

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of Rates ) DOCKET NO. 960011-WS  
of Indiantown Company, Inc., in ) ORDER NO. PSC-96-1205-FOF-WS  
Martin County for Possible ) ISSUED: September 23, 1996  
Overearnings )  
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The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER RELEASING REVENUES HELD SUBJECT TO REFUND  
AND CORPORATE UNDERTAKING

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Indiantown Company, Inc. (Indiantown or utility) is a Class B utility providing water and wastewater service to approximately 1,677 water and 1,585 wastewater customers in Martin County. Based on a desk audit of the 1994 annual report for Indiantown, we began an informal investigation into potential overearnings. The auditor's suggested adjustments to the utility's books indicated that the utility was earning an overall rate of return of 75.08% for the water system.

In Indiantown's last rate case, Docket No. 810037-WS, in Order No. 11891, issued April 27, 1983, we set rate base and authorized a return on equity (ROE) of 16.35%. The utility applied for index and pass-through increases for the years 1986 through 1994. By Order No. PSC-95-1328-FOF-WS, issued November 1, 1995, in Docket No. 950371-WS, we initiated this limited proceeding in order to establish a more appropriate ROE going forward, while authorizing 10.43% as the midpoint of the utility's ROE for all regulatory purposes, effective November 1, 1995.

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FPSC-RECORDS/REPORTING

By Order No. PSC-96-0169-FOF-WS, issued on February 6, 1996, in this docket, we initiated an investigation of the utility's water rates and charges and ordered 1996 water service revenues of \$118,066 on an annual basis be placed subject to refund with interest in accordance with Rule 25-30.360, Florida Administrative Code. We further ordered that Indiantown provide us with a corporate undertaking as a guarantee of any potential refund of water revenues collected under interim conditions, and that by no later than the twentieth day of each month, the utility file a report with us showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount subject to refund.

By Order PSC-96-0657-FOF-WS, issued on May 10, 1996, we established rate base for 1994, required a refund of the 1994 Water Price Index Adjustment as applied to 1994, 1995, and 1996 revenues and reduced rates to remove the 1994 Water Price Index.

In this order, we find that Indiantown's 1996 projected ROE will exceed its ROE range authorized by Order No. PSC-95-1328-FOF-WS for the water system, will be well below the authorized range for the wastewater system and will be below the authorized range for the utility as a whole. Hence, we find it appropriate to release the corporate undertaking and the revenues held subject to refund as set forth below.

#### RETURN ON EQUITY

Indiantown filed its projection of 1996 earnings on July 8, 1996. This projection was based on 1995 actual results, January through April 1996 actual results and the utility's budget for the remainder of 1996. We have reviewed the year end projection and recalculated the rate base as an average. We have also reconciled capital to rate base, which was not included in the projection. The utility included the 1994 calculations for used and useful, which we believe is reasonable. We have also recalculated income taxes and property taxes based on the utility projection. With these adjustments, we find Indiantown's revenue above the maximum allowed ROE of 11.43% for 1996 is \$27,076 for the water system. Further, we find the wastewater system is earning \$118,696 below the floor of the utility's authorized range. See Attachment A. On a combined basis, we find that the utility is earning 3.22% ROE.

In Order PSC-96-0657-FOF-WS, we found that in 1994 the utility's water system earned revenues totalling \$110,834 above its then maximum authorized ROE of 17.35%, and the wastewater system earned within its authorized range. As already noted, we had re-established the utility's authorized ROE as 10.43%, plus or minus

100 basis points. In 1995 and 1996, Indiantown made substantial improvements to its water and wastewater facilities. In 1995, a major highway relocation by the Florida Department of Transportation necessitated the relocation of existing water and wastewater lines in downtown Indiantown. A new surge tank was installed at the main wastewater plant, 4 inch pumps were required for pond drainage and emergency pumping and the Indiantown Marina lift station was repaired, which included extensive replacement of components. In 1996, the utility is improving its water mains by increasing the size of the mains and looping the system to correct a fire flow problem noted by Martin County. The county has also directed the utility to add new fire hydrants for better fire protection. This will relieve water pressure complaints as well as reduce leaks by replacing older steel water mains. The utility is also replacing wastewater mains that were damaged and are experiencing infiltration problems. As a result of the increased rate bases due to these improvements, the earned return on both systems has fallen considerably. Since the water improvements occurred in 1996, presently we are considering only the average amounts. We anticipate that 1997 water earnings will be within the utility's authorized range when the full impact of the improvements will be included in rate base.

REVENUES HELD SUBJECT TO REFUND

Indiantown operates both water and wastewater systems with common management in identical service areas. Of the 1,604 water and 1,519 wastewater customers, only 85 customers, 5.3% of the total, are water only.

Normally, we do not net water and wastewater earnings. For example, in Order No. PSC-96-0501-FOF-WS, issued on April 11, 1996 in Docket No. 960234-WS, we began an investigation of Gulf Utility Company's water rates, although the wastewater system was not earning its authorized return. In Gulf, the water and wastewater customers were materially different and we found that netting the earnings accordingly was not appropriate. However, in Order No. PSC-92-1189-FOF-WS, issued on October 20, 1992, in Docket No. 920361-WS, we did allow the netting of Kingsley Service Company's water and wastewater earnings for interim purposes.

