

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate) DOCKET NO. 920733-WS
Increase for Silver Springs)
Shores Division in Marion County)
by GENERAL DEVELOPMENT)
UTILITIES, INC.)

In Re: Application for a Rate) DOCKET NO. 920734-WS
Increase for Port LaBelle) ORDER NO. PSC-94-0093-FOF-WS
Division in Glades and Hendry) ISSUED: January 26, 1994
Counties by GENERAL DEVELOPMENT)
UTILITIES, INC.)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
LUIS J. LAUREDO

ORDER GRANTING PARTIAL STAY PENDING APPEAL,
RELEASE OF ESCROWED FUNDS AND
MODIFICATION OF ESCROW DEPOSIT REQUIREMENT

BY THE COMMISSION:

BACKGROUND

General Development Utilities, Inc. (GDU or utility) is a Class A water and wastewater utility, wholly owned by Atlantic Gulf Communities Corporation. On September 29, 1992, GDU filed applications for general water and wastewater rate increases for two of its divisions: Silver Springs Shores and Port LaBelle. The applications, as filed, did not meet the minimum filing requirements (MFRs). On October 19, 1992, the utility completed the MFRs for both applications and that date was established as the official filing date for each division. By Order No. PSC-93-0010-FOF-WS, issued January 4, 1993, the Commission suspended the utility's proposed rates and granted interim water and wastewater rate increases, subject to refund.

By Order No. PSC-93-1113-FOF-WS (Final Order), issued July 30, 1993, the Commission granted the utility's request for a general rate increase, and required a refund of a portion of the interim rates previously granted by Order No. PSC-93-0010-FOF-WS. By Order

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FPSC-RECORDS/REPORTING

No. PSC-93-1546-FOF-WS, issued October 21, 1993, the Commission granted the utility's Motion for Reconsideration with respect to the amount of interim refund. On November 19, 1993, GDU filed a Notice of Administrative Appeal of Orders Nos. PSC-93-1546-FOF-WS and PSC-93-1113-FOF-WS. On November 22, 1993, GDU filed a Motion for Partial Stay Pending Appeal and Motion for Release of Escrow Funds and Modification of Escrow Deposit Requirement. No party to the proceeding has filed a response and the time for filing such has expired.

MOTION FOR PARTIAL STAY GRANTED

As part of its Motion for Partial Stay Pending Appeal, wherein it requests a stay of the effectiveness of our Orders with respect to the refunds required for each system, GDU has requested that we exempt from the stay the portion of the Final Order that allows GDU to implement an allowance for funds prudently invested (AFPI) charge for its Port LaBelle water operations. GDU states that the appropriateness of such a charge will not be affected by the issues GDU intends to pursue on appeal.

In support of its Motion, GDU states that since the orders being appealed involve both a refund of moneys and a decrease in rates, GDU is entitled to a stay pending appeal pursuant to Rule 25-22.061(1)(a), Florida Administrative Code, and GDU's customers will be adequately protected pending disposition of the appeal since the interim rates are currently being deposited in an escrow account and being held subject to refund.

Pursuant to Rule 25-22.061, Florida Administrative Code, this Commission is required to grant a stay pending appeal if the Order being appealed requires a refund to customers, conditioned upon the posting of sufficient bond or other conditions imposed to protect the customers pending the resolution of the appeal. The customers of the utility are protected during the pendency of the appeal by the current escrow account, which provides that interest continues to accrue until the refunds are made.

Therefore, we find it appropriate to grant GDU's Motion for Stay Pending Appeal. In addition, we also find it appropriate to grant the utility's request that the portion of the Order granting the utility an AFPI charge be exempt from the stay. We have found the AFPI charge to be appropriate and reasonable, and such charge should not be affected by the appeal.

MOTION FOR RELEASE OF ESCROW FUNDS AND
MODIFICATION OF ESCROW DEPOSIT REQUIREMENT GRANTED

By Order No. PSC-93-0010-PCO-WS, we authorized interim rates and required GDU to escrow the interim revenue increase of 48.27% for the Silver Springs Shores water system, 52.79% for the Silver Springs Shores wastewater system, 89.30% for the Port LaBelle water system and 92.28% for the Port LaBelle wastewater system. On October 21, 1993, we authorized a refund of a portion of these revenues by Order No. PSC-93-1546-FOF-WS. We did not order a refund of interim revenues for the Port LaBelle wastewater system.

As of October 31, 1993, GDU had a balance of \$744,315.84 in its escrow account for possible refund of interim rates. GDU is here requesting that it be allowed to withdraw the difference between the amount escrowed under the interim order, which totaled \$744,315.84 as of October 31, 1993, and the amount provided in the Final Order that it believes is subject to refund pending completion of this rate case, \$201,846.10. That difference is \$542,469.74.

We have reviewed the utility's calculations and have verified that they are correct. However, the amount of funds that shall remain in the account shall also include interim revenues collected subject to refund for November and December, 1993, which are estimated to total \$50,534, as well as interest on the total amount subject to refund through December 1993, which is \$1,179. The total refund liability through December 31, 1993, is calculated to be approximately \$253,559. Based on the foregoing, we find it appropriate to require GDU to retain \$253,559 in the escrow account and authorize it to withdraw the funds in excess of this amount from the escrow account.

As a result of Order No. PSC-93-1546-FOF-WS, the total amount of annual revenues subject to refund for both the Silver Springs Shores and Port LaBelle systems has decreased from \$1,109,004 to \$303,186. As a result of the decrease, GDU also requested approval to reduce the amount escrowed monthly from \$92,417 to one-twelfth of \$303,186, or \$25,267. However, on December 22, 1993, GDU notified this Commission of the transfer of its Marion County systems to Marion County on December 9, 1993. The last billing to customers of these systems occurred on December 7, 1993. GDU has accordingly requested a further modification of its escrow deposit requirement to reduce it from \$25,267 to \$5,050 to be escrowed on a going-forward basis for the Port LaBelle system.

Any changes resulting from the utility's appeal would have the effect of further reducing the refund, not increasing it. Therefore, we find it appropriate to permit the utility to reduce the amount of revenues that it shall hold subject to refund. We have reviewed the utility's calculation and found that the utility's request to deposit \$5,050 in revenues each month appears reasonable.

It is appropriate for the utility to include, either through interest earned on the escrow account or through an additional deposit, funds to cover the interest earned on the average monthly balance of the escrow account pending completion of this case. The interest shall be based on the thirty day commercial paper rate for high grade unsecured notes sold through dealers by major corporations.

Therefore, GDU shall escrow \$5,050 plus interest based on the thirty day commercial paper rate for high grade unsecured notes sold through dealers by major corporations.

These dockets shall remain open pending resolution of the appeal.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that General Development Utilities, Inc.'s Motion for Partial Stay Pending Appeal is hereby granted. It is further

ORDERED that General Development Utilities, Inc.'s Motion for Release of Escrow Funds and Modification of Escrow Deposit Requirement is hereby granted. It is further


ORDERED that General Development Utilities, Inc. is authorized to release funds in excess of \$253,559 from the escrow account. It is further

ORDERED that the utility shall escrow \$5,050 plus interest on the average monthly balance of the escrow account, starting January 1994, until completion of the rate case. The interest shall be based on the thirty day commercial paper rate for high grade unsecured notes sold through dealers by major corporations. The utility shall continue to provide reports by the 20th of each month indicating the monthly and total revenue collected subject to refund, as required under Rule 25-30.360(6), Florida Administrative Code. It is further

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ORDERED that these dockets shall remain open pending resolution of the appeal.

By ORDER of the Florida Public Service Commission, this 26th day of January, 1994.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.