

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

DOCKET NO. 080247-SU  
ORDER NO. PSC-08-0761-PCO-SU  
ISSUED: November 17, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER SUSPENDING PROPOSED RATES AND GRANTING INTERIM RATES

BY THE COMMISSION:

Background

Eagle Ridge Utilities, Inc. (Eagle Ridge or Utility) is a Class B utility providing wastewater service to approximately 869 customers in Lee County. Water service is provided in the area by Lee County. Wastewater rates were last established for this Utility in its 2003 rate proceeding.<sup>1</sup>

On August 22, 2008, Eagle Ridge filed an Application for Rate Increase at issue in the instant docket. The Utility had a few deficiencies in the Minimum Filing Requirements (MFRs). As of the date our staff filed its recommendation, those deficiencies remain outstanding. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the simple average period ending December 31, 2007.

Eagle Ridge requested interim rates designed to generate annual revenues of \$1,041,747. This represents a revenue increase on an annual basis of \$246,392 (30.98 percent). The Utility requested final rates designed to generate annual revenues of \$1,109,542. This represents a revenue increase of \$332,525 (42.80 percent).

The original 60-day statutory deadline to suspend the Utility's requested final rates is October 21, 2008. However, by letter dated September 8, 2008, the Utility agreed to extend the statutory time frame through October 28, 2008. This Order addresses the suspension of Eagle

<sup>1</sup> See Order No. PSC-04-1107-PAA-SU, issued November 8, 2004, in Docket No. 030445-SU, In re: Application for rate increase in Lee County by Utilities, Inc. of Eagle Ridge.

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FPSC-COMMISSION CLERK

Ridge's requested final rates and the Utility's requested interim rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.)

### Rate Suspension

Section 367.081(6), F.S., provides that we may, for good cause, withhold consent to the implementation of the requested rates by a vote to that effect within 60 days after the date the rate request is filed. Further, Section 367.081(8), F.S., permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months if: (1) we have not acted upon the requested rate increase; or (2) if the PAA action is protested by a party other than the Utility.

We have reviewed the filing and have considered the information filed in support of the rate application and the proposed final rates. We find that further investigation of this information, including on-site investigations by our staff accountants and our staff engineers is needed. Based on the foregoing, we suspend the Utility's proposed rate increase.

### Interim Revenues

Eagle Ridge has filed rate base, cost of capital, and operating statements to support its requested wastewater increase. Pursuant to Section 367.082(5)(b)1, F.S., the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with those used in the Utility's most recent rate proceeding and annualizing any rate changes. We have reviewed Eagle Ridge's interim request, as well as Order No. PSC-04-1107-PAA-SU, in which we last established rate base for Eagle Ridge. Our adjustments are discussed below. Attached are accounting schedules to illustrate the rate base, capital structure, and test year operating income amounts for the Utility. The rate base schedule is shown in schedule No. 1. The capital structure schedule is shown in schedule No. 2, and the operating income schedule is in schedule No. 3-A, with the operating income adjustments shown in schedule No. 3-B.

Rate Base. Based on an analysis of the MFRs and Order No. PSC-04-1107-PAA-SU from the Utility's last rate proceeding, we made no adjustments to rate base.

Cost of Capital. In its interim request, the Utility requested an overall cost of capital of 8.06 percent. Eagle Ridge used an 11.70 percent return on equity (ROE), which is the minimum of the range using the 2007 leverage formula.<sup>2</sup> However, pursuant to Order No. PSC-04-1107-PAA-SU, pp.7-8, Eagle Ridge's last authorized return on equity is 11.21 percent with a range of 10.21 percent to 12.21 percent. Consistent with the interim statute, the 10.21 percent minimum ROE authorized in the Utility's last rate case is used for interim purposes. Based on the above, the interim weighted average cost of capital is 7.48 percent.

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<sup>2</sup> See Order No. PSC-07-0472-PAA-WS, issued June 1, 2007, in Docket No. 070006-WS, In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4), F.S.

Net Operating Income. In its filing, Eagle Ridge reflected no provision for income taxes. Based on our recalculation, the Utility's provision of income taxes is negative \$32,688. Based on the above, the appropriate test year operating income, before any revenue increase, is \$28,741.

Revenue Requirement. In its filing, the Utility reflected \$40,585 for its provision of income taxes based on its interim revenue increase. However, based on our recalculation, Eagle Ridge's provision of income taxes was significantly understated. This understatement of income taxes was greater than the revenue requirement impact of 58 basis points reduction of the Utility's requested overall cost of capital (8.06 percent less 7.48 percent).

