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FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: November 30, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Mouring) *MBJ ALM*
Division of Economics (Hudson) *PA*
Office of General Counsel (Taylor, Crawford) *WDT*

RE: Docket No. 20170247-WU – Joint motion requesting Commission approval of settlement agreement by the Office of Public Counsel, Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, Raintree Waterworks, Inc., and Sunny Hills Utility Company.

AGENDA: 12/12/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners *(CS)*

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, Raintree Waterworks, Inc., and Sunny Hills Utility Company (hereafter referred to as Utilities) are all jurisdictional water and/or wastewater utilities. These Utilities all share a common majority ownership.

In April 2017, as part of its ongoing earnings surveillance activities, the Commission staff identified possible overearnings based upon a review of the Utilities' respective 2016 Annual

Reports. By letter dated May 5, 2017, the Utilities consented to holding subject to refund any earned return on equity (ROE) which exceeded the maximum of the allowed ROE for the year ended December 31, 2016. Multiple meetings between staff and the Utilities took place during the summer to discuss the Utilities' level of earnings.

On October 3, 2017, an informal meeting between Commission staff, the Utilities, and the Office of Public Counsel (OPC) was held to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE. Subsequent to that meeting, the Utilities and OPC (collectively referred to as Parties) held further discussions regarding additional data provided by the Utilities to OPC.

On November 17, 2017, the Parties filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Agreement) to resolve the disposition of 2017 overearnings, and address any possible overearnings for 2018. This Agreement is attached to this recommendation as Attachment A.

The purpose of this recommendation is to present the settlement proposal to the Commission for approval. The Commission has jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Joint Motion and Settlement Agreement by the Parties?

Recommendation: Yes. The proposed Settlement Agreement adequately addresses the potential overearnings staff had previously identified during its ongoing earnings surveillance activities.

As applicable, the Utilities should make refunds, credit CIAC, and reduce rates as outlined in the Settlement Agreement. Schedule No. 1 reflects staff's recommended rates per the Settlement Agreement. Brendenwood Waterworks, Inc. should file a proposed customer notice reflecting the Commission's decision within 15 days of the Commission vote. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Settlement Agreement specifies that this rate reduction should be effective the first billing cycle in January 2018. Brendenwood Waterworks, Inc. should provide proof that the customers have received notice within 10 days after the date of the notice. (Mouring, Hudson)

Staff Analysis: As stated in the Case Background, in April 2017, as part of its ongoing earnings surveillance activities, the Commission staff identified possible overearnings based upon a review of the Utilities respective 2016 Annual Reports. On November 17, 2017, the Parties filed a Joint Motion Requesting Commission Approval of Settlement Agreement to resolve the disposition of 2017 overearnings, and address any possible overearnings for 2018. With respect to overearnings for 2017, customers of Black Bear Waterworks, Inc. would receive bill credits representing 10.44 percent of water revenues, Brendenwood Waterworks, Inc. customers would receive bill credits representing 14.20 percent of water revenues, Lake Idlewild Utility Company customers would receive bill credits representing 9.67 percent of water revenues, and customers of Raintree Waterworks, Inc. would receive credits for 2.88 percent of water revenues. All refunds would be made in accordance with Rule 25-30.360(3), F.A.C.

In addition, Brendenwood Waterworks, Inc., has agreed to reduce water rates by 11.38 percent on a prospective basis effective with the first billing cycle in January 2018. For Harbor Waterworks, Inc., a credit adjustment to Contributions in Aid of Construction in the amount of \$39,160 would be made along with an offsetting adjustment to Retained Earnings.

The Agreement also provides protections for customers for possible overearnings of Black Bear Waterworks, Inc., Harbor Waterworks, Inc., Lake Idlewild Utility Company, and Raintree Waterworks, Inc. in 2018. These utilities have agreed to hold subject to refund all revenues received during the calendar year 2018 that are above their respective authorized ROE range until final review of the 2018 Annual Reports.

The Parties agree that no further actions are needed with respect to Brevard Waterworks, Inc., Country Walk Utility Company, or Sunny Hills Utility Company.

The Parties stated that this Agreement resolves the issues raised in this proceeding so as to maintain a degree of stability and predictability with respect to customer bills. Staff believes that the Agreement is a reasonable resolution for the possible overearnings on a prospective basis. Further, staff believes that it is in the public interest for the Commission to approve the Agreement because it promotes administrative efficiency, avoiding the time and expense of a formal earnings investigation.

