BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater	DOCKET NO. 090381-SU
rates in Seminole County by Utilities Inc. of	ORDER NO. PSC-09-0833-PCO-SU
Longwood.	ISSUED: December 21, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman LISA POLAK EDGAR NANCY ARGENZIANO NATHAN A. SKOP DAVID E. KLEMENT

ORDER SUSPENDING RATES AND APPROVING INTERIM REVENUE INCREASE

BY THE COMMISSION:

BACKGROUND

Utilities, Inc. of Longwood is a Class B utility providing wastewater service to approximately 1,560 customers in Seminole County. In 1996, we approved the transfer from Longwood Utilities, Inc. to Utilities, Inc. of Longwood (Longwood or Utility), as well as established rate base as of July 31, 1995.¹ The Utility is a wholly-owned subsidiary of Utilities, Inc. (UI). Longwood has never had a rate case.

On September 29, 2009, Longwood filed its application for approval of final and interim rate increases in the instant docket. The Utility had a few deficiencies in the Minimum Filing Requirements (MFRs). All outstanding deficiencies have been resolved. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure. The test year established for interim and final rates is the historical twelve-month period ended December 31, 2008.

Longwood requested interim rates designed to generate annual wastewater revenues of \$865,697, an increase of \$123,367 or 16.62 percent. The Utility requested final rates designed to generate wastewater revenues of \$943,939, an increase of \$199,144 or 26.74 percent.

The 60-day statutory deadline for this Commission to suspend the Utility's requested final rates is November 28, 2009. However, by letter dated October 8, 2009, Longwood agreed to extend the statutory time frame through December 1, 2009. This order addresses the

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¹ <u>See</u> Order No. PSC-96-0448-FOF-SU, issued March 29, 1996, in Docket No. 950959-SU, <u>In re: Application for</u> transfer of facilities and Certificate No. 232-S in Seminole County from Longwood Utilities, Inc. to Utilities, Inc. of Longwood.

suspension of Longwood'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.).

DISCUSSION AND DECISION

Section 367.081(6), F.S., provides that we may, for good cause, withhold consent to the implementation of the requested rates within 60 days after the date the rate request is filed. Further, Section 367.081(8), F.S., permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months from the official date of filing if: (1) we have not acted upon the requested rate increase; or (2) the PAA action is protested by a party other than the Utility.

We have reviewed the filing and have considered the information filed in support of the rate application and the proposed final rates. We find that it is necessary to require further investigation of this information, including on-site investigations by our accountants and engineers. Based on the foregoing, we find that it is appropriate to suspend the Utility's proposed rate increase.

In its MFRs, Longwood requested interim rates designed to generate annual revenues of \$865,697. This represents a wastewater revenue increase of \$123,367 (16.62 percent). The Utility has filed rate base, cost of capital, and operating statements to support its requested wastewater increase.

Pursuant to Section 367.082(5)(b)1., F.S., the achieved rate of return for interim purposes must be calculated by applying appropriate adjustments consistent with those made in a utility's most recent rate proceeding. As stated in the case background, Longwood has never had a rate case, but we established rate base as of July 31, 1995, in Docket No. 950959-SU. In addition, we have reviewed Longwood's interim request as well as prior orders concerning the Utility's rate base. Our approved adjustments are discussed below. We have attached accounting schedules to illustrate the approved rate base, capital structure, and test year operating income amounts. The rate base schedule is shown on Schedule No. 1, the capital structure schedule is shown on Schedule No. 3-A, with the adjustments shown on Schedule No. 3-B.

RATE BASE

We reviewed the Utility's MFRs. As a result of this review, we find that one adjustment is necessary to the requested rate base. Longwood reflected a working capital allowance of \$88,078. Pursuant to Rule 25-30.433(2), Florida Administrative Code (F.A.C.), working capital for class B utilities shall be calculated using the formula method which is one-eight of operation and maintenance (O&M) expenses. When dividing the Utility's adjusted O&M expenses by eight, it yields a working capital allowance of \$68,004, which represents a reduction of \$20,074 to Longwood's requested working capital. Therefore, our approved interim rate base is \$1,622,279. Schedule No. 1 details of our approved interim rate base.

COST OF CAPITAL

In its MFRs, Longwood used a simple-average capital structure consisting of allocated investor sources of capital from UI, and the Utility included specifically-identified customer deposits and accumulated deferred income taxes. We reviewed Longwood's requested capital structure and discovered that the Utility erred in using the mid-point of its return on equity (ROE) of 11.13 percent. Section 367.082(5)(b)3., F.S., requires that the minimum of the range of the last authorized rate of ROE be used when calculating the cost of capital for an interim rate increase. Therefore, for interim purposes, we find that the appropriate cost of equity should be 10.13 percent. Accordingly, we find that the weighted cost of capital for interim purposes is 6.41 percent. Schedule No. 2 details the approved capital structure.

