

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

DOCKET NO. 110153-SU
ORDER NO. PSC-11-0388-PCO-SU
ISSUED: September 13, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER SUSPENDING PROPOSED FINAL RATES
AND APPROVING INTERIM RATES

BY THE COMMISSION:

BACKGROUND

Utilities, Inc. of Eagle Ridge (Eagle Ridge or Utility) is a Class B utility providing wastewater service to approximately 822 customers in Lee County. Wastewater rates were last established for this Utility in 2009.¹

On June 24, 2011, Eagle Ridge filed the application for rate increase in Lee County, at issue in the instant docket. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the 13-month average period ended December 31, 2010.

Eagle Ridge requested interim rates designed to generate annual revenues of \$1,149,400 for wastewater only. This represents a revenue increase on an annual basis of \$160,169 or 16.19 percent. The Utility requested final rates designed to generate annual wastewater revenues of \$1,235,092. This represents a revenue increase of \$238,843 (23.97 percent).

This Order addresses the suspension of Eagle Ridge's requested final rates and the Utility's requested interim rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

SUSPENSION OF FINAL RATES

Section 367.081(6), F.S., provides that the rates proposed by the Utility shall become effective within 60 days after filing unless we vote to withhold consent of implementation of the

¹ See Order No. PSC-09-0264-PAA-SU, issued April 27, 2009, in Docket No. 080247-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

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requested rates. The above referenced statute permits the proposed final rates to go into effect, under bond, escrow, or corporate undertaking, eight months after filing unless final action has been taken by us.

We have reviewed the filing and have considered the information filed in support of the rate application and the proposed final rates. We believe that it is necessary to require further investigation of this information, including on-site investigations by staff accountants and engineers. We find that it is reasonable and necessary to require further amplification and explanation regarding this data, and to require production of additional and/or corroborative data. This further examination will include on-site inspections by our staff accountants and engineers. Based on the foregoing, we find that it is appropriate to suspend the Utility's proposed final rate increase.

INTERIM REVENUE REQUIREMENTS

On June 24, 2011, Eagle Ridge filed its rate base, cost of capital, and operating statements to support its requested interim increase in wastewater rates. Pursuant to Section 367.082(1), F.S., in order to establish a prima facie entitlement for interim relief, the Utility shall demonstrate that it is earning outside the range of reasonableness on its rate of return. Pursuant to Section 367.081(2)(a), F.S., in a proceeding for an interim increase in rates, we authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return. Based on the Utility's filing and the adjustments below, we find that the Utility has demonstrated its prima facie entitlement in accordance with Section 367.082(1), F.S.

Pursuant to Section 367.082(5)(b)1, F.S., the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with adjustments made in the Utility's most recent rate proceeding and annualizing any rate changes. We have reviewed Eagle Ridge's interim request, as well as Order No. PSC-09-0264-PAA-SU, in which we last established rate base. Attached to this Order are accounting schedules to illustrate the approved rate base, capital structure, and test year operating income amounts. Rate base is labeled as Schedule No. 1-A, with adjustments shown on Schedule No. 1-B. Capital structure is labeled as Schedule No. 2. Operating income is labeled as Schedule No. 3-A, with adjustments shown on Schedule No. 3-B.

Rate Base

The Utility did not include a used and useful (U&U) adjustment to its interim rate base based on its assumption that the wastewater systems are built out. However, pursuant to Section 367.082, F.S., the method used to calculate U&U in Eagle Ridge's last rate case must be used for interim purposes. In Docket No. 080247-SU, a composite U&U adjustment of 85.75 percent was made to the Utility's wastewater plants. Based on our review of the methodology used in that case, we find that a U&U adjustment of 87.37 percent shall be used for interim purposes in this case and we reduce the rate base by \$262,031. We also find that corresponding adjustments shall be made to reduce depreciation expense and property taxes by \$19,258 and \$489, respectively.

