BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ST. AUGUSTINE SHORES UTILITY COMPANY, a Division of United Florida Utilities Corporation, for a Rate Increase in St. Johns County	) DOCKET NO. 870980-WS) ORDER NO. 20606) ISSUED: 1-17-89

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
GERALD L. GUNTER

ORDER DISPOSING OF MOTIONS FOR RECONSIDERATION

BY THE COMMISSION:

I. BACKGROUND

On December 14, 1987, St. Augustine Shores Utilities, a Division of United Florida Utilities Corporation (the Utility) filed an application for an increase in water and sewer rates in St. Johns County, Florida. On December 23, 1987, the Utility completed the minimum filing requirements for a rate increase, and this date was set as the official date of filing.

The test year for this docket is the twelve-month period ending July 31, 1987. The Utility's final request was for final rates designed to generate annual revenues of $982,777 for water service and $894,347 for sewer service. These requested revenues exceed test year revenues by $575,738 (141%) and $498,823 (126%) for the respective water and sewer divisions. On an interim basis, the Utility requested revenues of $687,839 for water service and $600,727 for sewer service. The requested interim revenues exceeded test year revenues by $277,709 and $209,826 for the respective water and sewer systems.

By Order No. 18856, issued February 12, 1988, the Commission suspended the Utility's proposed rate schedules pursuant to Section 367.081(6), Florida Statutes. The Commission suspended the rates to facilitate a more detailed examination of the utility's proposed increases than the sixty-day file and suspend period allows.

A hearing was held on May 18 and 19, 1988 in St. Augustine, Florida. Testimony was not completed at that time and the hearing was continued on June 13, 1988 in Tallahassee, Florida. At our Agenda Conference on August 16, 1988, we set final rates for the Utility. See Order No. 20017. A customer intervenor, Mr. Robert Longo, The Office of Public Counsel and the Utility filed timely motions for reconsideration of various portions of Order No. 20017. Oral argument on the motions for reconsideration was held on November 7, 1988. As set forth in detail below, the motions are denied.

II. QUALITY OF SERVICE

Public Counsel seeks reconsideration of our decision concerning quality of service. Public Counsel contends that "the Commission misapprehended the testimony of Dr. Singley, upon whom it relied to refute the overwhelming testimony by the customers." In response, the Utility argued that the Commission has misunderstood nothing of Dr. Singley's testimony and that it rejected the "overwhelming testimony by the customers" based not only on Dr. Singley's testimony, but also on other testimony elicited at the hearing.

The purpose of a motion for reconsideration is to bring to the Commission's attention something that we misapprehended or failed to consider when reaching our decision.

As discussed in Order No. 20017, we considered the arguments and evidence presented by the parties. As always when there is conflicting testimony, we must carefully weigh the evidence. As reflected in that Order, we have done this. Public Counsel's motion has failed to raise any matter which we misapprehended or failed to consider. Therefore, Public Counsel's motion for reconsideration is denied.

III. TEST YEAR ADJUSTMENT FOR CAPITALIZATION OF AFUDC

By Order No. 20017, we adjusted rate base to remove the AFUDC capitalized during the test year pursuant to Rule 25-30.116, Florida Administrative Code. Rule 25-30.116 provides that no utility may charge an allowance for funds used during construction (AFUDC) without prior Commission approval. As noted in the Order, the Utility did not have a Commission approved AFUDC rate during the test year.

In its motion for reconsideration, the Utility raises two arguments. First it argues that the Rule did not become effective until August 14, 1987, which was after the July 31, 1987 test year. Second, the Utility argues that this issue was not identified as an Issue in the Prehearing Order.

In its response to the Utility's motion, Public Counsel points out that the AFUDC rule was only slightly amended in August, 1987, and that the provision requiring an approved AFUDC rate was applicable beginning in August, 1986. At Oral Argument, the Utility's counsel conceded the effectiveness of the portion of the AFUDC rule in question and reiterated only his second argument. The Utility argues that the Issue was not identified in the Prehearing Order, therefore it is not appropriate to make an adjustment.

The Utility concedes that the Rule was in effect during the test year and does not argue that its AFUDC rate was approved by this Commission. It is axiomatic that a Utility is always on notice of the requirements of the Commission's Rules governing its activities. We are unpersuaded by the Utility's notice argument. The utility has not supported its argument that an error or omission was made by the Commission in reaching its decision on this Issue. Therefore, we find it appropriate to deny reconsideration of this Issue.

IV. ADJUSTMENT FOR ACCUMULATED DEPRECIATION

By Order No. 20017, we increased accumulated depreciation for the undepreciated portion of certain assets retired in the pro forma adjustments to rate base. As discussed in the Order, these assets were physically retired from service several years before the test year and many years before the end of their useful lives. Further, if the retirements had been treated as extraordinary at the actual time of physical retirement, the loss would now be fully amortized. As a result, we concluded that rate base should be reduced for the undepreciated portion of the retired assets.