NET OPERATING INCOME

Based on our review, no adjustments are necessary. Thus, we find that the appropriate test year operating income, before any revenue increase, is \$38,959. Schedule No. 3-A details the approved net operating income.

REVENUE REQUIREMENT

The Utility requested an interim revenue requirement of \$865,697. Based on the above, we find that an interim revenue requirement of \$851,489 is appropriate. This represents an interim revenue increase of \$109,159 or 14.70 percent. This will allow Longwood the opportunity to recover its operating expenses and earn a 6.41 percent return on its rate base.

INTERIM WASTEWATER RATES

We find it appropriate to design interim wastewater service rates for Longwood to allow the Utility the opportunity to generate annual operating revenues of \$851,489. This reflects an increase of \$109,159 or 14.70 percent, before removal of miscellaneous and other revenues. To determine the appropriate percentage increase to apply to the service rates, miscellaneous service revenues shall be removed from the test year revenues. In its MFRs, Longwood included miscellaneous and other revenues of \$26,369. Our calculation is as follows:

		Wastewater
1	Total Test Year Revenues	\$742,330
2	Less: Miscellaneous Revenues	26,369
3	Test Year Revenues from Service Rates	\$715,961
4	Revenue Increase	<u>\$109,159</u>
5	% Service Rate Increase (Line 4/Line3)	<u>15.25%</u>

Longwood incorrectly applied an increase of approximately 6.78 percent to its test year residential and general service rates to calculate its requested interim Base Facility Charge (BFC) and gallonage rates. As stated earlier, we find that an across-the-board increase of 15.25 percent to the Utility's test year base facility and gallonage charges is appropriate. As such, the Utility erroneously understated its requested interim rates. Approving interim rates greater than those requested by the Utility, due to an erroneous application of the across-the-board rate increase in the MFRs, is consistent with prior Commission precedent.²

The interim rate increase of 15.25 percent for wastewater shall be applied as an acrossthe-board increase to the service rates in effect as of December 31, 2008. 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. The rates shall not be implemented until our staff verifies that the tariff sheets are consistent with the our decision, the proposed customer notice is adequate, and the required security discussed subsequently in this order has been filed. The Utility shall provide proof of the date notice was given within 10 days after the date of notice.

The Utility's test year, proposed interim and final wastewater rates, and our approved interim wastewater rates are shown on Schedule No. 4.

SECURITY

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 this Commission. The total annual interim increase is \$109,159. 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 \$63,720. This amount is based on an estimated seven months of revenue being collected from our approved interim rates over the Utility's current authorized rates shown on Schedule No. 4.

Longwood is a wholly-owned subsidiary of Utilities, Inc. (UI), which provides all investor capital to its subsidiaries. We approved a corporate undertaking in the amount of \$75,165 to secure interim increases granted in Docket No. 080249-WS for UI's Labrador Utilities, Inc. subsidiary.³ As such, we reviewed the financial statements of UI. As a result of our approved interim rates in this docket, Docket Nos. 090392-WS,⁴ and 090402-WS⁵ the total requested cumulative corporate undertaking amount is \$683,154, of which \$63,720 is subject to refund for this docket.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We reviewed the financial

² See Order No. PSC-06-0925-PCO-WS, issued November 6, 2006, in Docket No. 060246-WS, <u>In re: Application</u> for increase in water and wastewater rates in Polk County by Gold Coast Utility Corp.

³ <u>See</u> Order No. PSC-08-0751-PCO-WS, issued November 13, 2008, <u>In re: Application for increase in water and</u> wastewater rates in Pasco County by Labrador Utilities, Inc.

⁴ In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke.

⁵ In re: Application for increase in Water and Wastewater rates in Seminole County by Sanlando Utilities Corporation.

statements of the parent company to determine if UI can support a corporate undertaking on behalf of its subsidiaries. UI's 2006, 2007, and 2008 financial statements were used to determine the financial condition of the Company. Net income has been on average two times greater than the requested cumulative corporate undertaking amount over the three year period. However, UI experienced a net loss in 2008. The Company has also experienced a steady decline in its interest coverage ratio and relative level of net income over the three year review period. In addition, UI's average equity ratio has decreased to 40.7 percent from 44.8 percent in 2007.

We find that UI has inadequate liquidity, profitability, and interest coverage to support a corporate undertaking in the amount requested. While the existing corporate undertaking amount of \$75,165 secured on behalf of Labrador Utilities, Inc. is still appropriate, staff recommends that UI be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any new monies collected subject to refund.

