

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint motion requesting Commission approval of settlement agreement by the Office of Public Counsel, Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, Raintree Waterworks, Inc., and Sunny Hills Utility Company.

DOCKET NO. 20170247-WU  
ORDER NO. PSC-2017-0481-PAA-WU  
ISSUED: December 21, 2017

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman  
ART GRAHAM  
RONALD A. BRISÉ  
DONALD J. POLMANN  
GARY F. CLARK

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING SETTLEMENT PROPOSAL FOR POSSIBLE OVERTURNINGS BY  
THE OFFICE OF PUBLIC COUNSEL, BLACK BEAR WATERWORKS, INC.,  
BRENDENWOOD WATERWORKS, INC., BREVARD WATERWORKS, INC., COUNTRY  
WALK UTILITIES, INC., HARBOR WATERWORKS, INC., LAKE IDLEWILD UTILITY  
COMPANY, RAINTREE WATERWORKS, INC., AND SUNNY HILLS UTILITY  
COMPANY

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 (F.A.C.).

Background

Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, Raintree Waterworks, Inc., and Sunny Hills Utility Company (hereafter referred to as Utilities) are all jurisdictional water and/or wastewater utilities. These Utilities all share a common majority ownership.

In April 2017, as part of its ongoing earnings surveillance activities, Commission staff identified possible overearnings based upon a review of the Utilities' respective 2016 Annual Reports. By letter dated May 5, 2017, the Utilities consented to holding subject to refund any

earned return on equity (ROE) which exceeded the maximum of the allowed ROE for the year ended December 31, 2016. Multiple meetings between Commission staff and the Utilities took place during the summer to discuss the Utilities' level of earnings.

On October 3, 2017, an informal meeting between Commission staff, the Utilities, and the Office of Public Counsel (OPC) was held to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE. Subsequent to that meeting, the Utilities and OPC (collectively referred to as Parties) held further discussions regarding additional data provided by the Utilities to OPC.

On November 17, 2017, the Parties filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Agreement) to resolve the disposition of 2017 overearnings, and address any possible overearnings for 2018. This Agreement is attached to this Order as Attachment A.

We have jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

#### Decision

In April 2017, as part of its ongoing earnings surveillance activities, Commission staff identified possible overearnings based upon a review of the Utilities respective 2016 Annual Reports. On November 17, 2017, the Parties filed a Joint Motion Requesting Commission Approval of Settlement Agreement to resolve the disposition of 2017 overearnings, and address any possible overearnings for 2018. With respect to overearnings for 2017, customers of Black Bear Waterworks, Inc. would receive bill credits representing 10.44 percent of water revenues, Brendenwood Waterworks, Inc. customers would receive bill credits representing 14.20 percent of water revenues, Lake Idlewild Utility Company customers would receive bill credits representing 9.67 percent of water revenues, and customers of Raintree Waterworks, Inc. would receive credits for 2.88 percent of water revenues. All refunds would be made in accordance with Rule 25-30.360(3), F.A.C.

In addition, Brendenwood Waterworks, Inc., has agreed to reduce water rates by 11.38 percent on a prospective basis effective with the first billing cycle in January 2018. For Harbor Waterworks, Inc., a credit adjustment to Contributions in Aid of Construction in the amount of \$39,160 would be made along with an offsetting adjustment to Retained Earnings.

The Agreement also provides protections for customers for possible overearnings of Black Bear Waterworks, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, and Raintree Waterworks, Inc. in 2018. These utilities have agreed to hold subject to refund all revenues received during the calendar year 2018 that are above their respective authorized ROE range until final review of the 2018 Annual Reports.

The Parties agree that no further actions are needed with respect to Brevard Waterworks, Inc., Country Walk Utility Company, or Sunny Hills Utility Company.

The Parties stated that this Agreement resolves the issues raised in this proceeding so as to maintain a degree of stability and predictability with respect to customer bills. We find that the Agreement is a reasonable resolution for the possible overearnings on a prospective basis. Further, we find that it is in the public interest for the Commission to approve the Agreement because it promotes administrative efficiency, avoiding the time and expense of a formal earnings investigation.

In keeping with our long-standing practice of encouraging parties to settle contested proceedings, we approve the Joint Motion and Settlement Agreement by the Parties. The proposed Settlement Agreement adequately addresses the potential overearnings Commission staff had previously identified during its ongoing earnings surveillance activities. Schedule No. 1 reflects the approved rates per the Settlement Agreement.