Eagle Ridge requested a revenue requirement of \$1,041,747. Our adjustments generate a revenue requirement higher than requested by the Utility. In such circumstances, it has been our practice to limit the revenue requirement to the level requested.<sup>3</sup> Based on the above, the revenue requirement is \$1,041,747 for wastewater. This represents an interim increase in annual revenues of \$246,392, or 31.30 percent. This will allow Eagle Ridge the opportunity to recover its operating expenses and earn a 7.42 percent return on its rate base. Accordingly, the Utility is authorized to collect annual wastewater revenues as indicated below:

	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Wastewater	\$795,355	\$246,392	\$1,041,747	30.98%

#### Interim Rates

We find that interim wastewater service rates for Eagle Ridge shall be designed to allow the Utility the opportunity to generate annual operating revenues of \$1,041,747 for wastewater operations. Before removal of miscellaneous revenues, this would result in an increase of \$246,392, or 30.98 percent. To determine the appropriate percentage increase to apply to the service rates, miscellaneous service revenues are removed from the test year revenues. The calculation is as follows:

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<sup>3</sup> See Order Nos. PSC-06-0675-PCO-SU, issued August 7, 2006, in Docket No. 060255-SU, In re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.; PSC-05-0287-PAA-SU, issued March 17, 2005, in Docket No. 040972-SU, In re: Application for rate increase in Pinellas County by Ranch Mobile WWTP, Inc.; and PSC-95-0191-FOF-WS, issued February 9, 1995, in Docket No. 940917-WS, In Re: Application for rate increase for increased water and wastewater rates in Seminole, Orange, and Pasco Counties by Utilities, Inc. of Florida.

	<u>Wastewater</u>
1 Total Test Year Revenues	\$795,355
2 Less: Miscellaneous Revenues	<u>870</u>
3 Test Year Revenues from Service Rates	\$794,485
4 Revenue Increase	<u>\$246,392</u>
5 % Service Rate Increase (Line 4/Line 3)	<u>31.01%</u>

The interim rate increase of 31.01 percent for wastewater shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2007. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C., provided customers have received notice. The rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. Eagle Ridge shall provide proof of the date notice was given within 10 days after the date of notice. The Utility's test year, proposed interim and final rates, and the interim rates are shown on Schedule No. 4, attached.

#### Security

Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at the rate we order. The total annual interim increase is \$246,392. In accordance with Rule 25-30.360, F.A.C., we have calculated the potential refund of revenues and interest collected, under interim conditions to be \$145,289. This amount is based on an estimated seven months of revenue being collected from interim rates over the Utility's current authorized rates shown on Schedule No. 4.

Eagle Ridge is a wholly-owned subsidiary of Utilities, Inc. (UI), which provides all investor capital to its subsidiaries. UI has requested a corporate undertaking to secure any interim increases granted in Docket Nos. 080248-SU, 080249-WS, and 080250-SU. We also considered interim rates for those dockets at our October 28, 2008, Agenda Conference. The recommended cumulative corporate undertaking amount for those dockets is \$201,755. At present, UI has a corporate undertaking for Miles Grant Water & Sewer Company (Miles Grant) and Lake Utility Services, Inc. (LUSI), for combined corporate undertaking of \$528,209.<sup>4</sup> As such, we reviewed the financial statements of the parent company. As a result of our decisions in all of the above dockets and the previously approved corporate undertaking amount for Miles

<sup>4</sup> See Order Nos. PSC-08-0338-PCS-WS, issued May 27, 2008 in Docket No. 070695-WS, In re: Application for rate increase in water and wastewater in Martin County, by Miles Grant Water & Sewer Company; and PSC-08-0308-PCO-WS, issued May 12, 2008 in Docket No. 070693-WS, In re: Application for rate increase in water and wastewater Lake County by Lake Utility Services, Inc.

Grant and LUSI, the total requested cumulative corporate undertaking amount is \$875,253, which includes \$145,289, subject to refund for this docket.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We have reviewed UI's financial statements from 2005 to 2007 to determine the financial condition of the parent company. UI's relative level of liquidity has decreased compared to 2006. The Utility has also experienced a decline in interest coverage ratio and relative level of net income over the three year review period. However, UI's equity ratio has increased to 44.48 percent in 2007 from 40 percent in 2006. In addition, net income has been on average three times greater than the requested interim undertaking amount. UI's financial performance has demonstrated adequate levels of both equity capitalization and profitability on an absolute basis to offset the decline in interest coverage and profitability on a relative basis. Based upon this analysis, we find that a cumulative corporate undertaking of \$875,253 is acceptable contingent upon the receipt of the written guarantee of UI, and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Pursuant to Rule 25-30.360(6), F.A.C., 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, F.A.C.

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.

