

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: January 12, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Kyle, Lingo, Maurey, Willis) *OK* *LC* *W* *CA*
Office of the General Counsel (Gervasi) *PSM* *TOP* *ALM*

RE: Docket No. 000694-WU – Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.
County: Franklin

AGENDA: 01/24/06 – Regular Agenda – Decision on Stipulation Prior to Hearing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: 08/12/06 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\000694WU.RCM.DOC
ATTACHMENT A NOT AVAILABLE

Case Background

Water Management Services, Inc. (WMSI or utility) is a Class A water utility providing service to approximately 1,776 water customers in Franklin County. For the year ended December 31, 2004, the utility reported in its annual report operating revenues of \$1,419,587, and utility operating income of \$269,290. The utility's water rates were last established in a rate case by Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU, In re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company, Ltd.

DOCUMENT NUMBER-DATE

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On June 6, 2000, WMSI filed an application, pursuant to Section 367.0822, Florida Statutes, for a limited proceeding to increase its water rates to recover the cost of building a new water transmission main to connect its wells on the mainland to its service territory on St. George Island. In its petition, the utility stated that it was notified by the Florida Department of Transportation (DOT) that the existing bridge to St. George Island, to which WMSI's water main was attached, was to be demolished and replaced by a new bridge with an expected in-service date of March 2003. Upon completion of the new bridge, WMSI would have to make alternative arrangements to provide service to its certificated service area. The utility's petition set forth its plan to construct a new main to be attached to the new bridge, along with ancillary modifications to its system, and requested an increase in its rates to provide funding for the proposed construction.

A customer meeting was held at the Franklin County Courthouse in Apalachicola on September 12, 2000, in order to allow the utility's customers the opportunity to comment on WMSI's petition. More than 100 customers attended, and 13 customers made statements. In general, the speakers believed that the projected cost of the project was excessive and that the utility should have planned for this contingency in such a way as to avoid such a large rate increase. There was also great concern over the utility's ability to provide fire protection.

WMSI originally requested that the Commission approve two tiers of temporary increases, to be approved concurrently, described as Phase 1 and Phase 2, in its initial consideration of this matter. Phase 1 would cover preliminary costs and Phase 2 would cover estimated total costs of the project. The utility then proposed a true-up, described as Phase 3, which would set final rates after the project was complete and all costs were verified.

By Order No. PSC-00-2227-PAA-WU, issued November 21, 2000 (consummated by Order No. PSC-00-2405-CO-WU, issued December 14, 2000), the Commission found that construction of the new water transmission main was justified, and that the prudent costs to be incurred by WMSI for this project should be recovered through a three phase mechanism. Further, the Commission found that replacement of the existing 8-inch main with a 12-inch water main was prudent, and that the used and useful percentage for the new main should be 100 percent. The Commission also found it prudent for the utility to construct a new line from Well No. 1 to Well No. 4 in connection with the replacement project. In addition, the Commission approved a Phase 1 increase and deferred consideration of a temporary Phase 2 increase until the utility filed more complete and detailed cost information. The approved Phase 1 increase was 11.3 percent, or an annual revenue increase of \$82,707.

On May 14, 2003, WMSI filed a Supplemental Petition for Limited Proceeding (supplemental petition), requesting revised rates for the Phase 2 rate increase. In its supplemental petition, the utility stated that numerous changes had occurred since the filing of the original petition. First, the projected bridge in-service date was changed from March 2003 to October 2003. Second, the estimated capital cost of the new transmission main and the other approved work on the mainland had decreased. Third, WMSI had obtained financial support from the State Revolving Fund (SRF) loan program administered by the Department of Environmental Protection (DEP). Finally, an eminent domain case filed by WMSI in an attempt to receive compensation from DOT for the old main was unsuccessful.

Since the net effect of the above mentioned changes substantially reduced the total project cost, WMSI requested the inclusion of fire flow protection improvement measures in its supplemental petition for limited proceeding. The utility stated that fire flow protection is an issue of great importance to the utility's customers, as communicated at the customer meeting. The overall rate increase requested in the supplemental petition was designed to generate annual Phase 2 revenue of \$568,657 above the expected revenue from the previously approved Phase 1 rates, or an additional increase of 50.2 percent.

