

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of water rates )  
 of BCD INDUSTRIES, INC. in Osceola )  
 County for possible overearnings )

DOCKET NO. 910658-WU  
 ORDER NO. 24818  
 ISSUED: 7/15/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 BETTY EASLEY  
 MICHAEL MCK. WILSON

ORDER INITIATING INVESTIGATION INTO RATES AND  
 CHARGES AND MAKING REVENUES SUBJECT TO REFUND

BY THE COMMISSION:

BCD Industries, Inc. (BCD or the utility) provides water and wastewater service to customers in Osceola County. This docket concerns only the provision of water service. BCD's provision of water service is authorized by this Commission pursuant to Certificate No. 122-W. The current rates in effect for the utility were established in Order No. 22857, issued April 26, 1990.

Section 367.082, Florida Statutes, authorizes the Commission to initiate an investigation of a utility's earnings upon a preliminary demonstration that the utility is earning a rate of return which is outside the range of reasonableness. To the extent that the achieved rate of return exceeds the required rate of return applied to an average investment rate base or an end-of-period investment rate base, the Commission may require revenues to be collected subject to refund during the investigation. Section 367.082(1), (5), Florida Statutes. We hereby initiate an investigation of this utility's earnings for water service. The test year for the investigation shall be the test year ended December 31, 1990.

Based on our adjusted desk audit of BCD's 1990 Annual Report and partial audit information, which indicate that the utility is earning an overall rate of return of 29.19 percent, it appears that BCD is achieving a rate of return in excess of the return authorized in Order No. 22857. According to our preliminary calculations, the utility's average water rate base is \$95,046 as

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of December 31, 1990. Rate base components were updated from those levels established in Order No. 22857. No additions to plant or retirements will be considered until a staff audit is complete. Rate base is shown on Schedule 1 and adjustments thereto are shown on Schedule 1-A.

The partial audit reflects gross annual revenues of \$294,908. An adjustment was made to annualize revenues collected from Florida Community Services (City of Kissimmee) from January, 1991 through May, 1991 and add the revenues to those of BCD's other customers from January, 1990 to December, 1990. Florida Community Services is a temporary customer whose revenue was not considered in the most recent staff-assisted rate case because service was supposed to have ceased shortly after that rate case closed in April, 1990. Based on that adjustment, we used a test year operating revenue of \$81,735.

After adjustments to account for a misclassified regulatory assessment fee, to reflect appropriate amounts of depreciation and amortization of contributions-in-aid-of-construction (CIAC) for the test year, to reflect the appropriate amount of regulatory assessment fees, and to reflect the appropriate amount of income tax associated with an 11.46 percent return on test year rate base, we calculated test year operating expenses to be \$53,990, resulting in a test year operating income of \$27,745. These calculations indicate BCD is earning a 29.19 percent return on rate base, which exceeds the ceiling of its authorized rate of return range of 11.46 percent. Therefore, it appears BCD is exceeding a reasonable rate of return with an estimated \$17,647 in overearnings for 1990. Operating income is shown on Schedule 2, with adjustments shown on Schedule 2-A.

#### INTERIM CONDITIONS

The utility is hereby authorized to continue charging its existing rates and charges pending the outcome of this investigation. The utility's continued collection of its existing rates and charges for water service rendered on or after June 25, 1991, the date the Commission voted to authorize the investigation, shall be subject to refund with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. As previously stated, the utility appears to be overearning by \$17,647 annually. Therefore, those rates that generate in excess of \$5,341 per month,

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which represents one-twelfth of our calculated revenue requirement, shall be collected subject to refund with interest.

#### SECURITY

BCD must submit for our staff's approval both the security for a potential refund and a copy of the proposed customer notice within thirty days of the date of this Order. The security shall be in the form of a bond or letter of credit in the amount of \$12,274. Alternatively, the utility shall establish an escrow account with an independent financial institution.

If the utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission finds that the utility is not overearning; or
- 2) If the Commission does find that the utility is overearning, the utility shall refund the amount collected that is attributable to the overearnings.

The utility shall maintain a record of the amount of the bond and the amount of the revenues that are subject to refund.

If the utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either finding that the utility is overearning and ordering a refund, or finding that the utility is not overearning.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without express approval of the Commission.
- 2) The escrow account shall be an interest bearing account.

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- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Consentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishment.

