$25,000. Tierre Verde shall be released from this corporate undertaking after our staff has reviewed and administratively approved evidence submitted by the utility that it has issued customer refunds in accordance with the settlement agreement and this order.

CLOSURE OF DOCKET

If no timely protest is filed by a substantially affected party, this docket shall be closed administratively by staff after verification of the customer refunds and release of the corporate undertaking. We note that, with 2001 and 2002 revenues held subject to our jurisdiction and therefore subject to refund to customers, this docket can be closed administratively by staff. Should our staff subsequently discover overearnings in 2001 or 2002, a new docket shall be opened at that time, with revenues

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available for customer refunds in the event we then determine that refunds are appropriate.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement offer proposed by Tierre Verde Utilities, Inc. is accepted by the Florida Public Service Commission, the terms of which are contained in the body of this order, and which are made orders of the Commission. It is further

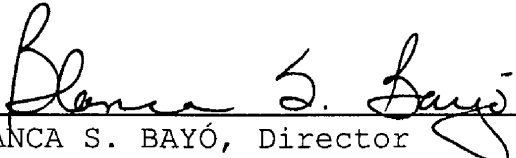
ORDERED that \$10,000 dollars shall be refunded to current customers of Tierre Verde Utilities, Inc. It is further

ORDERED that 2001 and 2002 earnings shall be subject to the Commission's ongoing jurisdiction and should future overearnings be determined in these years, refunds may be ordered from those revenues. It is further

ORDERED that Tierre Verde Utilities, Inc. shall be released from its corporate undertaking in the amount of \$25,000 dollars once our staff has verified and administratively approved evidence that customer refunds have been made. It is further

ORDERED that this docket shall remain open for our staff to verify that the customer refunds have been made, at which time this docket may be administratively closed.

By ORDER of the Florida Public Service Commission this 10th day of June, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 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 action proposed herein 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 1, 2002.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.