By Order No. PSC-03-1005-PAA-WU (Phase 2 PAA order), issued September 8, 2003, the Commission approved a Phase 2 revenue requirement of \$490,959, or an increase of 42.1 percent in base facility and gallonage charges. The Commission also approved the utility's request to include the cost of improved fire flow protection in this proceeding, and established a depreciable life of 35 years for the portion of WMSI's transmission main attached to the new bridge.

The Office of Public Counsel (OPC) and the utility both filed Petitions on Proposed Agency Action. OPC objected to that portion of the utility's plan which called for removing the existing 150,000 gallon elevated water storage tank and replacing it with a new 200,000 gallon tank. WMSI stated that its petition was in response to its understanding that OPC was also filing a protest. WMSI's petition addressed the rate case expense that would be incurred as a result of a formal hearing. On May 28, 2004, WMSI and OPC filed a Joint Motion Requesting Commission Approval of Settlement Agreement to address both parties' protests. The substance of the settlement agreement was that, in lieu of replacing the storage tank, the utility would complete the looping of the water mains that serve the service territory from Bob Sikes Cut to the state park. By Order No. PSC-04-0791-AS-WU, issued August 12, 2004 (Settlement Agreement Order), the Commission approved the settlement agreement.

On October 14, 2004, the utility filed its Petition for Approval of Phase 3 Final Rates (the final petition). By Order No. PSC-05-1156-PAA-WU (Phase 3 PAA order), issued November 21, 2005, the Commission approved a Phase 3 revenue requirement of \$1,368,807. The Commission also approved a three-tier inclining block rate structure designed to recover 50 percent of the revenue requirement through base facility charges (BFCs) and 50 percent through consumption charges. Further, the Commission approved a rate reduction of approximately 10 percent for the first twelve months that the rates are in effect, as a true-up for over-collection of rates during Phases 1 and 2 of this proceeding.

On December 12, 2005, OPC and WMSI timely filed a Joint Petition and Request to Approve Settlement Agreement (Joint Petition) and a Settlement Agreement. (See Attachment A.) In the Joint Petition, OPC and WMSI jointly protest the Phase 3 PAA Order. In the Joint Petition, OPC and the utility also state that they have agreed to settle this case. Further, the parties state that if the Commission accepts the Settlement Agreement and issues a final order adopting the terms of the Settlement Agreement, the joint protest shall be deemed to be withdrawn.

The purpose of this recommendation is to seek the Commission's approval of the Settlement Agreement. The Commission has jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve WMSI and OPC's Settlement Agreement?

Recommendation: Yes. The Commission should issue a final order approving the Settlement Agreement in its entirety, and the joint protest should be deemed withdrawn. (KYLE, GERVASI)

Staff Analysis: As discussed in the Case Background, WMSI and OPC protested the Phase 3 PAA Order. OPC's protest reflects its belief that the staff audit did not adequately verify the work done, amounts spent, and prudence of the expenditures claimed by WMSI in the final petition, and protests "all of the expenditures to be recovered from ratepayers in the Phase 3 Final Rates, until such time as the details and reasonableness of the transactions can be tested at a formal evidentiary hearing." Specifically, OPC states that it believes that many of the expenditures related to the water plant/office building were outside of the scope of work authorized to be recovered in this Limited Proceeding.

WMSI states that it reserves the right to protest "any and all proposed determinations in the (Phase 3) PAA Order including, but not limited to:"

- (a) the final revenue requirement;
- (b) the determination regarding improvements to the office building;
- (c) the determination regarding depreciation expense for the retired supply main;
- (d) the determination concerning rate case expense, and WMSI would specifically request recovery of all prudently incurred rate case expense through the conclusion of this proceeding, including but not limited to the final hearing, posthearing briefs, motions for reconsideration and appeals;
- (e) the reduction in rates for the first year to return alleged over-collection of revenue;
- (f) the determination of the utility's rate structure including any and all issues and proposed determinations relevant to or utilized in the Phase 3 PAA Order to develop or determine the proposed rate structure; and
- (g) the determination of final rates.

