

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of 1991 ) DOCKET NO. 920729-GU  
Overearnings of Chesapeake ) ORDER NO. PSC-93-0520-FOF-GU  
Utilities Corporation - Florida ) ISSUED: 04/06/93  
Divisions. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING DISPOSITION OF 1991 OVERTURNINGS

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

During 1991, Chesapeake Utilities Corporation - Florida Divisions' (Chesapeake) earned return on equity (ROE) began to exceed its authorized ceiling of 14.00%. Our Staff contacted Chesapeake in an effort to resolve the apparent overearnings situation and Chesapeake agreed to refund any 1991 earnings that exceeded the maximum authorized ROE of 14.00%.

Based on a December 1991 unaudited rate of return report, Chesapeake's earned ROE was 17.37% which exceeded the ceiling by 3.37%. As a result, the Commission ordered Chesapeake to refund \$284,782, plus interest, of 1991 overearnings (Order No. PSC-92-0817-FOF-GU). A determination of any additional amounts to be refunded was deferred pending the receipt and review of an audited report.

DOCUMENT NUMBER-DATE

03705 APR-68

PSC-RECORDS/REPORTING

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Based on an audit report, issued August 24, 1992, our Staff calculated that an additional refund of \$110,360, plus interest, would be necessary. Thereafter, the Commission issued Proposed Agency Action Order No. PSC-92-1276-FOF-GU directing Chesapeake to make the additional refunds with interest to its customers.

On November 24, 1992, Chesapeake filed an objection to that proposed agency action order requesting that the additional overearnings be used to partially offset already incurred cleanup and removal costs of a former manufactured gas plant site.

Chesapeake proposed to partially offset \$217,337 in expenses that were incurred on work at the former manufactured gas plant site. These expenses were approved for recovery in Chesapeake's recently concluded depreciation study in Docket No. 920315-GU.

We find that since Chesapeake has already made a significant refund to its customers and has also actually incurred additional expenses related to the cleanup of the former manufactured gas plant site, that Chesapeake shall be allowed to partially offset those expenses with the additional 1991 overearnings of \$110,360, plus interest. Also, we find that Chesapeake shall continue to amortize the remaining expenses at the \$71,114 annual rate approved in Order No. PSC-93-0025-FOF-GU.

In consideration of the foregoing, it is

ORDERED that Chesapeake Utilities Corporation - Florida Division's request to offset the \$110,360 in overearnings in 1991, plus interest with costs incurred in the cleanup and removal of a former manufactured gas plant site is granted. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

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By ORDER of the Florida Public Service Commission this 6th day  
of April, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )  
MRC:bmi

by: Kay Deason  
Chief, Bureau of Records

Chairman Deason dissents as follows:

I dissent from the decision to allow the company to use the overearnings to offset cleanup costs at a manufactured gas site. My objection is not based on the nature of the costs themselves. The Commission has passed on the recoverability of these costs. My concern with the cleanup cost offset is that these costs were considered in determining Chesapeake's 1991 overearnings. Just prior to that, we established depreciation rates for this company and in doing so provided for recovery of this expense on a 5-year recovery schedule. Because the depreciation decision has given explicit recognition of the recovery of those cleanup costs and those costs were in turn given consideration in the overearnings docket, I do not think it is appropriate now to revisit the issue when it comes to disposing of the overearnings. This kind of action so recently after a revenue requirements determination creates the potential for a windfall. While I understand that a windfall may not result in this case, it is the principle which concerns me.

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.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 27, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.