In its filing, Eagle Ridge recorded a working capital allowance of \$166,240 based on the balance sheet approach. Pursuant to Section 367.082(5)(b)1, F.S., the Utility must apply adjustments consistent with adjustments made in the Utility's most recent rate proceeding. In its last rate case, we approved working capital based on the formula approach which is one-eighth of operation and maintenance (O&M) expenses. Based on our review, we find that adjustments should be made to working capital and that working capital for interim purposes shall be \$81,180. Thus, working capital shall be decreased by \$85,060.

Based on the above, we hereby approve a rate base of \$2,316,481 for interim purposes.

Cost of Capital

For purposes of its interim request, Eagle Ridge used a return on equity (ROE) of 11.34 percent and an overall cost of capital of 7.91 percent. Pursuant to Section 367.082(2)(a), F.S., the appropriate ROE for purposes of determining an interim rate increase is the minimum of the ROE range. In its last rate case, we approved an ROE of 12.34 percent with a range of 11.34 percent to 13.34 percent. Accordingly, we find that the appropriate ROE and a overall cost of capital for interim purposes are 11.34 percent and 7.79 percent, respectively.

Net Operating Income

Pursuant to Section 367.082(5)(b)1, F.S., the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with adjustments made in the Utility's most recent rate proceeding and annualizing any rate changes. Based on our review, we find that a few adjustments are necessary for interim purposes.

First, in its filing, Eagle Ridge calculated annualized revenues of \$991,495. As a result, the Utility made an annualized revenue reduction of \$2,264. When annualizing the rates in effect as of December 31, 2010, we calculated annualized revenue to be \$988,279. Thus, the annualized revenue reduction should have only been \$1,746. Accordingly, we find that interim test year revenues shall be increased by \$518 (\$2,264 - \$1,746).

Second, Eagle Ridge included a net adjustment to decrease expenses by \$38,063 for salaries, employee pensions and benefits, and transportation expense. In its filing, the Utility stated these adjustments were to correct allocations and to annualize salary and related expenses. We find that the Utility's proposed adjustments for annualizing salary and related expenses are pro forma because they are outside the interim test year. Because Eagle Ridge did not provide a breakdown of what amount related to correcting allocations and to annualizing salary and related expenses, the net adjustment totaling \$38,063 shall be removed from the interim net operating income calculation. Further, a corresponding adjustment shall be made to remove pro forma payroll taxes of \$3,258.

Third, as discussed above, we find that a non-U&U adjustment to rate base shall be made. Accordingly, for interim purposes, depreciation expense and property taxes shall be reduced by \$19,258 and \$489, respectively.

Based on the above, we find that the appropriate test year operating income, before any revenue increase, is \$101,332.

Revenue Requirement

Based on the above adjustments, we find a revenue requirement of \$1,122,517. This represents an interim increase in annual revenues of \$132,768 (or 13.41 percent). This increase will allow the Utility the opportunity to recover its operating expenses and earn a 7.79 percent return on its rate base.

INTERIM WASTEWATER RATES

We find that interim wastewater service rates for Eagle Ridge be designed to allow the Utility the opportunity to generate annual operating revenues of \$1,122,517. Before removal of miscellaneous revenues, this would result in an increase of \$132,768 or 13.41 percent. To determine the appropriate percentage increase to apply to the service rates, we find that miscellaneous service revenues shall be removed from the test year revenues. The calculation is as follows:

		<u>Water</u>
1	Total Test Year Revenues	\$989,749
2	Less: Miscellaneous Revenues	(952)
3	Test Year Revenues from Service Rates	<u>\$988,797</u>
4	Revenue Increase	\$132,768
5	% Service Rate Increase (Line 4/Line 3)	<u>13.43%</u>

The interim rate increase of 13.43 percent shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2010. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, the required security has been filed, and the customers have received the notice. The Utility shall provide proof of the date notice was given within 10 days after the date of notice.

The Utility's current rates, proposed interim and final rates, and approved interim rates are shown on attached Schedule No. 4.

SECURITY TO GUARANTEE INTERIM RATES

Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by us. The total annual interim increase is \$132,768. In accordance with Rule 25-30.360, F.A.C., we calculated the potential refund of revenues and interest collected under interim conditions to be \$77,484. This amount is based on an estimated seven months of revenue being collected from the approved interim rates over the Utility's current authorized rates shown on Schedule No. 4.

