

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County. | DOCKET NO. 030601-SU
ORDER NO. PSC-05-0143-PAA-SU
ISSUED: February 7, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SETTLEMENT AGREEMENT
FILED BY NORTH PENINSULA UTILITIES CORPORATION

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

North Peninsula Utilities Corporation (North Peninsula or utility) is a Class C wastewater utility serving approximately 548 customers in Volusia County. According to its 2002 annual report, the utility reported operating revenues of \$187,899 and operating expenses of \$161,307. This resulted in a net operating income of \$26,592.

On August 1, 2002, the utility implemented a 1.56% price index increase. A review of North Peninsula's 2002 annual report indicated that the utility may have exceeded its authorized rate of return. By Order No. PSC-03-1001-PCO-SU, issued September 5, 2003, in this docket, we initiated an investigation of the rates and charges of North Peninsula. In that order, we found that there were potential overearnings on an annual basis of \$12,797, but that only \$10,073 should be held subject to refund and protected by 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

After numerous discussions between representatives of the utility and our staff, the utility offered a settlement by letter dated September 1, 2004. However, the utility sustained damage to its lift stations and treatment facilities from hurricanes Charley and Frances. On September 9, 2004, the utility requested a delay of action on its proposal to allow the utility an opportunity to assess the damage to the system and its effect on the settlement proposal. On November 12, 2004, the utility provided invoices for the repair of damages to its facilities caused by the hurricanes. By letter dated November 29, 2004, which is appended hereto as Attachment A, the utility offered an amended settlement in order to resolve all outstanding issues without incurring additional costs in potential litigation. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

Settlement Agreement

As previously discussed, the utility offered an amended settlement by letter in order to resolve all outstanding issues without incurring additional costs in potential litigation. The proposed settlement provides as follows:

1. Refund of 1.56% of all revenues collected from the implementation of the utility's last index in August of 2002 through September 5, 2003.
2. Refund 7.09% of revenues collected from September 5, 2003 through the date of implementation of the reduced rates outlined below.
3. Both of the above refunds will be made, with interest, in accordance with the requirements of Rule 25-30.360, Florida Administrative Code.
4. The utility will immediately reduce all categories of rates by 2.37% on a going-forward basis.

We have reviewed the amended settlement and believe it is fair, just, reasonable and in the public interest. In consideration of the foregoing, we hereby approve the settlement.

The utility shall file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates within 30 days of the Consummating Order. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates shall not be implemented until our staff has approved the proposed customer notice, and the notice has been received by the customers. The utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. In addition, the utility shall treat any unclaimed refunds as Contributions in Aid of Construction (CIAC) pursuant to Rule 25-30.360(8), Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North Peninsula Utilities Corporation's settlement dated November 29, 2004, is hereby approved. It is further

ORDERED that Attachment A appended hereto is incorporated herein by reference. It is further

ORDERED that North Peninsula Utilities Corporation shall file revised tariff sheets and a proposed customer notice reflecting the Commission-approved rates within 30 days of the Consummating Order. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code. It is further

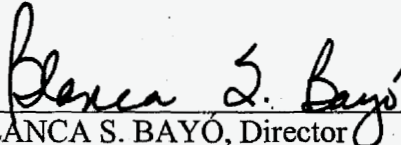
ORDERED that the rates shall not be implemented until our staff has approved the customer notice and notice has been received by the customers. The utility shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that North Peninsula Utilities Corporation 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 the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is 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 the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed administratively once our staff has verified that North Peninsula Utilities Corporation has completed the required refunds.

By ORDER of the Florida Public Service Commission this 7th day of February, 2005.



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

(SEAL)

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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 February 28, 2005.

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.

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MARTIN S. FREEMAN, P.A.
VALERIE L. LOBB

November 29, 2004

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: North Peninsula Utilities Corporation
Rate Investigation; PSC Docket No. 030601-SU
Our File No. 26097.04

Dear Ms. Bayo:

As a follow up to my letter of September 1, 2004, North Peninsula Utilities agreed with the staff to delay action on our September 1, 2004 settlement proposal, in order to allow the Utility to accumulate information and to provide it to the Commission staff concerning the damage caused by several hurricanes this fall which damaged and destroyed property owned by the Utility. We asked to have that considered in any going-forward rate reduction under our September 1, 2004 settlement proposal.

The Utility has revised its proposal for settlement of this case in order to resolve the outstanding issues without incurring substantial additional monies and potential litigation. North Peninsula Utilities Corporation hereby submits the following revised proposal for refunds and rate reductions on a going-forward basis:

1. Refund of 1.56% of all revenues collected from the implementation of the Utility's last index in August of 2002 through September 5, 2003.
2. Refund 7.09% of revenues collected from September 5, 2003 through the date of implementation of the reduced rates outlined below.
3. Both of the above refunds will be made, with interest, in accordance with the requirements of Commission Rule 25-30.360.

Blanca S. Bayo, Director
November 29, 2004
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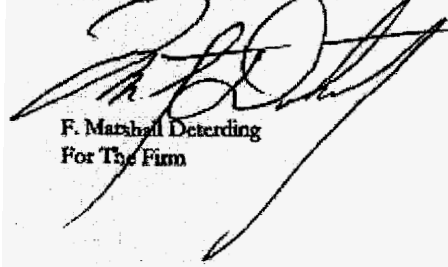
4. The Utility will immediately reduce all categories of rates by 2.37% on a going-forward basis.

If this revised proposal for settlement is acceptable to the Commission and its staff, we would like to move forward with implementation immediately and closing of the above-referenced case.

If you have any questions in this regard, please let me know.

Sincerely,

ROSE, SUNDBROM & BENTLEY, LLP



F. Marshall Deterding
For The Firm

FMD/tms

cc: Troy Rendell
Bart Fletcher
Sam Merta
Robert Hillman
Tyree Wilson
Doug Martin