

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ST.) DOCKET NO. 871177-WU .
GEORGE ISLAND UTILITY COMPANY,)
LTD. for increased rates and)
service availability charges) ORDER NO. PSC-92-0122-FOF-WU
for water service in Franklin)
County)
_____) ISSUED: 3/31/92

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
BETTY EASLEY

APPEARANCES:

GENE D. BROWN, Esquire, 3836 Killearn Court, Tallahassee, Florida 32308
On behalf of St. George Island Utility Company, Ltd.

BARBARA SANDERS, Esquire, 53 Avenue C, Post Office Box 157, Apalachicola, Florida 32320
On behalf of the St. George Island Water and Sewer District

CATHERINE BEDELL, Esquire, Florida Public Service Commission, Division of Legal Services, 101 East Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff

ORDER REQUIRING MONTHLY REPORTS, REVISED TARIFF, CANCELLED CHECK FOR FINAL PAYMENT OF TAABS PROGRAM AND CONTINUED MONITORING

BY THE COMMISSION:

BACKGROUND

St. George Island Utility Company, LTD., (St. George or the Utility) is a Class B utility providing water service to 959 customers. By Order No. 21122, issued April 24, 1989, this Commission approved increased rates for water service provided by St. George. The Order also implemented a moratorium against further connections. The Order further required that St. George do

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the following: 1) make several physical improvements; 2) maintain the utility books in substantial compliance with the Uniform System of Accounts and the Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities; and 3) maintain all of its books and records at one location so as to lessen the likelihood of the misplacement of further records. Lastly, the Order stated that this Commission would order St. George to show cause why it should not be fined if it failed to comply with the requirements of Order No. 21122 by issuing a show cause order.

This Commission monitored and audited St. George's compliance with Order No. 21122, and, as a result, Order No. 23038 was issued on June 6, 1990, covering thirteen show cause issues. Many of those issues concerned the condition of the Utility's books and records. Based upon St. George's response to the show cause order, this Commission set the matter directly for hearing. A subsequent audit of the Utility, completed in July of 1990, found that the Utility was in substantial compliance with the above portions of Orders Nos. 21122 and 23038. During the pendency of the show cause proceedings, St. George drafted and submitted a proposed stipulation of settlement. On October 22, 1990, this Commission issued Order No. 23649 which approved the Utility's proposed stipulation in settlement. As part of the stipulation, the Utility agreed that it would continue to maintain its records in accordance with the NARUC Uniform System of Accounts and that the Utility would continue to abide by the rules, regulations and orders of this Commission. Subsequent to the stipulation and Order, another audit was initiated. The purpose of this audit, which started on March 25, 1991, was to review the status of the moratorium and the degree of the Utility's compliance with the stipulation. The audit was resumed in July of 1991, and a final audit report was issued in September of 1991. The final audit report listed three audit exceptions and seventeen audit disclosures. The majority of the audit findings concerned failure to timely record accounting entries.

The findings of the March, 1991, audit resulted in the issuance on July 11, 1991, of Show Cause Order No. 24807, which ordered the Utility to show cause why it should not be fined for failure to maintain its books and records in accordance with Orders Nos. 21122 and 23649, and Rules 25-30.110(1)(a) and 25-30.115(1), Florida Administrative Code. The Show Cause Order also directed the Utility to establish why it should not be fined for failure to properly pay interest on or refund customer deposits in accordance

with Rule 25-30.311(4) and (5), Florida Administrative Code, and Order No. 23649.

On July 31, 1991, the Utility timely filed a response to Order No. 24807 and requested a hearing. A hearing was held on December 12, 1991, in order to hear testimony and receive evidence concerning the show cause issues mentioned hereinabove. The Utility presented the testimony of Gene D. Brown and Barbara S. Withers, and the Staff presented Witness Everett "Butch" Broussard. St. George Island Water and Sewer District, Intervenor, put on testimony of Thomas R. Day.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having heard the evidence presented at hearing and having reviewed the recommendation of staff, as well as the briefs of the parties, we now enter our findings and conclusions.

MAINTENANCE OF BOOKS AND RECORDS

As discussed above in the Case Background, an audit of the Utility was begun in March of 1991. The majority of the audit findings concerned the Utility's failure to timely record accounting entries. The specific accounting rules that underlie this show cause proceeding are Rules 25-30.110(1)(a) and 25-30.115(1), Florida Administrative Code, which rules are quoted below:

Rule 25-30.110(1)(a): Each utility shall preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" as issued by the National Association of Regulatory Utility Commissions.

Rule 25-30.115(1): Water and sewer utilities shall, effective January 1, 1986, maintain its accounts and records in conformity with the 1984 NARUC Uniform System of Accounts adopted by the National Association of Regulatory Commissioners.

