

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2021 Overearnings for
Black Bear Waterworks, Inc.
in Lake County

Docket No. 2021_____

Filed: November 5, 2021

**JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT**

The Office of Public Counsel (“OPC”), on behalf of the Citizens of the State of Florida (“Citizens”) and Black Bear Waterworks, Inc. (Black Bear), pursuant to Section 367.081 and Section 120.57(4), Florida Statutes, and Rule 28-106.301, Florida Administrative Code, file this Joint Motion respectfully requesting the Florida Public Service Commission (“Commission”) to approve the Settlement Agreement, attached as Exhibit “A”, as provided in this motion. In support of the Joint Motion, OPC and Black Bear (the “Parties”) state:


1. The staff of the Commission identified potential 2021 overearnings based upon the review of the 2020 Annual Report of Black Bear.
2. The Parties exchanged data regarding Black Bear potential earnings above the maximum allowed returned on equity (ROE), and conducted discussions related to earnings data provided by Black Bear to OPC.
3. To avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission’s long-standing policy and practice of encouraging parties to settle issues whenever possible, OPC and Black Bear have entered into a Settlement Agreement.
4. This Settlement Agreement resolves the disposition of 2021 overearnings for Black Bear as well as holds subject to refund all revenues received during the calendar year 2022 that are above its authorized ROE range until the final review of its 2022 Annual Report.

5. 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.

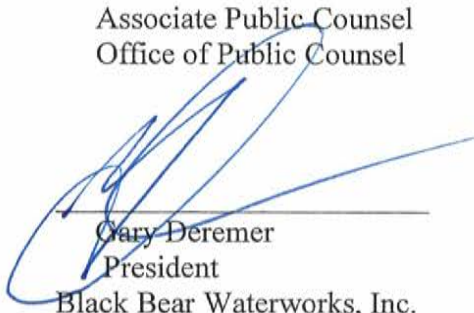
6. The Parties request expedited review and approval of this Settlement Agreement at the December 7, 2021 Commission Agenda Conference.

WHEREFORE, OPC and Black Bear respectfully request the Commission approve this Settlement Agreement.

Respectfully submitted this 5th day of November, 2021.



Anastacia Pirrello
Associate Public Counsel
Office of Public Counsel



Gary Deremer
President
Black Bear Waterworks, Inc.

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of 2021 Overearnings for
Black Bear Waterworks:

Docket No. 2021 _____

Filed: November 3, 2021

_____/

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 3rd day of November, 2021, by and between Black Bear Waterworks, Inc. (hereafter referred to as "Black Bear"), and the Office of Public Counsel ("OPC"), on behalf of the Citizens of the State of Florida ("Citizens") and customers of Black Bear (hereafter, "Parties").

WITNESSETH

WHEREAS, the staff of the Florida Public Service Commission ("Commission" or "FPSC") identified potential 2021 overearnings based upon the review of the 2020 Annual Report of Black Bear;

WHEREAS, Black Bear submitted a letter dated August 5, 2021 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, 2021 exceeds the maximum of the allowed ROE;

WHEREAS, it was Black Bear's 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 15, 2021 and October 27, 2021, informal meetings between the

Black Bear and OPC were 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 Black Bear 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 16.57% of water revenues billed for the calendar year 2021. 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 2021 calendar year. Black Bear also agrees to hold subject to refund all revenues received during the calendar year 2022 that are above its authorized ROE range until the final review of its 2022

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, 2022 exceeds the maximum of its allowed ROE.

2. 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: Nov. 3, 2024

By: 

Richard Gentry;
Public Counsel

Attorney for the Citizens
of the State of Florida

UTILITIES

Date: Nov 3 2024

By: 

Gary Deremer;
President

Black Bear Waterworks, Inc.