In no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received for water service should be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. In addition, during this overearnings investigation, the utility shall file reports with the Division of Records and Reporting no later than 20 days after each monthly billing detailing the revenue for water service during the previous month. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that an investigation of the water rates and charges of BCD Industries, Inc. shall be initiated. It is further

ORDERED that the utility's continued collection of its existing rates and charges for water service rendered on or after

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June 25, 1991, shall be subject to refund with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code, to the extent set forth in the body of this Order. It is further

ORDERED that the utility shall file a bond or letter of credit with the Commission in the amount of \$12,274, to secure the potential refund of anticipated overearnings. In the alternative, the utility shall escrow revenues in excess of \$5,341 per month. The bond, letter of credit, or escrow agreement shall be filed with the Commission within thirty days of the date of this Order. It is further

ORDERED that no later than twenty days after each billing, the utility shall file reports with the Commission's Division of Records and Reporting detailing the revenue for water service during the previous month as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 15th  
day of JULY, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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 sewer 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.

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BCD INDUSTRIES, INC.  
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 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 1  
 RATE BASE

Account Title	Balance per Utility	Commission Adjustments to Utility Balance	Balance per Commission
*****	*****	*****	*****
Depreciable Plant in Service	\$225,155	(\$9,001)A	\$216,154
Land/Nondepreciable Assets	7,042	0	7,042
Amortizable Plant (Organization)	0	0	
Contributions in Aid of Construction	(99,686)	(1,659)B	(101,345)
Accumulated Depreciation	(78,258)	4,198 C	(74,060)
Accumulated Amortization (Organization)	0	0	0
Accumulated Amortization of CIAC	42,105	(37)D	42,068
Working Capital Allowance	0	5,187 E	5,187
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RATE BASE	\$96,358	(\$1,312)	\$95,046
	*****	*****	*****

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BCD INDUSTRIES, INC.  
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 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 1A  
 ADJUSTMENTS TO  
 RATE BASE

	WATER
	-----
A. DEPRECIABLE PLANT IN SERVICE:	
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1. To remove unverified plant additions	(9,001)
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B. CONTRIBUTIONS IN AID OF CONSTRUCTION (CIAC):	
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1. To remove CIAC associated with unverified plant	(1,659)
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C. ACCUMULATED DEPRECIATION:	
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1. To remove accumulated depreciation associated with unverified plant	76
2. Test year averaging adjustment	4,122
	-----
	4198
	-----
D. ACCUMULATED AMORTIZATION OF CIAC:	
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1. To adjust accumulated amortization of CIAC to appropriate balance TYE 12/31/90	1,649
2. Test year averaging adjustment	(1,686)
	-----
	(37)
	-----
E. WORKING CAPITAL ALLOWANCE:	
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1. To reflect working capital allowance based on one-eighth of O&M expenses	5,187
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TOTAL ADJUSTMENTS:	(1,312)
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BCD INDUSTRIES, INC.  
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TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 2  
OPERATING INCOME  
WATER

	Balance Per Utility *****	Commission Adjustments to Utility Balance *****	Test Year Balance per Comm. *****	Commission Adjustments for Increase *****	Balance per Comm. *****
Operating Revenues	\$294,908	(\$213,173) A	\$81,735	(\$17,647) F	\$64,088
Operating Expenses:					
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Operation and Maintenance	\$44,848	(\$3,354) B	\$41,494	\$0	\$41,494
Depreciation	5,128	(564) C	4,564	0	4,564
Amortization	0	0	0	0	0
Taxes Other Than Income	5,911	99 D	6,010	(794) G	5,216
Income Taxes	16,368	(14,446) E	1,922	0	1,922
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Total Operating Expenses	\$72,255	(\$18,265)	\$53,990	(\$794)	\$53,196
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Operating Income (Loss)	\$222,653	(\$194,908)	\$27,745	(\$16,853)	\$10,892
Rate Base	\$96,358		\$95,046		\$95,046
Rate of Return	231.07% *****		29.19% *****		11.46% *****

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BCD INDUSTRIES, INC.  
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TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 2A  
ADJUSTMENTS TO  
OPERATING INCOME

A. OPERATING REVENUES:	WATER
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1. To add unrecorded revenue per preliminary audit	3,613
2. To remove Florida Community revenue from TYE December 31, 1990	(249,780)
3. To add annualized 1991 revenue from Florida Communities	32,993
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Subtotal	(213,173)
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B. OPERATION AND MAINTENANCE EXPENSES:	
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1. To remove regulatory assessment fees	(3,354)
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C. DEPRECIATION EXPENSE:	
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1. Adjustment to reflect test year depreciation expense	(838)
2. Adjustment to reflect test year amortization	274
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Subtotal	(564)
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D. TAXES OTHER THAN INCOME:	
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1. To record taxes associated with regulatory assessment fees	99
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E. INCOME TAXES:	
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1. To remove income tax expense associated with decrease in operating income	(14,446)
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F. OPERATING REVENUES:	-----
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1. To reflect Commission's approved revenue decrease	(17,647)
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G. TAXES OTHER THAN INCOME:	
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1. To reflect the decrease in regulatory assessment fees associated with Commission's approved revenue decrease	(794)
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