If the security provided is an escrow account, said account should be established between the Utility and an independent financial institution pursuant to a written escrow agreement. We shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: that the account is established at the direction of the Commission for the purpose set forth above; no withdrawals of funds shall occur without the prior approval of the Commission through the Commission Clerk, of Office of Commission Clerk; the account shall be interest bearing; information concerning that escrow account shall be available from the institution to the Commission or its representative at all times; the amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt; and, pursuant to <u>Cosentino v. Elson</u>, 263 So. 2d 253 (Fla 3d DCA 1972), escrow accounts are not subject to garnishments.

The Utility shall deposit \$9,097 into the escrow account each month for possible refund. The escrow agreement shall also state that if a refund to the customers is required, all interest earned on the escrow account shall be distributed to the customers, and if a refund to the customers is not required, the interest earned on the escrow account shall revert to the Utility.

If the security provided is a surety bond or a letter of credit, said instrument shall be in the amount of \$63,720. If the Utility chooses a surety bond as security, the surety bond shall state that it will be released or terminated only upon subsequent order of this Commission. If the Utility chooses to provide a letter of credit as security, the letter of credit shall state that it is irrevocable for the period it is in effect and that it will be in effect until a final order is rendered releasing the funds to the Utility or requiring a refund.

Regardless of the type of security provided, the Utility shall keep an accurate and detailed account of all monies it receives. 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.

In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. Such 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 wastewater rates proposed by Utilities, Inc. of Longwood are hereby suspended. It is further

ORDERED that the request for an interim rate increase for wastewater rates by Utilities, Inc. of Longwood is hereby granted as set forth in the body of this Order. It is further

ORDERED that all matters contained in the schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the approved interim rates shall become effective for service rendered as of the stamped approval date on the tariff sheets. It is further

ORDERED that the tariff sheets shall be approved upon verification that they are consistent with our decision herein, that the proposed customer notice is adequate, and that the appropriate security is provided. It is further

ORDERED that Utilities, Inc. of Longwood shall provide proof that notice has been provided within 10 days after the notice was given. It is further

ORDERED that Utilities, Inc. of Longwood shall open an escrow account, file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim rates. It is further

ORDERED that if the security provided in an escrow account, Utilities, Inc. of Longwood shall deposit \$9,097 into the escrow account each month. It is further

ORDERED that if the security provided is a surety bond or letter of credit, said instrument shall be in the amount of \$63,720. It is further

ORDERED that during the time the interim rates are in effect, Utilities, Inc. of Longwood shall file a report by the 20^{th} of each month indicating the monthly and total revenue collected subject to refund pursuant to Rule 25-30.360(6), Florida Administrative Code. It is further

ORDERED that this docket shall remain open pending the Commission's final action on the utility's requested rate increase.

By ORDER of the Florida Public Service Commission this 21st day of December, 2009.

ANN COLE Commission Clerk

By: Dorothy E. Menasco

Chief Deputy Commission Clerk

(SEAL)

CMK

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 15 days pursuant to Rule 25-22.060, 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 25-22.060, Florida Administrative Code. <u>Citizens of the State of Florida v. Mayo</u>, 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 Longwood Schedule of Wastewater Rate Base Test Year Ended 12/31/08					hedule No. 1 5. 090381-SU
	Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
1	Plant in Service	\$3,634,524	\$61,644	\$3,696,168	\$0	\$3,696,168
2	Land and Land Rights	229,215	210	229,425	0	229,425
3	Non-used and Useful Components	0	0	0	0	0
4	Accumulated Depreciation	(1,896,917)	376,863	(1,520,054)	0	(1,520,054)
5	CIAC	(1,661,914)	0	(1,661,914)	0	(1,661,914)
6	Amortization of CIAC	1,264,556	(453,906)	810,650	0	810,650
7	CWIP	218,314	(218,314)	0	0	0
8	Acquisition Adjustment	101,733	(101,733)	0	0	0
9	Working Capital Allowance	<u>0</u>	<u>88,078</u>	<u>88,078</u>	(20,074)	<u>68,004</u>
10	Rate Base	<u>\$1,889,511</u>	<u>(\$247,158)</u>	<u>\$1,642,353</u>	<u>(\$20,074)</u>	<u>\$1.622,279</u>