This docket shall remain open pending the Commission's final action on the Utility's requested rate increase.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the final wastewater rates proposed by Eagle Ridge Utilities, Inc. are hereby suspended. It is further

ORDERED that the request for an interim rate increase for wastewater rates by Eagle Ridge Utilities, Inc. is hereby granted, subject to our modifications, as set forth in the body of this Order. It is further

ORDERED that all matters contained in the schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the approved interim rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1)(a), F.A.C. It is further

ORDERED that the interim rates shall not be implemented until Commission staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. It is further

ORDERED that Eagle Ridge Utilities, Inc. shall provide proof of the date notice was given within 10 days after the date of notice. It is further

ORDERED that Utilities, Inc., shall file a corporate undertaking on behalf of Eagle Ridge Utilities, Inc. to guarantee any potential refunds of revenues collected under interim conditions, as set forth in the body of this Order. It is further,

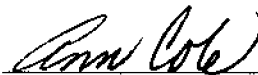
ORDERED that the approval of interim rates is contingent upon receipt of the written guarantee of Utilities, Inc. and written confirmation of Utilities, Inc. continued attestation that it does not have any outstanding guarantees on behalf of Utilities, Inc.-owned utilities in other states, and the guarantee be in the cumulative amount of \$875, 253, which includes \$145,289, for this docket, subject to refund in this docket. It is further,

ORDERED that, pursuant to Rule 25-30.360(6), F.A.C., Eagle Ridge Utilities, Inc. shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. It is further

ORDERED that, should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that this docket shall remain open pending our final action on Eagle Ridge Utilities, Inc.'s requested rate increase.

By ORDER of the Florida Public Service Commission this 17th day of November, 2008.



ANN COLE  
Commission Clerk

( S E A L )

LCB

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 Office of Commission Clerk, 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.

Utilities, Inc. of Eagle Ridge Schedule of Wastewater Rate Base Test Year Ended 12/31/07			Schedule No. 1 Docket No. 080247-SU		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
1 Plant in Service	\$6,267,052	(\$47,709)	\$6,219,343	\$0	\$6,219,343
2 Land and Land Rights	39,579	0	39,579	0	39,579
3 Non-used and Useful Components	0	(303,511)	(303,511)	0	(303,511)
4 Accumulated Depreciation	(2,626,722)	45,012	(2,581,710)	0	(2,581,710)
5 CIAC	(3,556,830)	0	(3,556,830)	0	(3,556,830)
6 Amortization of CIAC	2,469,069	0	2,469,069	0	2,469,069
7 CWIP	97,371	(97,371)	0	0	0
8 Acquisition Adjustment	266,765	(266,765)	0	0	0
9 Working Capital Allowance	<u>0</u>	<u>80,104</u>	<u>80,104</u>	<u>(0)</u>	<u>80,104</u>
10 <b>Rate Base</b>	<b><u>\$2,956,284</u></b>	<b><u>(\$670,344)</u></b>	<b><u>\$2,285,940</u></b>	<b><u>\$0</u></b>	<b><u>\$2,285,940</u></b>



Utilities, Inc. of Eagle Ridge Capital Structure-Simple Average Test Year Ended 12/31/07						Schedule No. 2 Docket No. 080247-SU				
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost		
<b>Per Utility</b>										
1 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,810,370)	\$1,189,630	50.28%	6.65%	3.34%		
2 Short-term Debt	7,750,000	0	7,750,000	(7,698,775)	51,225	2.17%	2.44%	0.05%		
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%		
4 Common Equity	139,282,132	0	139,282,132	(138,361,596)	920,536	38.91%	11.70%	4.55%		
5 Customer Deposits	42,656	0	42,656	0	42,656	1.80%	6.00%	0.11%		
6 Deferred Income Taxes	<u>161,998</u>	<u>0</u>	<u>161,998</u>	<u>0</u>	<u>161,998</u>	<u>6.85%</u>	0.00%	<u>0.00%</u>		
7 <b>Total Capital</b>	<u>\$327,236,786</u>	<u>\$0</u>	<u>\$327,236,786</u>	<u>(\$324,870,741)</u>	<u>\$2,366,045</u>	<u>100.00%</u>		<u>8.06%</u>		
<b>Per Commission</b>										
8 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,810,361)	\$1,189,639	50.28%	6.65%	3.34%		
9 Short-term Debt	7,750,000	0	7,750,000	(7,698,779)	51,221	2.16%	2.44%	0.05%		
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%		
11 Common Equity	139,282,132	0	139,282,132	(138,361,602)	920,530	38.91%	10.21%	3.97%		
12 Customer Deposits	42,656	0	42,656	0	42,656	1.80%	6.00%	0.11%		
13 Deferred Income Taxes	<u>161,998</u>	<u>0</u>	<u>161,998</u>	<u>0</u>	<u>161,998</u>	<u>6.85%</u>	0.00%	<u>0.00%</u>		
14 <b>Total Capital</b>	<u>\$327,236,786</u>	<u>\$0</u>	<u>\$327,236,786</u>	<u>(\$324,870,742)</u>	<u>\$2,366,044</u>	<u>100.00%</u>		<u>7.48%</u>		
						<b>LOW</b>	<b>HIGH</b>			
						RETURN ON EQUITY	<u>10.21%</u>	<u>12.21%</u>		
						OVERALL RATE OF RETURN	<u>7.48%</u>	<u>8.25%</u>		