We also find that Brendenwood Waterworks, Inc. shall file a proposed customer notice reflecting our decision approving a permanent reduction in water rates within 15 days of our vote. The approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Agreement specifies that this rate reduction will be effective the first billing cycle in January 2018. Brendenwood Waterworks, Inc. shall provide proof that the customers have received notice within 10 days after the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed settlement agreement by the Office of Public Counsel, Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, Raintree Waterworks, Inc., and Sunny Hills Utility Company is approved. It is further

ORDERED the Utilities shall make refunds, credit CIAC, and reduce rates as outlined in the Settlement Agreement and approved herein. It is further

ORDERED that Brendenwood Waterworks, Inc., shall file a proposed customer notice reflecting this Commission's decision within 15 days of our vote. The approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after Commission staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The approved rates shall be effective the first billing cycle in January 2018. Brendenwood Waterworks, Inc., shall provide proof that the customers have received notice within 10 days after the date of the notice. 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 Commission Clerk, 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 this docket shall remain open to allow our staff to verify completion of the refunds discussed herein and to verify that the revised tariff sheets and customer notice have been filed and approved by our staff. It is further

ORDERED that in the event this Order becomes final and staff has verified that the notice has been provided and refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 21st day of December, 2017.



CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

WDT

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

ORDER NO. PSC-2017-0481-PAA-WU

DOCKET NO. 20170247-WU

PAGE 5

proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 11, 2018.

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.

**Exhibit "A"**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Disposition of 2017 Overearnings for:

Black Bear Waterworks, Inc.  
Brendenwood Waterworks, Inc.  
Brevard Waterworks, Inc.  
Country Walk Utilities, Inc.  
Harbor Waterworks, Inc.  
Lake Idlewild Waterworks, Inc.  
Raintree Waterworks, Inc.  
Sunny Hills Utility Company

---

Docket No. 2017\_\_\_\_\_  
Filed: November 17, 2017

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT is made and entered into this 17th day of November, 2017, by and between the following utilities:

Black Bear Waterworks, Inc.  
Brendenwood Waterworks, Inc.  
Brevard Waterworks, Inc.  
Country Walk Utilities, Inc.  
Harbor Waterworks, Inc.  
Lake Idlewild Utility Company  
Raintree Waterworks, Inc.  
Sunny Hills Utility Company

(hereafter referred to as "Utilities"), and the Office of Public Counsel ("OPC"), on behalf of the Citizens of the State of Florida ("Citizens") and customers of each respective Utilities (hereafter, "Parties").

**WITNESSETH**

WHEREAS, the staff of the Florida Public Service Commission ("Commission" or "FPSC") identified potential 2017 overearnings based upon the review of the 2016 Annual Report of the respective Utilities;

WHEREAS, the Utilities submitted a letter dated May 5, 2017 to the FPSC as acknowledgement of and consent to the FPSC's jurisdiction over the extent to which the earned return on common equity (ROE) for the year ending December 31, 2016 exceeds the maximum of the allowed ROE;

WHEREAS, it was the Utilities' understanding that any decision regarding the disposition of any portion of such earned return above the maximum allowed ROE will be subject for disposition after the nature and extent of any such amount above the approved ROE ranges are known;

WHEREAS, on October 3, 2017, an informal meeting between the FPSC, Utilities, and OPC was held to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE ("overearnings");

WHEREAS, the Parties conducted further discussions and evaluation of additional data provided by Utilities to OPC on such overearnings;

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this proceeding so as to maintain a degree of stability and predictability with respect to customer bills;

WHEREAS, the Parties have entered into this Settlement Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350 and 367, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the parties to this agreement each has agreed to concessions to the others with the expectation that all provisions of this Settlement Agreement will be enforced by the Commission as to all matters addressed herein with respect to all parties regardless of whether a court ultimately determines such matters to reflect Commission policy, upon acceptance of the agreement as provided herein

and upon approval in the public interest; and

NOW THEREFORE, for and in consideration of the mutual covenants set forth below, the sufficiency of which is hereby acknowledged the parties agree to the following:

1. **Black Bear Waterworks, Inc.**: Black Bear Waterworks, Inc. (Black Bear) agrees to refund via credit on its customers' account 10.44% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Black Bear also agrees to hold subject to refund all revenues received during the calendar year 2018 that are above its authorized ROE range until the final review of its 2018 Annual Report. Black Bear hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceeds the maximum of its allowed ROE.

2. **Brendenwood Waterworks, Inc.**: Brendenwood Waterworks, Inc. (Brendenwood) agrees to refund via credit on its customers' account 14.20% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Brendenwood also agrees to reduce water rates by 11.38% on a prospective basis effective the first billing cycle in January 2018.