The specific instruction of the Uniform System of Accounts which addresses the subject of the timely recording of accounting transactions is Accounting Instruction 4 which provides as follows:

4. General - Accounting Period

Each utility shall keep its books on a monthly basis so that for each accounting period all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Each utility shall close its books at the end of each calendar year unless otherwise authorized by the Commission.

This instruction was interpreted differently by the accounting witnesses. It was the opinion of Utility Witness Withers that Accounting Instruction No. 4 permitted posting of the general ledger accounts less often than monthly if each month could be separately identified. She testified that this had also been her advice to the Utility. She further testified that it was her opinion that, if the general ledger showed monthly data and was closed yearly, the Utility's records were in compliance. She testified that she was informed by the National Association of Regulatory Utility Commissioners that it could not further clarify Instruction No. 4 concerning monthly entries. Ms. Withers reported giving the auditors the Utility's cash receipts and disbursements journals for the months between September and December of 1990, its August 1990 general ledger, and the general ledger worksheets attached to Mr. Broussard's prefiled testimony. She testified that these worksheets showed each month separately, and when summarized, this information complied with Instruction No. 4. Further, Ms. Withers testified, that upon notification by the auditors that the worksheets would not suffice as a general ledger, she prepared an updated general ledger showing monthly postings.

Utility Witness Withers testified that the Utility's records are sufficiently detailed to readily permit the furnishing of full information about any accounting entry, which is necessary for compliance with Accounting Instruction No. 2. She testified that the Utility currently maintains its general ledger on a monthly basis, and that it closes its books annually.

Ms. Withers also testified that monthly maintenance of the general ledger has occurred since May of 1991, and in that month she also prepared and submitted updated general ledgers showing monthly activity from September 1990 to April 1991. She testified that accrual accounting is followed on a monthly basis. She also testified that a new computerized software system, referred to as

the "Totally Automated Accounting and Billing System" (TAABS), was recently installed to handle billing functions. Ms. Withers testified that this program is integrated with the general ledger and will allow the Utility to maintain its general ledger monthly.

Finally, Ms. Withers testified that monthly posting of entries to the general ledger was preferable, but it was not required by the Commission's rules. Ms. Withers stated that she believed the Utility should not be fined for failing to post its general ledger on a monthly basis. She testified that neither negligence nor willful misconduct was involved, rather that the Utility was maintaining its records as best it could.

Intervenor Witness Day testified that entries should be made to the proper journals and ledgers on a timely basis or details would be forgotten or lost, and good accounting procedures could not be performed. Mr. Day was unable to cite any specific Standard of Accounting Procedure which would dictate that the general ledger should be posted on a monthly basis. He testified that small companies may not post entries monthly, but he criticized this practice since problems may result. However, he testified that he was not familiar with the Uniform System of Accounts that sets forth accounting instructions for regulated utilities in Florida.

Staff Witness Broussard testified that, in his opinion, Instruction No. 4 required this utility to maintain its general ledger on a monthly basis but that it did not necessarily require the closing of books on a monthly basis. Staff Witness Broussard further testified that closing of books annually and posting entries monthly were different requirements. Mr. Broussard also testified that, while he could not cite a specific rule regarding when monthly entries should be posted, most of the companies that he audits post entries by the end of the following month. He testified that the Utility did not post its general ledger on a monthly basis for about eight months. He reported that a worksheet prepared by the Utility was not a normal general ledger in his opinion.

After reviewing the record, we find that Instruction No. 4 requires all accounting records to be updated on a monthly basis. For our purposes, all accounting records includes the general ledger which summarizes the underlying data in the company's cash receipts, cash disbursement, and general ledgers. We find that the instruction does not contemplate aggregation of several months of

accounting data for later posting. However, we also find there is no evidence in the record to support a prohibition against such accumulation of data. Therefore, we find that the Utility's failure to update its general ledger from September, 1990, to April, 1991, was not a substantial violation of the instructions in the NARUC Uniform System of Accounts or our Rules. Further, we find that the information needed to prepare such monthly entries was available, but that limited resources prevented the monthly updating of the general ledger. Accordingly, we find that the Utility's books and records are in substantial compliance with Rules 25-30.110(1)(a) and 25-30.115(1), Florida Administrative Code.

However, based on this Utility's long history of failing to maintain vigilance with regard to accounting practices, we find it appropriate to require the Utility to continue filing its general ledger and trial balance each month, in accordance with Order No. 24458, so that we may continue to monitor the Utility's compliance. Failure of the utility to properly record its accounting activity and preserve its records for audit inspection may result in disallowance of expenses in subsequent rate proceedings.

REFUND OF CUSTOMER DEPOSITS AND INTEREST PAYMENTS

By Order No. 24807, the Utility was ordered to show cause why it should not be fined for failure to pay interest on and refund customer deposits in accordance with Rule 25-30.311(4), (5) and (6), Florida Administrative Code, and Order No. 23649.