In Order No. PSC-96-0595-FOF-WS, issued on May 7, 1996 in this docket, upon the utility's motion for reconsideration of Order No. PSC-96-0169-FOF-WS, we found that we had fully considered both the potential for overearnings in Indiantown's water operations and the potential for underearnings in its wastewater operations in deciding to order a formal investigation only of the water operations' earnings. The utility had argued that while its water

operations may appear to be overearning, its wastewater operations appear to be underearning. It had asserted that "the Commission has just as much legal obligation to adjust one inequity as the other."

After investigation, we found, in Order No. PSC-96-0657-FOF-WS, that as adjusted, Indiantown's 1994 ROE was 50.77% for the water system, above its maximum authorized ROE of 17.35%. The revenue in excess of the maximum authorized ROE was \$110,834. As adjusted, we found Indiantown's 1994 ROE was 17.29% for the wastewater system, within its authorized range. We ordered that the index adjustment-related revenues collected in 1994, 1995 and 1996 for the water system be refunded with interest, finding that the 1994 price index contributed to overearnings in 1994 for the water system.

For 1996, with the large amount of capital expenditures undertaken, the situation has changed. Now, we find that the water system is overearning slightly, but the wastewater system is well under its authorized range. The water overearnings situation appears to be temporary, and rate adjustment is not indicated based on 1997 estimated earnings, which take fully into account the amount of the 1996 plant additions. Even though we declined to do so earlier, given these new circumstances, we now find it appropriate to consider the water and wastewater systems on a combined basis. The effect of netting is small. The water and wastewater systems have a common service area and, for the most part, common customers.

Thus, we find it appropriate to permit the utility to offset the \$118,696 1996 annual wastewater earnings deficit with the small amount, 5.8% of water revenue, of water overearnings, which amount to \$27,076 annually. This shall be effectively accomplished by releasing the corporate undertaking and allowing Indiantown to retain the revenue.

Finally, we order that this docket shall be closed if, upon the expiration of the protest period, no person whose substantial interests are affected by this order has filed a protest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the corporate undertaking of Indiantown Company, Inc., shall be released. It is further

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ORDERED that the revenues held subject to refund as herein identified shall be released to the benefit of Indiantown Company, Inc. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 23rd day of September, 1996.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Jeyn  
Chief, Bureau of Records

( S E A L )

CJP

Commissioner J. Terry Deason dissents from the Commission's decision with the following statement:

I respectfully dissent from the decision to net the projected 1996 overearnings of \$27,000 for this company's water system against the projected underearnings of the wastewater system. Water customers whose rates were generating excessive revenues and for whom no wastewater service was provided are forced to transfer money they would otherwise receive to the benefit of the wastewater system. The only prior instance of like subsidization brought to our attention involved interim rates. Here the forced subsidization is more pronounced and the disposition of the overcharges is permanent.

We have taken a step down a path that may lead to an increasingly imbalanced situation. There have been cases where we have entertained a rate increase for one division while later discovering that another division is overearning. No netting occurs in the ratesetting process in these situations. Perhaps in such a case the Commission would be hesitant to risk the excess expenditure of rate case expense to force an overearning division into a rate case. This lack of symmetry exacerbates an imbalance in the relative rights of the customers and the company and highlights the unfairness of our decision here.

The irony of this case is that, having released this company of its refund obligation and, due to the forward-looking ratemaking process, there is no legal way we could deny the filing of a rate case for only one side of the company (or both sides for that matter) based on the very projections that were used to thwart the refund. Certainly if we are going to allow netting in the appropriate circumstances, we should have the clear authority -- or at least the resolve -- to require that rate cases (or at least the MFRs) be filed on a consolidated basis so that the Commission will have the necessary information to set rates utilizing the entire earnings picture. Presently utilities have too much discretion in deciding which segment(s), whether water or wastewater, that they want to include in the MFRs when seeking rate relief.

Commissioner Diane K. Kiesling dissents from the Commission's decision for the same reasons enunciated in Commissioner Deason's dissent.

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 14, 1996.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**ATTACHMENT A**

REVENUE REQUIREMENT CALCULATION	<u>WATER</u>	<u>WASTEWATER</u>
Achieved Rate Base	\$ 518,889	\$ 1,067,665
Minimum Return at 9.43% ROE		5.84%
Maximum Return at 11.43% ROE	<u>6.86%</u>	<u>                    </u>
Achieved Net Operating Income	\$ <u>51,831</u>	\$ <u>(8,154)</u>
Achieved Return on Equity	16.79%	-3.38%
Achieved NOI Deficiency (Excess)	\$ (16,127)	\$ 70,699
Revenue Expansion Factor	<u>1.67888</u>	<u>1.67888</u>
Revenue Excess (Deficit)	\$ <u><u>27,076</u></u>	\$ <u><u>(118,696)</u></u>