3. **Harbor Waterworks, Inc.**: In recognition of additional water plant investment anticipated for 2018, Harbor Waterworks, Inc. (Harbor) agrees to apply a credit adjustment to its water Contributions in Aid of Construction (CIAC) account in the amount of \$39,160 (with an offsetting adjustment to its Retained Earnings account). Harbor also agrees to hold subject to refund all water revenues received during the calendar year 2018 that are above its authorized



ROE range until the final review of its 2018 Annual Report. Harbor hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceeds the maximum of its allowed ROE.

4. **Lake Idlewild Utility Company:** Lake Idlewild Utility Company (Lake Idlewild) agrees to refund via credit on its customers' account 9.67% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Lake Idlewild also agrees to hold subject to refund all revenues received during the calendar year 2018 that are above its authorized ROE range until the final review of its 2018 Annual Report. Lake Idlewild hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceeds the maximum of its allowed ROE.

5. **Raintree Waterworks, Inc.:** Raintree Waterworks, Inc. (Raintree) agrees to refund via credit on the customers' account 2.88% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Raintree also agrees to hold subject to refund all revenues received during the calendar year 2018 that are above its authorized ROE range until the final review of its 2018 Annual Report. Raintree hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceed the maximum of its allowed ROE.

6. **Brevard Waterworks, Inc., Country Walk Utility Company, or Sunny Hills Utility Company:** The Parties agree, based upon the analysis of the current and prospective 2017 earnings, there are no further action needed with respect to Brevard Waterworks, Inc., Country

Walk Utility Company, or Sunny Hills Utility Company.

7. In keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues whenever possible, the Parties submit this Settlement Agreement for review and approval. The Parties agree that this Settlement Agreement is in the public interest. The provisions of this Settlement Agreement are contingent on approval of this Settlement Agreement in its entirety by the Commission without modification. The Parties further agree that they will support this Settlement Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Settlement Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Settlement Agreement or the subject matter hereof. No Party will assert in any proceeding before the Commission that this Settlement Agreement nor any of the terms herein shall have any precedential value nor may it be used in any other proceeding. To the extent a dispute arises among the parties about the provisions, interpretation, or application of this agreement, the parties agree to meet and confer in an effort to resolve the dispute. To the extent that the Parties cannot resolve any dispute, the matter may be submitted to the Commission for resolution. Approval of this Settlement Agreement in its entirety will resolve all matters and issues discussed herein pursuant to and in accordance with Section 120.57(4), Florida Statutes. This docket should be closed administratively after Commission staff verifies the revised tariff sheets, customer notices have been mailed, and refunds have been made.

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this Settlement Agreement by their signature.

**OFFICE OF PUBLIC COUNSEL**

Date: 11-17-17

By: 

Erik L. Saylor  
Associate Public Counsel

Attorney for the Citizens  
of the State of Florida

**UTILITIES**

Date: 11-17-17

By: 

Gary Deremer  
President

Black Bear Waterworks, Inc.  
Brendenwood Waterworks, Inc.  
Brevard Waterworks, Inc.  
Country Walk Utilities, Inc.  
Harbor Waterworks, Inc.  
Lake Idlewild Utility Company  
Raintree Waterworks, Inc.  
Sunny Hills Utility Company

<b>BRENDENWOOD WATERWORKS, INC.</b>		<b>SCHEDULE NO. 1</b>	
<b>MONTHLY WATER RATES</b>		<b>DOCKET NO. 20170247-WU</b>	
	<b>CURRENT RATES</b>	<b>STAFF RECOMMENDED RATES</b>	
<b><u>Residential and General Service</u></b>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$14.91	\$13.21	
3/4"	\$22.36	\$19.82	
1"	\$37.27	\$33.03	
1-1/2"	\$74.53	\$66.05	
2"	\$119.25	\$105.68	
3"	\$238.50	\$211.36	
4"	\$372.65	\$330.25	
6"	\$745.32	\$660.50	
Charge per 1,000 gallons - Residential			
0-5,000 gallons	\$2.03	\$1.80	
5,001-10,000 gallons	\$2.26	\$2.00	
Over 10,000 gallons	\$4.53	\$4.01	
Charge per 1,000 gallons - General Service			
	\$3.08	\$2.73	
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
4,000 Gallons	\$23.03	\$20.41	
6,000 Gallons	\$27.32	\$24.21	
10,000 Gallons	\$36.36	\$32.21	