

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 13, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Thompson, Hudson) *IGT AT*
Division of Accounting and Finance (Monroe, Norris, Holmes) *P.D. J.W.D. CREW AMW BG*
Division of Engineering (P. Buys, King) *DEM AT PDB*
Office of the General Counsel (Murphy) *Ch AT*

RE: Docket No. 140186-WU – Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.
County(ies): Brevard

AGENDA: 11/25/14 – Regular Agenda – Decision on Interim Rates – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: 11/28/14 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
14 NOV 13 AM 10:07
COMMISSION CLERK

Case Background

Brevard Waterworks, Inc. (Brevard Waterworks or Utility) is a Class C utility providing water service to approximately 235 customers in Brevard County. Effective June 5, 2014, Brevard Waterworks was granted Certificate No. 002-W.¹ According to Brevard Waterworks' 2013 annual report, total gross revenues were \$91,613 and total operating expenses were \$99,350, resulting in a net loss of \$7,737.

¹ See Order No. PSC-14-0326-PAA-WS, issued June 25, 2014, in Docket No. 130174-WU, In re: Application for approval of transfer of certain water facilities and Certificate No. 002-W of Aqua Utilities Florida, Inc. to Brevard Waterworks, Inc. in Brevard County.

Docket No. 140186-WU
Date: November 13, 2014

On September 29, 2014, Brevard Waterworks filed its application for a staff-assisted rate increase. In its application, the Utility requested a test year ended August 31, 2014, for interim and final rates purposes.

This recommendation addresses the Utility's interim rates. The Commission has jurisdiction pursuant to Sections 367.082 and 367.0814(4), Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should an interim revenue increase be approved?

Recommendation: Yes, Brevard Waterworks should be authorized to collect annual revenues as indicated below:

	Adjusted Test Year O&M Expenses	Annualized Operating Revenues	\$ Increase	% Increase
Water	\$150,411	\$136,788	\$13,623	9.96%

(Norris)

Staff Analysis: On September 29, 2014, Brevard Waterworks filed rate base, cost of capital, and operating statements to support an interim increase in water rates. While Brevard provided this financial data, it is not required for a Class C utility seeking interim relief. While the Utility's filing is consistent with an interim request as outlined in Section 367.082, F.S., which pertains to a file and suspend rate case, it is inconsistent with Section 367.0814(4), F.S., which limits the increase to the amount necessary to cover operation and maintenance (O&M) expenses. Section 367.0814(4), F.S. is specific to staff-assisted rate cases.

Section 367.0814(4), F.S., states:

(4) The commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

The financial data Brevard Waterworks provided demonstrates that the Utility's O&M expenses exceeded its operating revenues in the test year. Based on the Utility's filing, staff recommends that Brevard Waterworks has demonstrated a prima facie entitlement in accordance with Section 367.0814(4), F.S.

Further, staff recommends one adjustment to the Utility's filed O&M expenses is necessary. The Utility included annual amortization of rate case expense of \$260 for the instant docket. The inclusion of this expense is pro forma in nature because it is a deferred expense, and the final determination of the total expense is outside of the interim test year. As such, staff recommends that O&M expense be decreased by \$260 for purposes of calculating interim rates.

To determine the level of revenues necessary to cover O&M expenses as prescribed by Section 367.0814(4), staff utilized the Utility's annualized revenues per the Utility's filing. The

difference between the Utility's annualized revenues and staff-adjusted O&M expenses is \$13,623. This results in an interim increase of \$13,623 (or 9.96 percent). The table below illustrates staff's interim increase calculation.

Table 1

Determination of Interim Increase		
1	Utility Adjusted Test Year O&M Expenses	\$150,671
2	Less: Staff's Adjustments	<u>\$260</u>
3	Staff Adjusted Test Year O&M Expenses	\$150,411
4	Less: Utility Test Year Annualized Revenues	<u>\$136,788</u>
5	Interim Revenue Increase Amount	<u>\$13,623</u>
6	Interim Revenue Increase % (Line 5/Line 4)	9.96%

Issue 2: What are the appropriate interim water rates?

