

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into 2002
earnings of Residential Water
Systems, Inc. in Marion County.

DOCKET NO. 030423-WU
ORDER NO. PSC-03-1411-FOF-WU
ISSUED: December 15, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER MAKING ADDITIONAL REVENUES SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

Residential Water Systems, Inc. (RWS or utility), is a Class C water utility serving approximately 632 customers in Marion County in Sun Tree, High Point, Edgewood, Country Estates, Buffington Addition, Dalton Woods, and Wineberry subdivisions.

An analysis of the RWS 2002 Annual Report indicated that the utility may have exceeded its authorized rate of return and was overearning by \$21,838. Pursuant to Order No. PSC-03-0709-PCO-WU, issued June 13, 2003, in this docket, we initiated an investigation of the rates and charges of RWS. In that Order, we found that there was a potential overearnings on an annual basis of \$21,838, but that only \$19,365 had to be held subject to refund and protected by an appropriate security. The difference in the amount held subject to refund and protected by a security arrangement is the 2002 price index increase. Pursuant to Section 367.081(4)(d), Florida Statutes, the revenues associated with a price index are already subject to refund and need not be protected by a security arrangement.

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After issuance of the above-noted Order, our staff analyzed historical data for 2002 and projected data for 2003 and 2004. Based on this analysis, it appears the utility may be overearning by approximately \$73,101 in 2003. The overearnings in 2004 are projected to be approximately \$79,227. As a result, we find that the amount held subject to refund and the guarantee required to secure any potential refund shall be increased.

At the request of the utility, a meeting was held October 27, 2003, to discuss the overearnings which was attended by the utility's attorney, Office of Public Counsel, and our staff. The utility requested copies of the audit workpapers and other staff documents. By letter dated November 6, 2003, the utility requested additional time to analyze the information provided by staff. In an effort to work with the parties to reach a possible settlement, our staff postponed filing its final recommendation on the overearnings. However, because of the extension of time requested by the utility, and to insure that we capture the appropriate amount of possible overearnings, our staff filed a recommendation that additional revenues be held subject to refund.

We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

ADDITIONAL ANNUAL WATER REVENUES TO BE HELD SUBJECT TO REFUND

By Order No. PSC-03-0709-PCO-WU, we calculated the potential refund of revenues for 2002 to be \$21,838. This amount was based upon the unaudited 2002 Annual Report of RWS. Pursuant to that Order, our staff instituted an audit and investigation of 2002 earnings. Based on our analysis of audited data for 2002, and projections for 2003 and 2004, it appears that RWS will overearn by approximately \$73,101 in 2003 and by \$79,227 in 2004.

As discussed above, the utility requested additional time to analyze staff work papers. The utility also requested a possible second meeting with staff. Because of these negotiations, staff's final recommendation has been postponed.

Pursuant to Section 367.082, Florida Statutes, when revenues are held subject to refund, the utility is authorized to continue collecting the previously authorized rates. As stated above, the

amount of potential overearnings on an annual basis for 2003 is \$73,101. However, \$2,083 of the potential overearnings are the result of a 2003 price index. Pursuant to Section 367.081(4)(d), Florida Statutes, the revenues associated with the price index and pass-through rate adjustments are already subject to refund, and are not required to be protected by a bond or corporate undertaking. In addition, \$19,365 is also subject to refund pursuant to Order No. PSC-03-0709-PCO-WU. Thus, \$51,653 ($73,101 - 2,083 - 19,365$) in additional annual revenues shall be collected under guarantee, subject to refund with interest. Assuming an 8-month time frame, the potential additional refund amount is \$34,435.

Our staff has reviewed and analyzed the 2000, 2001, and 2002 annual reports of RWS to determine the financial condition of the utility, and whether RWS can support a corporate undertaking. The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Although RWS has adequate liquidity and interest coverage, the utility has negative equity and its average annual net income over the three-year period is significantly less than the amount under request. Based upon this analysis, RWS cannot support a corporate undertaking. Therefore, the utility shall provide a letter of credit, bond, or escrow agreement to guarantee the funds collected subject to refund.

Pursuant to Order No. PSC-03-0709-PCO-WU, we required that 6.18% of revenues collected be deposited in an escrow account each month in order to secure \$19,365 of potential overearnings. However, the percentage contained in that Order is now incorrect. The percentage to correct the error and to guarantee the potential overearnings for 2003, is an increase of 25.07% of monthly revenues. As stated above, the utility is currently escrowing 6.18% of revenues collected for a possible refund. Therefore, if RWS chooses to use its existing escrow account for the additional revenues held subject to refund, then it shall deposit 31.25% ($6.18\% + 25.07\%$) of revenues collected into its escrow account each month as security to secure for a possible refund.

If the security provided is a bond or a letter of credit, said instrument shall be in the amount of \$36,919. If the utility chooses a bond as security, the bond shall state that it will be

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released or should terminate only upon subsequent order of the Commission addressing overearnings or requiring a refund. If the utility chooses to provide a letter of credit as security, the letter of credit shall state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered addressing overearnings or requiring a refund.

Irrespective of the type of security provided, the utility shall keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be 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 be put on notice that failure to comply with these requirements will result in the initiation of a show cause proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that in addition to the \$19,365 already being held subject to refund, Residential Water Systems, Inc., shall hold additional annual water revenues of \$51,653 subject to refund. It is further

ORDERED that Residential Water Systems, Inc., shall provide a bond or letter of credit in the amount of \$36,919, as set forth in the body of this Order, as a guarantee of any potential additional refund. It is further

ORDERED that, in lieu of a bond or letter of credit, Residential Water Systems, Inc., shall escrow a total of 31.25% of revenues collected each month in its current escrow account as set forth in the body of this Order. It is further

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ORDERED that Residential Water Systems, Inc., shall keep an accurate and detailed account of all monies it receives. It is further

ORDERED that pursuant to Rule 25-30.360(6), Florida Administrative Code, and consistent with the requirements set forth in the body of this Order, Residential Water Systems, Inc., shall file monthly reports no later than the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that Residential Water Systems, Inc., shall be on notice that failure to comply on a timely basis with the requirements of this Order will result in the initiation of a show cause proceeding. It is further

ORDERED that the docket shall remain open pending our final action on the investigation into 2002 earnings.

By ORDER of the Florida Public Service Commission this 15th Day of December, 2003.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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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 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 non-final in nature, may request (1) reconsideration within 15 days pursuant to 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.