Eagle Ridge is a wholly-owned subsidiary of Utilities, Inc. (UI or Company), which provides all investor capital to its subsidiaries. UI has requested an incremental increase in its corporate undertaking in the amount of \$77,484 for the wastewater interim rate increase for its Eagle Ridge system. The current cumulative corporate undertaking amount outstanding for other UI systems is \$778,078. The new request would bring the cumulative amount outstanding to \$855,562.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We reviewed UI's 2008, 2009, and 2010 financial statements to determine if the Company can support a corporate undertaking on behalf of its subsidiary. UI reported deficient liquidity in 2008 and 2009 and low levels of interest coverage over the review period. However, in 2010, the Company achieved sufficient liquidity, and its interest coverage ratio has also been trending upwards since 2008. In addition, UI reported adequate ownership equity over the three year review period. In 2008, the Company experienced a net loss in the amount of \$635,405, but improved profitability to sufficient levels in 2009, achieving net income in the amount of \$5,492,924. UI's profitability in 2010 increased from \$5,276,388 to \$15,576,121 by virtue of a one-time gain on the disposition of utility systems in the amount of \$10,299,733. The amount of the one-time gain is atypical of the amounts UI reported in prior-year financial statements and there is no indication a gain of that magnitude will occur in future years. Replacing the \$10 million gain with the Company's 5-year average gain on the disposition of utility systems, or \$4,076,430, we find that UI's average net income over the 3-year period from 2008 to 2010 is \$4,736,779, which is 5.4 times greater than the requested cumulative corporate undertaking amount of \$855,562.

Based on our review of the financial reports submitted by UI, we find that UI has adequate resources to support a corporate undertaking in the amount requested. Based on the analysis, we find that a cumulative corporate undertaking in the amount of \$855,562 is acceptable contingent upon receipt of a written guarantee by UI and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Pursuant to Rule 25-30.360(6), F.A.C., the Utility shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

We find that in no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the final wastewater increase requested by Utilities, Inc. of Eagle Ridge is hereby suspended in accordance with Section 367.081(6), Florida Statutes. It is further

ORDERED that the request for an interim increase in wastewater rates by Utilities, Inc. of Eagle Ridge is hereby granted to the extent set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the schedules and attachments to this Order are incorporated herein by reference. It is further

ORDERED that the approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1)(a), F.A.C., provided customers have received notice. It is further

ORDERED the rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. It is further

ORDERED that Utilities, Inc. of Eagle Ridge shall provide proof of the date notice was given within 10 days after the date of notice. It is further

ORDERED that a corporate undertaking is an acceptable security contingent upon receipt of a written guarantee by Utilities, Inc. and written confirmation that Utilities, Inc. does not have any outstanding guarantees on behalf of Utilities, Inc. owned utilities in other states. It is further

ORDERED that Utilities, Inc. shall file a corporate undertaking on behalf of its subsidiary, Utilities, Inc. of Eagle Ridge to guarantee any potential refunds of revenues collected under interim conditions. The total guarantee shall be an amount of \$855,562. It is further

ORDERED that pursuant to Rule 25-30.360(6), F.A.C., Utilities, Inc. of Eagle Ridge shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that this docket shall remain open pending our final action on Utilities, Inc. of Eagle Ridge's requested rate increase.

By ORDER of the Florida Public Service Commission this 13th day of September, 2011.