In its Motion for Reconsideration, the Utility argues that these retirements were prior to the Commission's jurisdiction over the Utility and, further, that the calculation is incorrect. Public Counsel argues in response that the Commission, in Order No. 20017, accepted Mr. Larkin's testimony that the retirements were extraordinary and the loss should be amortized from the date of the physical retirement.

In setting the rate base for a utility for the first time, we must determine the original investment by the utility as of the time the assets were first dedicated to public service. This standard is not limited in time by the Commission's jurisdiction over a utility.

As discussed in Order No. 20017, we evaluated total rate base since the Utility's inception, not from the date we acquired jurisdiction. In the Order, we set forth the appropriate treatment of the retirement of certain assets. The Utility has not shown that this treatment should be applied only under PSC jurisdiction. Accordingly, the Utility's motion for reconsideration on this point is denied.

With respect to the Utility's argument that the calculation is incorrect, our analysis in Order No. 20017 examines the loss as if all the assets were retired at the same time as the shallow wells in 1980. The Utility points out that the spiractor was retired in 1984. However, the record is silent as to the remaining assets. Also, the utility argues that the requested rate of return was used instead of the allowed rate of return. Reviewing the spiractor separately from the other assets and using the allowed rate of return results in the following yearly amortization expense.

	Spiractor	Other
Plant	$ 106,735	$150,748
Acc. Depreciation (12/80)	63,278	89,782
4 Additional Years Depr.	16,941	
Net Investment	$ 26,516	$ 60,966
Rate of Return	12.3%	12.3%
	$ 3,261	$ 7,499
Depr. Expense	4,235	5,564
Yearly Amortization	$ 7,496	$ 13,063
Amortization Period	3 1/2 yrs.	5 years

This analysis indicates that the loss will be fully amortized before the new rates go into effect. Therefore, while the analysis provided in Order No. 20017 is not technically correct, the result dictates the same adjustment set forth in the Order. We concede the Utility a Pyrrhic victory on the questions of methodology. However, because the results of the Utility's suggested analysis yield the same result, we deny its request to reconsider our adjustment to accumulated depreciation for the retirement of assets.

V. RATE BASE ADJUSTMENT FOR DRIVEWAY

By Order No. 20017, we excluded one-half of the cost of the billing office driveway from both the water and sewer rate bases. The Utility seeks reconsideration of the amount of the exclusion claiming error in the calculation. The Utility argues that only one-thirteenth of the cost of the driveway ($398 = $5,177.43 / 13) was actually included in plant-in-service and rate base. Therefore, it argues that only $398.00 should be removed from rate base.

In its response, Public Counsel agreed with the Utility.

While it appears that a minor error may have occurred in the calculation, the amount in question is immaterial in its effect on either rate base, revenue requirement or final rates. Accordingly, reconsideration is denied.

VI. USED AND USEFUL PERCENTAGES OF WELL-FIELD, SPIRACTOR AND FILTER

Customer intervenor, Mr. Longo, seeks reconsideration of our decision on used and useful percentages for the source of supply, spiractor and filter. Mr. Longo contends that these percentages are not correct because the well field cannot supply the water for the maximum day demand. He argues that the Water Treatment Plant is actually a "series train" of chemical processing equipment, and the capacity of such a train is limited by the capacity of the smallest processing unit.

In response, the Utility argues that Mr. Longo used a daily capacity that was totally out of context, since it assumed that the two highest yield wells were not available. It further argues that an additional 90,000 gallons in raw storage is available over and above the water from the well field.

All the matters advanced by Mr. Longo here were fully considered as a portion of the record in this proceeding. Mr. Longo has not raised anything that we failed to consider or that we misapprehended. Therefore, his motion for reconsideration on this point is denied.

VII. FIRE FLOW CAPACITY

During Oral Argument, Mr. Longo asked the Commission to reconsider its decision on fire flow capacity, arguing that 120,000 gallons is more appropriate than 360,000 gallons.

This issue, however, was not raised in Mr. Longo's Motion for Reconsideration filed September 22, 1988.

Mr. Longo's motion on this point was untimely and should be denied on that basis. Moreover, the issue of fire flow was fully considered in our decision in Order No. 20017. Mr. Longo again fails to raise a matter that we misapprehended or failed to consider. Therefore, for both procedural and substantive reasons, Mr. Longo's motion for reconsideration on this point is denied.