Utility Witness Gene Brown testified that, as of September 5, 1991, there were customers who had not received timely refunds or timely payments of interest on such deposits. However, he also testified that the status of the Utility's customer deposit accounting had improved. Additionally, Utility Witness Brown testified that with the assistance of a new, recently installed computer software program, TAABS, the Utility can and will pay all subsequent deposit interest and refunds in a timely manner. Witness Brown testified that, in his opinion, the Utility should not be fined because the Utility did not willfully violate or knowingly refuse to comply with any law, order, or rule of this Commission with regard to customer deposits or the payment of interest on such deposits.

Intervenor Witness Day testified that it is the responsibility of management to determine if the employees of an enterprise are performing satisfactorily and if they have the proper equipment to fulfill their duties. Witness Day further testified that, in his opinion, the Utility has not been in total compliance with Order No. 21122 since the Order was issued.

Staff Witness Broussard testified that, of an audit sample of 107 accounts, 13 percent were found to be delinquent. In May, 1991, the Utility voluntarily disclosed an additional 13 delinquent refunds which have since been refunded.

Upon consideration, we find that the Utility failed to pay interest on and timely refund customer deposits. Accordingly, we find that the Utility failed to comply with the requirements of Rule 25-30.311(4), (5) and (6), Florida Administrative Code, and Order No. 23649. This Commission views the Utility's non-compliance with great concern. Almost three years have passed since the Utility was specifically ordered by this Commission to pay interest on and refund customer deposits in accordance with Rule 25-30.311, Florida Administrative Code. This Commission does not require utilities to collect deposits from its customers. It does, however, require that any utility electing to collect customer deposits abide by the provisions set forth in Rule 25-30.311. The Rule is very specific regarding the time frame within which deposit refunds and interest are to be paid.

However, we find that, in this instance, the best interests of the customers will not be served by imposing a fine for failure to comply with our rules and orders. We do find it appropriate to require the Utility to file an analysis of its customer files for both current and prior customers, noting the disposition of all deposits. Further, to ensure proper utilization of the TAABS program, we find that it is appropriate to require the Utility to provide copies of the TAABS-generated reports of customer deposits and refunds each month by the 20th of the month for the next six months.

TARIFF REVISION

The Utility's Second Revised Tariff Sheet No. 14 specifies that the Company pay or credit accrued interest to customers' accounts during the month of December each year. It also specifies that the company shall refund the deposit after a residential

customer has established a satisfactory payment record and has continuous service for a period of 23 months. According to the testimony of Utility Witness Brown, the Utility has opted to refund on a 12-month basis to accommodate the TAABS program. At the hearing, Utility Witness Brown agreed that the language of the Utility's tariff should be modified to reflect the new timetable for deposit refunds and interest payments. Accordingly, we find it appropriate to require the Utility to revise its tariff to reflect the 12-month refund and interest payment cycle that must be used with the TAABS program. The revised tariff shall be due 30 days from the date of this Order.

PAYMENT ON TAABS PROGRAM

Utility Witness Brown testified that there is one remaining payment due on the TAABS software program. We find that until it is paid for in full, there still exists the possibility that the software could be repossessed by the seller. Therefore, we find it appropriate to require the Utility to provide a copy of the cancelled check for the final payment of the TAABS program, once it has been made.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the St. George Island Utility Company, Ltd., shall immediately comply with all of the provisions of all of the Orders previously issued in this Docket, to the extent not specifically modified herein. It is further

ORDERED that St. George Island Utility Company, Ltd., shall continue filing its general ledger and trial balance each month in accordance with Order No. 24458 so that the Commission may monitor the Utility's compliance. It is further

ORDERED that St. George Island Utility Company, Ltd., shall file an analysis of its customer files for both current and prior customers, noting the disposition of all deposits. It is further

ORDERED that St. George Island Utility Company, Ltd., shall submit and have approved a revised tariff sheet reflecting the 12-month refund and interest payment cycle used with its new Totally Automated Accounting and Billing System computer software program. The revised tariff sheet shall be filed within 30 days of the date

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of this Order and will be approved upon Staff's verification that it accurately reflects this Commission's decision . It is further

ORDERED that St. George Island Utility Company, Ltd., shall submit copies of its monthly Totally Automated Accounting and Billing System reports by the 20th of each month for the next six months to allow this Commission to continue to monitor the Utility's compliance. It is further

ORDERED that St. George Island Utility Company, Ltd., shall submit a copy of the cancelled check indicating that final payment has been made on the Totally Automated Accounting and Billing System program.

By ORDER of the Florida Public Service Commission, this 31st day of March, 1992.



STEVE TRIBBLE Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR 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: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of

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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 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.