ANN COLE
Commission Clerk
Florida Public Service Commission
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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 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 this order, which is non-final in nature, may request (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Utilities, Inc. of Eagle Ridge Schedule of Wastewater Rate Base Test Year Ended 12/31/10			Schedule No. 1-A Docket No. 110153-SU		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Comm. Adjusted Test Year
1 Plant in Service	\$6,897,768	(\$59,771)	\$6,837,997	\$0	\$6,837,997
2 Land and Land Rights	51,847	41	51,888	0	51,888
3 Non-used and Useful Components	0	0	0	(262,031)	(262,031)
4 Accumulated Depreciation	(3,161,316)	125,332	(3,035,984)	0	(3,035,984)
5 CIAC	(3,809,952)	1	(3,809,951)	0	(3,809,951)
6 Amortization of CIAC	2,355,036	98,346	2,453,382	0	2,453,382
7 Construction Work In Progress	3	(3)	0	0	0
8 Net Acquisition Adjustment	266,805	(266,805)	0	0	0
9 Working Capital Allowance	0	<u>166,240</u>	<u>166,240</u>	<u>(85,060)</u>	<u>81,180</u>
1 0 Rate Base	<u>\$2,600,191</u>	<u>\$63,381</u>	<u>\$2,663,572</u>	<u>(\$347,091)</u>	<u>\$2,316,481</u>

Utilities, Inc. of Eagle Ridge Adjustments to Rate Base Test Year Ended 12/31/10		Schedule No. 1-B Docket No. 110153-SU
Explanation		Wastewater
<u>Non-used and Useful</u> To reflect net non-used and useful adjustment.		<u>(\$262,031)</u>
<u>Working Capital</u> To reflect adjustment to working capital allowance.		<u>(\$85,060)</u>

Utilities, Inc. of Eagle Ridge Capital Structure-Simple Average Test Year Ended 12/31/10						Schedule No. 2 Docket No. 110153-SU			
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
Per Utility									
1 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,818,319)	\$1,181,681	44.36%	6.64%	2.95%	
2 Short-term Debt	16,123,077	0	16,123,077	(16,017,180)	105,897	3.98%	3.88%	0.15%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	169,661,060	0	169,661,060	(168,547,335)	1,113,725	41.81%	11.34%	4.74%	
5 Customer Deposits	28,844	0	28,844	0	28,844	1.08%	6.00%	0.06%	
6 Deferred Income Taxes	<u>233,425</u>	<u>0</u>	<u>233,425</u>	<u>0</u>	<u>233,425</u>	<u>8.76%</u>	0.00%	<u>0.00%</u>	
7 Total Capital	<u>\$366,046,406</u>	<u>\$0</u>	<u>\$366,046,406</u>	<u>(\$363,382,834)</u>	<u>\$2,663,572</u>	<u>100.00%</u>		<u>7.91%</u>	
Per Commission									
8 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,989,136)	\$1,010,864	43.64%	6.64%	2.90%	
9 Short-term Debt	16,123,077	0	16,123,077	(16,032,531)	90,546	3.91%	3.88%	0.15%	
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
11 Common Equity	169,661,060	0	169,661,060	(168,708,258)	952,802	41.13%	11.34%	4.66%	
12 Customer Deposits	28,844	0	28,844	0	28,844	1.25%	6.00%	0.07%	
13 Deferred Income Taxes	<u>233,425</u>	<u>0</u>	<u>233,425</u>	<u>0</u>	<u>233,425</u>	<u>10.08%</u>	0.00%	<u>0.00%</u>	
14 Total Capital	<u>\$366,046,406</u>	<u>\$0</u>	<u>\$366,046,406</u>	<u>(\$363,729,925)</u>	<u>\$2,316,481</u>	<u>100.00%</u>		<u>7.79%</u>	
						LOW	HIGH		
RETURN ON EQUITY						<u>11.34%</u>	<u>13.34%</u>		
OVERALL RATE OF RETURN						<u>7.79%</u>	<u>8.61%</u>		