In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings, staff recommends that the Commission approve the Joint Motion and Settlement Agreement by the Parties. The proposed Settlement Agreement adequately addresses the potential overearnings staff had previously identified during its ongoing earnings surveillance activities. Schedule No. 1 reflects staff's recommended rates per the Settlement Agreement.

Staff also recommends that Brendenwood Waterworks, Inc. file a proposed customer notice reflecting the Commission's decision approving a permanent reduction in water rates within 15 days of the Commission vote. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Agreement specifies that this rate reduction will be effective the first billing cycle in January 2018. Brendenwood Waterworks, Inc. should provide proof that the customers have received notice within 10 days after the date of the notice.

Issue 2: Should this docket be closed?

Recommendation: No. If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refunds discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by Brendenwood Waterworks, Inc. and approved by staff. Once staff has verified that the notice has been provided and refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively. (Taylor, Mouring)

Staff Analysis: If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by Brendenwood Waterworks, Inc. and approved by staff. Once staff has verified that the notice has been provided and refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively.

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2017 Overearnings for:

Black Bear Waterworks, Inc.
Brendenwood Waterworks, Inc.
Brevard Waterworks, Inc.
Country Walk Utilities, Inc.
Harbor Waterworks, Inc.
Lake Idlewild Waterworks, Inc.
Raintree Waterworks, Inc.
Sunny Hills Utility Company

Docket No. 2017_____

Filed: November 17, 2017

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 17th day of November, 2017, by and between the following utilities:

Black Bear Waterworks, Inc.
Brendenwood Waterworks, Inc.
Brevard Waterworks, Inc.
Country Walk Utilities, Inc.
Harbor Waterworks, Inc.
Lake Idlewild Utility Company
Raintree Waterworks, Inc.
Sunny Hills Utility Company

(hereafter referred to as "Utilities"), and the Office of Public Counsel ("OPC"), on behalf of the Citizens of the State of Florida ("Citizens") and customers of each respective Utilities (hereafter, "Parties").

WITNESSETH

WHEREAS, the staff of the Florida Public Service Commission ("Commission" or "FPSC") identified potential 2017 overearnings based upon the review of the 2016 Annual Report of the respective Utilities;

WHEREAS, the Utilities submitted a letter dated May 5, 2017 to the FPSC as acknowledgement of and consent to the FPSC's jurisdiction over the extent to which the earned return on common equity (ROE) for the year ending December 31, 2016 exceeds the maximum of the allowed ROE;

WHEREAS, it was the Utilities' understanding that any decision regarding the disposition of any portion of such earned return above the maximum allowed ROE will be subject for disposition after the nature and extent of any such amount above the approved ROE ranges are known;

WHEREAS, on October 3, 2017, an informal meeting between the FPSC, Utilities, and OPC was held to discuss the potential disposition of any portion of such earned return above the maximum allowed ROE ("overearnings");

WHEREAS, the Parties conducted further discussions and evaluation of additional data provided by Utilities to OPC on such overearnings;

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this proceeding so as to maintain a degree of stability and predictability with respect to customer bills;

WHEREAS, the Parties have entered into this Settlement Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350 and 367, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the parties to this agreement each has agreed to concessions to the others with the expectation that all provisions of this Settlement Agreement will be enforced by the Commission as to all matters addressed herein with respect to all parties regardless of whether a court ultimately determines such matters to reflect Commission policy, upon acceptance of the agreement as provided herein

and upon approval in the public interest; and

NOW THEREFORE, for and in consideration of the mutual covenants set forth below, the sufficiency of which is hereby acknowledged the parties agree to the following:

1. **Black Bear Waterworks, Inc.**: Black Bear Waterworks, Inc. (Black Bear) agrees to refund via credit on its customers' account 10.44% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Black Bear also agrees to hold subject to refund all revenues received during the calendar year 2018 that are above its authorized ROE range until the final review of its 2018 Annual Report. Black Bear hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceeds the maximum of its allowed ROE.

2. **Brendenwood Waterworks, Inc.**: Brendenwood Waterworks, Inc. (Brendenwood) agrees to refund via credit on its customers' account 14.20% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Brendenwood also agrees to reduce water rates by 11.38% on a prospective basis effective the first billing cycle in January 2018.