Further, WMSI states that, should the Commission not approved the Settlement Agreement, the above determinations and issues should be resolved in favor of the utility and consistent with positions previously provided by WMSI to the Commission and/or staff. WMSI maintains that it should recover its full Phase 3 final revenue requirement, that there should be no reduction in rates for the first year, and that WMSI should maintain its existing rate structure.

As discussed in the Case Background, OPC and WMSI also filed a proposed settlement agreement. In the Joint Petition, the parties assert that the Settlement Agreement avoids the time, expense and uncertainty associated with adversarial litigation. The parties further assert that the

Settlement Agreement is in keeping with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible.

In the Settlement Agreement, WMSI and OPC agree that the Phase 3 PAA Order would become final except that the Total Project Cost provided by the Phase 3 PAA Order would be reduced by an additional \$71,000 in plant in service. The parties state that this would reduce the annual revenue requirement approved in the Phase 3 PAA Order by \$5,635, with rates to be reduced pro rata to reflect the decrease in revenue requirement. The rate structure approved in the Phase 3 PAA Order would remain unchanged.

Staff notes that WMSI and OPC are the only parties of record in this docket. Any person whose substantial interests were affected by the PAA Order was given a point of entry to file a protest. However, no other protests were filed. Thus, staff believes that, should the Commission approve the Settlement Agreement, the order would be appropriately issued as final agency action, resolving the protests of WMSI and OPC as well as finalizing the undisputed issues in the PAA Order.

Staff has reviewed the Settlement Agreement, including verification of the calculated impact of the reduction in Total Project Cost on revenue requirement, and believes that it is a reasonable resolution to this protest. Further, staff believes that it is in the public interest for the Commission to approve the Settlement Agreement in its entirety.

Based on the foregoing, staff recommends that the Commission should issue a final order approving the Settlement Agreement in its entirety, and, by its terms, the joint protest should be deemed withdrawn.

Issue 2: What are the appropriate water rates?

Recommendation: If the Commission approves the Settlement Agreement, monthly rates as shown on Attachment B should be effective as permanent rates for service rendered as of the stamped approval date on the tariff sheets, provided customers have received notice required by Rule 25-30.475, Florida Administrative Code. The utility should provide an affidavit to the Commission of the date notice was given to the customers within ten days after the date of the customer notice. (KYLE, LINGO)

Staff Analysis: If the Commission approves the Settlement Agreement, monthly rates as shown on Attachment B should be effective as permanent rates for service rendered as of the stamped approval date on the tariff sheets, provided customers have received notice required by Rule 25-30.475, Florida Administrative Code. The utility should provide an affidavit to the Commission of the date notice was given to the customers within ten days after the date of the customer notice.

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Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations on Issues 1 and 2, this docket should be closed. (GERVASI)

Staff Analysis: If the Commission approves staff's recommendations on Issues 1 and 2, no further action will be necessary and this docket should be closed.

In Re: Petition of Water Management Services, Inc
For a Limited Proceeding to Increase Water Rates
In Franklin County.

Docket No. 000694-WU
Filed: December 12, 2005

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 12th day of December, 2005, by and between the Citizens of the State of Florida ("Citizens") through the Office of Public Counsel ("OPC") and Water Management Services, Inc. ("Water Management" or "Utility").

WITNESSETH

WHEREAS, On November 21, 2005, the Commission issued Order No. PSC-05-1156-PAA-WU ("PAA Order"); and

WHEREAS, OPC and Water Management have timely filed a Joint Petition Protesting the PAA Order; and

WHEREAS, notwithstanding the above Joint Petition protesting the PAA Order, OPC and Water Management desire to enter into this Settlement Agreement in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with this Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible;

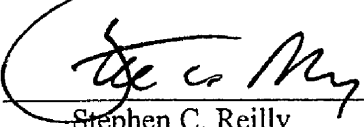
NOW THEREFORE, for and in consideration of the mutual covenants set forth below, OPC and Water Management agree as follows:

Attachment A
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1. The PAA Order shall become a Final Order, except that the Total Project Cost provided by the PAA Order shall be reduced by an additional \$71,000 in plant in service. This reduction of \$71,000 shall result in a reduction of \$5,635 to the annual revenue requirement approved in the PAA Order. While the rate structure will remain the same, rates will be reduced on a pro rata basis to reflect the \$5,635 reduction in the annual revenue requirement.
2. If the Commission accepts this Settlement Agreement and issues a Final Order adopting the reduced Total Project Cost, reduced annual revenue requirement and resulting reduction in rates, the Joint Protest shall be deemed to be withdrawn.
3. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.
4. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures.
5. The undersigned personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

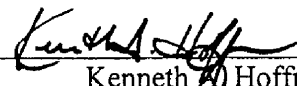
CITIZENS OF THE STATE OF FLORIDA,
OFFICE OF PUBLIC COUNSEL

By: _____


Stephen C. Reilly
Associate Public Counsel

WATER MANAGEMENT SERVICES, INC.

By: _____


Kenneth W. Hoffman
Counsel for Water Management
Services, Inc.

Attachment B

**Water Management Services, Inc.
Water Monthly Service Rates**

	<u>Rates Prior to Filing</u>	<u>Commission Approved Phase 2</u>	<u>Utility Requested Final</u>	<u>Staff Recomm. Final</u>	<u>12-month True-Up Rates</u>	<u>4-year Rate Reduction</u>
<u>Residential and General Service</u>						
Base Facility Charge by Meter Size:						
5/8" x 3/4"	\$20.90	\$33.06	\$34.68	\$27.89	\$25.09	\$0.39
3/4"	N/A	N/A	N/A	\$41.84	\$37.64	\$0.58
1"	\$52.25	\$82.66	\$86.71	\$69.74	\$62.74	\$0.96
1 1/2"	\$104.51	\$165.34	\$173.45	\$139.47	\$125.47	\$1.93
2"	\$167.20	\$264.52	\$277.50	\$223.16	\$200.76	\$3.08
3" Compound	\$334.40	\$529.03	\$554.98	\$418.42	\$376.42	\$5.78
3" Turbine	\$365.77	\$578.67	\$607.06	\$488.16	\$439.16	\$6.74
4" Compound	\$522.52	\$826.50	\$867.04	\$697.37	\$627.37	\$9.63
4" Turbine	\$627.02	\$991.98	\$1,040.64	\$836.84	\$752.84	\$11.56
6" Compound	\$1,045.03	\$1,653.00	\$1,734.09	\$1,394.73	\$1,254.74	\$19.27
6" Turbine	\$1,306.30	\$2,066.64	\$2,168.02	\$1,743.42	\$1,568.42	\$24.09
8" Compound	\$1,672.05	\$2,644.80	\$2,774.40	\$2,231.58	\$2,007.58	\$30.83
8" Turbine	\$1,881.06	\$2,975.40	\$3,121.20	\$2,510.52	\$2,258.53	\$34.69
10" Compound	\$2,403.58	\$3,801.90	\$3,988.20	\$3,207.89	\$2,885.90	\$44.32
10" Turbine	\$3,030.59	\$4,793.70	\$5,028.60	\$4,044.73	\$3,638.74	\$55.88
12" Compound	\$4,493.65	\$6,281.40	\$7,456.20	\$5,997.36	\$5,395.38	\$82.86
Gallage Charge, per 1,000 gallons						
Current and Requested, Residential	\$1.98	\$3.13	\$3.28	N/A	N/A	N/A
Residential						
0 - 8 kgal	N/A	N/A	N/A	\$3.32	\$2.98	\$0.05
8 - 15 kgal	N/A	N/A	N/A	\$4.14	\$3.73	\$0.06
Over 15 kgal	N/A	N/A	N/A	\$4.98	\$4.48	\$0.07
General Service	\$1.98	\$3.13	\$3.28	\$4.72	\$4.25	\$0.07
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>						
3,000 Gallons	\$26.84	\$42.45	\$44.52	\$37.85	\$34.03	
8,000 Gallons	\$36.74	\$58.10	\$60.92	\$54.45	\$48.93	
10,000 Gallons	\$40.70	\$64.36	\$67.48	\$62.73	\$56.39	
17,000 Gallons	\$54.56	\$86.27	\$90.44	\$93.39	\$84.00	