Utilities, Inc. of Eagle Ridge Statement of Wastewater Operations Test Year Ended 12/31/07						Schedule No. 3-A Docket No. 080247-SU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$787,117</u>	<u>\$254,630</u>	<u>\$1,041,747</u>	<u>(\$246,392)</u>	<u>\$795,355</u>	<u>\$246,392</u> 30.98%	<u>\$1,041,747</u>
<b>Operating Expenses</b>							
2 Operation & Maintenance	\$678,384	(\$37,554)	\$640,830	\$0	\$640,830		\$640,830
3 Depreciation	95,366	(1,313)	94,053	0	94,053		94,053
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	65,599	9,908	75,507	(11,088)	64,419	11,088	75,507
6 Income Taxes	<u>(53,924)</u>	<u>94,509</u>	<u>40,585</u>	<u>(73,273)</u>	<u>(32,688)</u>	<u>88,545</u>	<u>55,857</u>
7 <b>Total Operating Expense</b>	<u>\$785,425</u>	<u>\$65,550</u>	<u>\$850,975</u>	<u>(\$84,361)</u>	<u>\$766,614</u>	<u>\$99,633</u>	<u>\$866,247</u>
8 <b>Operating Income</b>	<u>\$1,692</u>	<u>\$189,080</u>	<u>\$190,772</u>	<u>(\$162,031)</u>	<u>\$28,741</u>	<u>\$146,759</u>	<u>\$175,500</u>
9 <b>Rate Base</b>	<u>\$2,956,284</u>		<u>\$2,366,044</u>		<u>\$2,366,044</u>		<u>\$2,366,044</u>
10 <b>Rate of Return</b>	<u>0.06%</u>		<u>8.06%</u>		<u>1.21%</u>		<u>7.42%</u>

<b>Utilities, Inc. of Eagle Ridge</b>		<b>Schedule 3-B</b>
<b>Adjustment to Operating Income</b>		<b>Docket No. 080247-SU</b>
<b>Test Year Ended 12/31/07</b>		
<b>Explanation</b>		<b>Wastewater</b>
<u>Operating Revenues</u>		
Remove requested interim revenue increase		<u>(\$246,392)</u>
<u>Taxes Other Than Income</u>		
RAFs on revenue adjustments above		<u>(\$11,088)</u>

<b>Utilities, Inc. of Eagle Ridge Wastewater Monthly Service Rates Test Year Ended 12/31/07</b>		<b>SCHEDULE NO. 4 Docket No. 080247-SU</b>		
	<b>Test Year Rates on 12/31/2007</b>	<b>Utility Requested Interim</b>	<b>Utility Requested Final</b>	<b>Commission Approved Interim</b>
<b><u>Residential</u></b>				
Base Facility Charge All Meter Sizes:	\$16.91	\$22.15	\$24.15	\$22.15
Gallage Charge - Per 1,000 gallons (10,000 gallon cap)	\$3.44	\$4.51	\$4.91	\$4.51
Cross Creek Flat Rate	\$18.42	\$24.13	\$26.31	\$24.13
<b><u>General Service</u></b>				
Base Facility Charge by Meter Size:				
5/8" x 3/4"	\$16.91	\$22.15	\$24.15	\$22.15
1"	\$42.29	\$55.41	\$60.41	\$55.41
1-1/2"	\$84.57	\$110.80	\$120.80	\$110.80
2"	\$135.31	\$177.27	\$193.28	\$177.27
3"	\$270.63	\$354.56	\$386.58	\$354.56
4"	\$422.86	\$554.00	\$604.03	\$554.00
6"	\$845.71	\$1,107.99	\$1,208.04	\$1,107.99
Gallage Charge, per 1,000 Gallons	\$4.12	\$5.40	\$5.89	\$5.40
<b><u>Typical Residential Bills 5/8" x 3/4" Meter</u></b>				
3,000 Gallons	\$27.23	\$35.68	\$38.88	\$35.68
5,000 Gallons	\$34.11	\$44.70	\$48.70	\$44.70
10,000 Gallons	\$51.31	\$67.25	\$73.25	\$67.25
(Wastewater Gallage Cap - 10,000 Gallons)				