3. **Harbor Waterworks, Inc.**: In recognition of additional water plant investment anticipated for 2018, Harbor Waterworks, Inc. (Harbor) agrees to apply a credit adjustment to its water Contributions in Aid of Construction (CIAC) account in the amount of \$39,160 (with an offsetting adjustment to its Retained Earnings account). Harbor also agrees to hold subject to refund all water revenues received during the calendar year 2018 that are above its authorized

ROE range until the final review of its 2018 Annual Report. Harbor hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceeds the maximum of its allowed ROE.

4. **Lake Idlewild Utility Company:** Lake Idlewild Utility Company (Lake Idlewild) agrees to refund via credit on its customers' account 9.67% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Lake Idlewild also agrees to hold subject to refund all revenues received during the calendar year 2018 that are above its authorized ROE range until the final review of its 2018 Annual Report. Lake Idlewild hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceeds the maximum of its allowed ROE.

5. **Raintree Waterworks, Inc.:** Raintree Waterworks, Inc. (Raintree) agrees to refund via credit on the customers' account 2.88% of water revenues billed for the calendar year 2017. The refunds shall be made pursuant to Rule 25-30.360(3), Florida Administrative Code. This refund credit shall be based upon each individual customer's billed amounts for the 2017 calendar year. Raintree also agrees to hold subject to refund all revenues received during the calendar year 2018 that are above its authorized ROE range until the final review of its 2018 Annual Report. Raintree hereby consents to the FPSC's jurisdiction over the extent to which its earned ROE for the year ending December 31, 2018 exceed the maximum of its allowed ROE.

6. **Brevard Waterworks, Inc., Country Walk Utility Company, or Sunny Hills Utility Company:** The Parties agree, based upon the analysis of the current and prospective 2017 earnings, there are no further action needed with respect to Brevard Waterworks, Inc., Country

Walk Utility Company, or Sunny Hills Utility Company.

7. In keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues whenever possible, the Parties submit this Settlement Agreement for review and approval. The Parties agree that this Settlement Agreement is in the public interest. The provisions of this Settlement Agreement are contingent on approval of this Settlement Agreement in its entirety by the Commission without modification. The Parties further agree that they will support this Settlement Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Settlement Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Settlement Agreement or the subject matter hereof. No Party will assert in any proceeding before the Commission that this Settlement Agreement nor any of the terms herein shall have any precedential value nor may it be used in any other proceeding. To the extent a dispute arises among the parties about the provisions, interpretation, or application of this agreement, the parties agree to meet and confer in an effort to resolve the dispute. To the extent that the Parties cannot resolve any dispute, the matter may be submitted to the Commission for resolution. Approval of this Settlement Agreement in its entirety will resolve all matters and issues discussed herein pursuant to and in accordance with Section 120.57(4), Florida Statutes. This docket should be closed administratively after Commission staff verifies the revised tariff sheets, customer notices have been mailed, and refunds have been made.

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this Settlement Agreement by their signature.

OFFICE OF PUBLIC COUNSEL

Date: 11-17-17

By: 

Erik L. Sayler
Associate Public Counsel

Attorney for the Citizens
of the State of Florida

UTILITIES

Date: 11-17-17

By: 

Gary Deremer
President

Black Bear Waterworks, Inc.
Brendenwood Waterworks, Inc.
Brevard Waterworks, Inc.
Country Walk Utilities, Inc.
Harbor Waterworks, Inc.
Lake Idlewild Utility Company
Raintree Waterworks, Inc.
Sunny Hills Utility Company

BRENDENWOOD WATERWORKS, INC.		SCHEDULE NO. 1	
MONTHLY WATER RATES		DOCKET NO. 20170247-WU	
	CURRENT RATES	STAFF RECOMMENDED RATES	
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$14.91	\$13.21	
3/4"	\$22.36	\$19.82	
1"	\$37.27	\$33.03	
1-1/2"	\$74.53	\$66.05	
2"	\$119.25	\$105.68	
3"	\$238.50	\$211.36	
4"	\$372.65	\$330.25	
6"	\$745.32	\$660.50	
Charge per 1,000 gallons - Residential			
0-5,000 gallons	\$2.03	\$1.80	
5,001-10,000 gallons	\$2.26	\$2.00	
Over 10,000 gallons	\$4.53	\$4.01	
Charge per 1,000 gallons - General Service			
	\$3.08	\$2.73	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
4,000 Gallons	\$23.03	\$20.41	
6,000 Gallons	\$27.32	\$24.21	
10,000 Gallons	\$36.36	\$32.21	