VIII. EFFICIENCY OF THE UTILITY'S CAPITAL STRUCTURE

In reaching our determination regarding the capital structure of the Utility, we used the capital structure of United Florida Utilities Corporation to determine the reasonable cost of capital. Public Counsel argued at the hearing that the 77 percent level of equity was not an "efficient" capital structure and that the capital structure should be adjusted to reflect a more appropriate level of equity. Late Filed Exhibit No. 16 was filed in response to illustrate what Public Counsel argues would be an efficient capital structure. By Order No. 20017, we did not adjust the capital structure as Public Counsel desired because the arguments premised on late-filed Exhibit No. 16 were not subject to in-depth examination through testimony and cross examination. Without more, this made the "optimal capital structure" too speculative and unreliable.

Public Counsel seeks reconsideration of our capital structure decision. In support, it argues that a lack of opportunity to cross examine a late filed exhibit should not invalidate its use in a proceeding.

First, we point out that we did not "invalidate" late filed Exhibit No. 16. This exhibit was admitted into the record for our consideration. We again note that the lack of our opportunity to more extensively investigate the concept of an "optimal capital structure" through cross-examination of Public Counsel regarding Exhibit No. 16 does not in this case allow us to place a great deal of weight on such an exhibit. Standing alone, without the arguments, the exhibit was not persuasive evidence to adjust the capital structure. Our lack of confidence in the reliability of the exhibit also taints the arguments which rely on that exhibit.

Public Counsel further argues that the order should not have accepted the Utility's testimony that the debt level was low because the Utility cannot raise debt. Public Counsel contends that the evidence demonstrates that the Utility cannot raise debt because of the past losses it chose to absorb.

There is conflicting testimony whether the utility requested compensatory rates in the past. Public Counsel merely re-argues the weight of the evidence on this point. It raises no error, misapprehension or failed consideration. Accordingly, Public Counsel's motion for reconsideration of the Utility's capital structure is denied.

IX. INVESTMENT TAX CREDITS

The Utility seeks reconsideration of our calculation of the amount of Investment Tax Credits (ITCs) included in the Capital Structure. In the Utility's motion, it suggests that "no non-used and useful adjustment was made to the $195,237 ITC amount" included in the capital structure.

The amount of ITCs included in the capital structure was based upon the jurisdictional tax expense calculated using the used and useful portion of rate base. ITCs were imputed to the maximum extent possible under current tax law as though St. Augustine were a stand alone utility. In the calculation of the ITC amount the Order did not exceed the used and useful portion of the ITCs available for imputation. The total amount of ITCs that could be imputed for St. Augustine is $266,542 under current tax law. The used and useful portion of this amount is $229,226 (or .86 x $266,542). The amount of imputed ITCs is well below the amount of ITCs that could possibly be imputed to St. Augustine. The Utility has shown no error or misapprehension; therefore, its request for reconsideration on this point is denied.

X. BILLING SYSTEM

The Utility again asserts that implementation of the new billing system resulted in a net savings of $7,535 when test year expense related to the new system of $12,215 was compared to the $19,750 salary of an assistant billing office manager, whose position was eliminated by the use of the new system. The Utility argues that, if the cost of the billing system is disallowed, the salary expense of the eliminated position should be allowed. In addition, the Utility states that it appears that a calculation error was made; that $6,252 is the correct total amount of amortization, not $12,215. Finally, the Utility states that only the "software" costs, addressed in Exhibit No. 6, should be disallowed, not the enhancement costs.

With respect to the billing system, the Utility is merely re-arguing its case. As we noted in the Order, there was insufficient justification for the entire billing system expense. The lack of justification extends to the expenses associated with the billing system included in the total cost of $12,215. We also found no justification for allocating the salary expenses to billing functions in the face of Utility testimony that billing office personnel served multi-task functions. The Utility has failed to raise anything that we failed to consider or misapprehended. Accordingly, reconsideration on the issue of billing system expense is denied.

XI. GOLF COURSE SPRAY EFFLUENT

Public Counsel seeks reconsideration of our determination in Order No. 20017 that both the golf course and the utility derive benefit from the disposal of effluent by spray irrigation on the golf course.

In support, Public Counsel argues that the Commission "misapprehended the testimony regarding the Utility's need for disposal at the golf course". Public Counsel asserts that the testimony of Mr. Joe Roberts, the utility manager, demonstrates that at the times of the utility's greatest need for additional disposal, the golf course is not a viable alternative.

Public Counsel raises nothing that we misapprehended or failed to consider when reaching our decision in Order No. 20017. Public Counsel merely re-argues the weight that should be given to conflicting testimony. We acknowledged the conflicting evidence in the Order when making our determination. Accordingly, reconsideration is denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motions for Reconsideration of Order No. 20017 filed by St. Augustine Shores Utility Company, a Division of United Florida Utilities Corporation, the Office of Public Counsel , and Mr. Robert Longo are hereby disposed of as set forth in the body of this Order.

By ORDER of the Florida Public Service Commission, this 13th day of JANUARY, 1988.

STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.