Recommendation: The interim rate increase of 10.51 percent for water should be applied as an across-the-board increase to the existing rates. The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Thompson)

Staff Analysis: Staff recommends that interim service rates for Brevard Waterworks be designed to allow the utility the opportunity to generate annual operating revenues of \$150,411 for water. Before removal of miscellaneous revenues, this would result in an increase of \$13,623 (9.96 percent) for water. To determine the appropriate increase to apply to the service rates, miscellaneous revenues should be removed from the test year revenues. The calculation is as follows:

Table 2

	<u>Water</u>
1 Staff Adjusted Test Year Revenues	\$136,788
2 Less: Miscellaneous Revenues	<u>\$7,119</u>
3 Test Year Revenues from Service Rates	\$129,669
4 Revenue Increase	<u>\$13,623</u>
5 % Service Rate Increase (Line 4/Line 3)	10.51%

The interim rate increase of 10.51 percent for water should be applied as an across-the-board increase to the existing rates. The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 3: What is the appropriate security to guarantee the interim increase?

Recommendation: The Utility should be required to open an escrow account or secure a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit \$1,135 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$9,084. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should 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 should be with interest and in accordance with Rule 25-30.360, F.A.C. (Monroe, Holmes)

Staff Analysis: 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 the Commission. As recommended in Issue 1, the interim increase for water is \$13,623. In accordance with Rule 25-30.360, F.A.C., staff calculated the potential refund of revenues and interest collected under interim conditions to be \$9,084. This amount is based on an estimated eight months of revenue being collected under the recommended interim rates shown on Schedule No. 1.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Brevard was purchased in 2013,² and the Utility only has one year of financial statements. Commission practice is to evaluate three years of financial statements for determining if the Utility has the financial capability to support a corporate undertaking. Staff recommends Brevard be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund of water revenues.

If the security provided is an escrow account, said account should be established between the Utility and an independent financial institution or the Division of Treasury for the Florida Department of Financial Services pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: 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, 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 Cosentino v. Elson, 263 So. 2d 253 (Fla 3d DCA 1972), escrow accounts are not subject to garnishments.

If the security provided is an escrow account, the Utility should deposit \$1,135 into the escrow account each month. The escrow agreement should also state that if a refund to the

² See Order No. PSC-14-0299-PAA-WS, issued June 11, 2014, in Docket No. 130176-WS, In re: Application for approval of Transfer of certain water and wastewater facilities and Certificate Nos. 507-W and 441-S of Aqua Utilities Florida, Inc. to Brevard Utility Company in Sumter County.

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 should be in the amount of \$9,084. If the Utility chooses a surety bond as security, the surety bond should state that it will be released or terminated only upon subsequent order of the Commission. If the Utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the Utility or requiring a refund.

Regardless of the type of security provided, the Utility should keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should 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 should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. Such costs are the responsibility of, and should be borne by, the Utility.

Issue 4: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's final action on the Utility's requested rate increase. (Murphy)

Staff Analysis: The docket should remain open pending the Commission's final action on the Utility's requested rate increase.

Brevard Waterworks, Inc.		Schedule No. 1	
Test Year Ended 8/31/14		Docket No. 140186-WS	
Monthly Water Rates			
	UTILITY EXISTING RATES	STAFF RECOMMENDED INTERIM	
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$20.69	\$22.86	
3/4"	\$31.04	\$34.30	
1"	\$51.74	\$57.18	
1 1/2"	\$103.47	\$114.34	
2"	\$165.56	\$182.96	
3"	\$331.14	\$365.94	
4"	\$517.40	\$571.78	
6"	\$1,034.80	\$1,143.56	
8"	\$1,655.68	\$1,829.69	
10"	\$2,380.03	\$2,630.17	
Charge per 1,000 gallons - Residential			
0-6,000 Gallons	\$7.07	\$7.81	
6,001 - 12,000 gallons	\$10.62	\$11.74	
Over 12,000 Gallons	\$14.14	\$15.63	
Charge per 1,000 gallons - General Service	\$7.93	\$8.76	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$41.90	\$46.29	
5,000 Gallons	\$56.04	\$61.91	
10,000 Gallons	\$105.59	\$116.68	