	Utilities, Inc. of Longwoo Capital Structure-Simple	Average					De		dule No. 2 090381-SU
	Test Year Ended 12/31/08 Description	Total Capital	Specific Adjust- ments	Subtotal Adjusted Capital	Prorata Adjust- ments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
Per	Utility								<u> </u>
1	Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$179,370,487)	\$629,513	38.33%	6.65%	2.55%
2	Short-term Debt	32,637,500	0	32,637,500	(32,523,420)	114,080	6.95%	5.23%	0.36%
3	Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
4	Common Equity	158,054,717	0	158,054,717	(157,501,818)	552,899	33.66%	11.13%	3.75%
5	Customer Deposits	29,428	0	29,428	0	29,428	1.79%	6.00%	0.11%
6	Deferred Income Taxes	<u>316,564</u>	<u>0</u>	<u>316,564</u>	<u>0</u>	<u>316,564</u>	<u>19.27%</u>	0.00%	<u>0.00%</u>
7	Total Capital	<u>\$371,038,209</u>	<u>\$0</u>	<u>\$371.038.209</u>	<u>(\$369,395,725)</u>	<u>\$1,642,484</u>	<u>100.00%</u>		<u>6.77%</u>
Per	Commission								
8	Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$179,380,263)	\$619,737	38.20%	6.65%	2.54%
9	Short-term Debt	32,637,500	0	32,637,500	(32,525,130)	112,370	6.93%	5.23%	0.36%
10	Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
11	Common Equity	158,054,717	0	158,054,717	(157,510,537)	544,180	33.54%	10.13%	3.40%
12	Customer Deposits	29,428	0	29,428	0	29,428	1.81%	6.00%	0.11%
13	Deferred Income Taxes	<u>316,564</u>	<u>0</u>	<u>316,564</u>	Q	<u>316,564</u>	<u>19.51%</u>	0.00%	<u>0.00%</u>
14	Total Capital	<u>\$371,038,209</u>	<u>\$0</u>	<u>\$371,038,209</u>	<u>(\$369,415,930)</u>	<u>\$1,622,279</u>	<u>100.00%</u>		<u>6.41%</u>
							LOW	<u>HIGH</u>	
					RETU	RN ON EQUITY	10.13%	12.13%	
					OVERALL RAT	E OF RETURN	6.41%	7.08%	

	Utilities, Inc. of Longwood Statement of Wastewater Operations Test Year Ended 12/31/08							Schedule No. 3-A Docket No. 090381-SU		
	Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement		
1	Operating Revenues:	<u>\$770,736</u>	<u>\$94,961</u>	<u>\$865,697</u>	<u>(\$123,367)</u>	<u>\$742,330</u>	<u>\$109,159</u> 14.70%	<u>\$851,489</u>		
2	Operating Expenses Operation & Maintenance	\$577,507	(\$33,473)	\$544,034		\$544,034		\$544,034		
5	Depreciation	87,195	(5,309)	81,886	0	81,886		81,886		
	Amortization	0	0	0	0	0		0		
	Taxes Other Than Income	82,706	6,268	88,974	(5,552)	83,422	4,912	88,335		
	Income Taxes	<u>(9,872)</u>	<u>49,486</u>	<u>39,614</u>	<u>(45,585)</u>	<u>(5,971)</u>	<u>39,228</u>	<u>33,257</u>		
	Total Operating Expense	737,536	<u>16,972</u>	<u>754,508</u>	<u>(51,137)</u>	<u>703,371</u>	<u>44,140</u>	747,512		
5	Operating Income	<u>\$33,200</u>	<u>\$77,989</u>	<u>\$111,189</u>	(\$72.230)	<u>\$38,959</u>	<u>\$65,019</u>	<u>\$103,977</u>		
)	Rate Base	<u>\$1,889,511</u>		<u>\$1,642,353</u>		<u>\$1,622,279</u>		<u>\$1,622,279</u>		
0	Rate of Return	<u>1.76%</u>		<u>6.77%</u>		<u>2.40%</u>		<u>6.41%</u>		

Utilities, Inc. of Longwood	Schedule 3-B
Adjustment to Operating Income	Docket No. 090381-SU
Test Year Ended 12/31/08	
Explanation	Wastewater
<u>Operating Revenues</u> Remove requested interim revenue increase.	<u>(\$123,367)</u>
Taxes Other Than Income RAFs on revenue adjustment above.	<u>(\$5,552)</u>

	Test Year	Utility Requested		Utility Requested	Commissior Approved
	Rates	Interim (1)		Final	Interim
Residential		T			
Base Facility Charge All Meter Sizes:	\$34.98	\$41.01	*	\$39.09	\$40.3 ⁻
General Service					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$15.14	\$17.75	*	\$17.14	\$17.45
1"	\$37.83	\$44.35	*	\$42.85	\$43.60
1-1/2"	\$75.67	\$88.71	*	\$85.71	\$87.2
2"	\$121.06	\$141.92	*	\$137.14	\$139.52
3"	\$242.14	\$283.86	*	\$257.13	\$279.06
Gallonage Charge, per 1,000 Gallons	\$2.83	\$3.32	*	\$3.57	\$3.26
	Түр	ical Resident	al	Bil <u>ls 5/8" x 3/</u> 4	<u>4" Meter</u>
3,000 Gallons	\$34.98	\$41.01		\$39.09	\$40.3
5,000 Gallons	\$34.98	\$41.01		\$39.09	\$40.3 [,]
10,000 Gallons	\$34.98	\$41.01		\$39.09	\$40.3 [,]
(Wastewater Gallonage Cap - 10,000 Ga	allons)				