Utilities, Inc. of Eagle Ridge Statement of Wastewater Operations Test Year Ended 12/31/10						Schedule No. 3-A Docket No. 110153-SU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Adjust- ments	Adjusted Test Year	Commission Revenue Increase	Commission Revenue Requirement
1 Operating Revenues:	<u>\$990,978</u>	<u>\$158,422</u>	<u>\$1,149,400</u>	<u>(\$159,651)</u>	<u>\$989,749</u>	<u>\$132,768</u> 13.41%	<u>\$1,122,517</u>
Operating Expenses							
2 Operation & Maintenance	\$683,190	(\$33,752)	\$649,438	\$38,063	\$687,501		\$687,501
3 Depreciation	165,260	(29,396)	135,864	(19,258)	116,606		116,606
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	67,378	10,387	77,765	(10,931)	66,834	5,975	72,808
6 Income Taxes	<u>6,834</u>	<u>69,198</u>	<u>76,032</u>	<u>(\$8,555)</u>	<u>17,477</u>	<u>47,712</u>	<u>65,189</u>
7 Total Operating Expense	<u>\$922,662</u>	<u>\$16,437</u>	<u>\$939,099</u>	<u>(\$50,681)</u>	<u>\$888,418</u>	<u>\$53,687</u>	<u>\$942,104</u>
8 Operating Income	<u>\$68,316</u>	<u>\$141,985</u>	<u>\$210,301</u>	<u>(\$108,969)</u>	<u>\$101,332</u>	<u>\$79,081</u>	<u>\$180,413</u>
9 Rate Base	<u>\$2,600,191</u>		<u>\$2,663,572</u>		<u>\$2,316,481</u>		<u>\$2,316,481</u>
10 Rate of Return	<u>2.63%</u>		<u>7.90%</u>		<u>4.37%</u>		<u>7.79%</u>

Utilities, Inc. of Eagle Ridge Adjustment to Operating Income Test Year Ended 12/31/10		Schedule No. 3-B Docket No. 110153-SU
Explanation	Wastewater	
<u>Operating Revenues</u>		
1	Remove requested interim revenue increase.	(\$160,169)
2	To reflect the appropriate amount of annualized revenues.	<u>518</u>
	Total	<u>(\$159,651)</u>
<u>Operation and Maintenance Expense</u>		
	Remove pro forma expense adjustments.	<u>\$38,063</u>
<u>Depreciation Expense - Net</u>		
	To remove net depreciation on non-U&U adjustment above.	<u>(\$19,258)</u>
<u>Taxes Other Than Income</u>		
1	RAFs on revenue adjustments above.	(\$7,184)
2	Remove pro forma payroll taxes.	(3,258)
3	Remove non-U&U property taxes.	(489)
	Total	<u>(\$10,931)</u>

Utilities, Inc. of Eagle Ridge		Schedule No. 4		
Wastewater Monthly Service Rates		Docket No. 110153-SU		
Test Year Ended 12/31/10				
	Rates in Effect 12/31/2010	Utility Requested Interim	Utility Requested Final	Commission Interim
<u>Residential</u>				
Base Facility Charge All Meter Sizes:	\$20.62	\$23.96	\$25.75	\$23.39
Gallage Charge - Per 1,000 gallons (10,000 gallon cap)	\$4.72	\$5.49	\$5.89	\$5.35
Cross Creek Flat Rate	\$23.98	\$27.87	\$29.96	\$27.20
<u>General Service</u>				
Base Facility Charge by Meter Size:				
5/8" x 3/4"	\$20.62	\$23.96	\$25.75	\$23.39
1"	\$51.55	\$59.91	\$64.39	\$58.47
1-1/2"	\$103.10	\$119.82	\$128.78	\$116.94
2"	\$164.95	\$191.70	\$206.03	\$187.10
3"	\$329.91	\$383.42	\$412.08	\$374.21
4"	\$515.49	\$599.10	\$643.88	\$584.71
6"	\$1,030.98	\$1,198.20	\$1,287.77	\$1,169.41
8"	\$0.00	\$0.00	\$0.00	\$0.00
Gallage Charge, per 1,000 Gallons	\$5.67	\$6.58	\$7.08	\$6.43
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>				
3,000 Gallons	\$34.78	\$40.43	\$43.42	\$39.45
5,000 Gallons	\$44.22	\$51.41	\$55.20	\$50.16
10,000 Gallons (Wastewater Gallage Cap - 10,000 Gallons)	\$67.82	\$78.86	\$84.65	\$76.93
Average Usage of 5,100	\$44.69	\$51.96	\$55.79	\$50.69