

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation of possible overearnings by
Lake Groves Utilities, Inc. in Lake County.

DOCKET NO. 020567-WS
ORDER NO. PSC-04-0404-FOF-WS
ISSUED: April 19, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER CLOSING OVERTURNINGS INVESTIGATION AND DOCKET

BY THE COMMISSION:

BACKGROUND

Lake Groves Utilities, Inc. (Lake Groves or utility) was a Class B utility providing water and wastewater service to approximately 2,248 water and 2,088 wastewater customers in Lake County. According to its 2001 annual report, the utility's operating revenue was \$750,622 for water and \$520,309 for wastewater, and the net operating income was \$324,624 for water and \$265,888 for wastewater. The utility is located in a Severe Water Shortage Area as designated by the St. Johns River Water Management District (SJRWMD).

Lake Groves was issued an original certificate pursuant to Order No. 24283, issued March 25, 1991, in Docket No. 900957-WS. The initial rates and charges of the utility were set by that Order.

By Order No. PSC-99-0164-FOF-WS, issued January 26, 1999, in Docket No. 980958-WS, this Commission approved the transfer to Utilities, Inc. (UI). In that Order, we ordered UI to adopt and use the rates, classification, and regulations of Lake Groves.

Based on our staff's review of the utility's 2001 Annual Report, Lake Groves achieved a 35.19% overall rate of return on its water rate base, which equated to a 76.26% return on equity. For wastewater, Lake Groves had an achieved 8.37% overall rate of return, or an 11.54% return on equity. Based on this analysis, we initiated an investigation into the potential water overearnings of Lake Groves. See Order No. PSC-02-1011-PCO-WS, issued July 26, 2002, in this docket.

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FPSC-COMMISSION CLERK

Two days after we voted to initiate the overearnings investigation, the utility filed an application to request approval of a name change and acknowledgement of the corporate merger of Lake Groves with Lake Utility Services, Inc. (LUSI). By Order No. PSC-02-1658-FOF-WS, issued November 26, 2002, in Docket No. 020695-WS, we approved the merger and LUSI is the name of the surviving subsidiary. The surviving entity remains under the control of UI.

Based on the 2002 Annual Report, which includes the combined operations of both utilities, LUSI provides service to approximately 6,071 water and 2,192 wastewater customers. According to its 2002 annual report, the utility's operating revenue was \$1,627,914 for water and \$569,028 for wastewater. The net operating income for 2002 was \$319,371 and \$150,020 for water and wastewater, respectively.

Given the merger and material plant improvements that were occurring in 2002, our staff performed an audit of the combined entity for the year ended December 31, 2002. We have jurisdiction over the utility's rates pursuant to Sections 367.081, 367.082 and 367.121, Florida Statutes.

OVEREARNINGS INVESTIGATION

When we initiated the full investigation of Lake Groves' water system earnings, we held \$397,548 of revenues subject to refund pending the conclusion of the investigation. We also determined that the test year for the investigation would be the year ended December 31, 2001. However, since our decision to initiate the investigation, there have been significant changes to the utility's operation and organization.

First, the utility was corporately merged into LUSI. Also, the utility informed our staff of its intention to interconnect the LUSI and Lake Groves water systems, as well as many of the smaller water systems that made up LUSI. Concurrently, our staff became aware that the SJRWMD was carefully monitoring both systems' water withdrawal levels and that the Lake Groves consumptive use permit was coming up for renewal. Given the above circumstances, we find that it is appropriate to review the combined earnings of the two water systems for 2002, and that the 2002 test year is more representative for rate setting purposes. Also, this analysis is consistent with the method used in choosing a test year for a file and suspend rate case.

A review of the audit and discovery received from the utility for the calendar year 2002 shows that the water system for the combined entity earned a 9.35% return, which is within the overall range of the required rate of return (8.81% to 9.58%). That review also shows that the wastewater system earned a 2.40% overall rate of return for 2002, for an overall rate of return for both water and wastewater of 6.66%. To calculate the range for the equity return, we used the midpoint of the current leverage formula in effect pursuant to Order No. PSC-03-0707-PAA-WS, issued June 13, 2003, in Docket No. 030006-WS.

Pursuant to conversations our staff had with the SJRWMD, it appears that the SJRWMD is considering conservation rate structure requirements and programs, as well as wastewater reuse requirements for Lake Groves. Once the permit renewal process is finalized by the SJRWMD, the utility will need to consider its options and address whether a rate case or rate restructuring docket is appropriate at that time.

However, as regards overearnings, it does not appear that the utility has exceeded a fair return on its investment based on the 2002 test year. Accordingly, the investigation docket shall be closed and the corporate undertaking guaranteeing the revenue held subject to refund shall be released to the utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the overearnings investigation of Lake Groves Utilities, Inc., in Lake County shall be closed and the corporate undertaking guaranteeing the revenue held subject to refund shall be released. It is further

ORDERED that there are no further actions to be taken, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 19th day of April, 2004.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

RRJ

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 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.