

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of) DOCKET NO. 960984-SU
possible overearnings in Volusia) ORDER NO. PSC-96-1243-FOF-SU
County by North Peninsula) ISSUED: October 7, 1996
Utilities Corporation.)
_____)

The following Commissioners participated in the disposition of this matter:

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

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

BY THE COMMISSION:

BACKGROUND

North Peninsula Utilities Corporation (North Peninsula or utility) is a Class C wastewater only utility providing wastewater service to approximately 475 customers in Volusia County. For the year ending December 31, 1995, the utility reported wastewater operating revenues of \$143,189 and a net operating income of \$22,459.

The utility's last rate case was finalized by Order No. 16184, issued June 4, 1986, in Docket No. 850121-SU, when it was owned by Shore Utility Corporation. By Order No. 22345, issued December 27, 1989, in Docket No. 891016-SU, the Commission approved the transfer of Shore Utility Corporation to North Peninsula. Rate base was established during the transfer proceeding for book value of the property being transferred and did not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments. According to the utility's 1995 annual report, customers have increased by 254 (114.93%), utility plant has increased by \$252,433 (43.86%), and annual revenue has increased by \$120,664 (535.69%) since the transfer of ownership was approved.

North Peninsula received price index rate increases in 1991, 1992, 1993, 1994, and 1995. The utility also received pass-through rate increases in 1993, 1994, and 1995.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

INITIATION OF OVEREARNINGS INVESTIGATION AND
PLACING REVENUES SUBJECT TO REFUND

Based on a desk audit of the 1995 annual report for North Peninsula and the utility's application for a 1996 price index and pass-through rate increase, we began an informal investigation into potential overearnings. The utility's 1995 annual report indicated that its wastewater system was earning an overall rate of return of 17.26%. Based on an analysis of the utility's 1995 annual report, its capital structure would be 100% debt at a cost of 1 1/2% over prime or 9.75% (calculated August 28, 1996). Based on these results and on North Peninsula's application for a 1996 price index and pass-through rate increase, we find it appropriate to initiate an investigation of the potential overearnings of the utility.

Because North Peninsula's rate of return has not been previously set by the Commission, we are using an estimated overall rate of return of 9.75% for the utility to estimate possible overearnings. The utility appears to be in a negative equity position with only \$295,000 of long term debt at 1 1/2% over prime in its capital structure. The prime rate as of August 28, 1996, is 8.25%. Therefore, we estimate the utility's overall rate of return to be 9.75% for interim purposes.

North Peninsula's 1996 price index and pass-through rate increase will become effective September 28, 1996, and will produce an additional \$2,538 in revenue. Therefore, 6.83% of 1995 annual revenues and 100% of the price index and pass-through revenue shall be held subject to refund, as follows:

| | |
|---|------------------|
| Overall Achieved Return | 17.26% |
| Overall Required Return | <u>9.75%</u> |
| Reduction Required | 7.51% |
| Multiply by Rate Base | <u>\$130,135</u> |
| Estimated annual revenues subject to refund | \$ 9,773 |
| Estimated annual revenues subject to refund | \$ 9,773 |
| 1996 price index & pass-through revenue | <u>\$ 2,538</u> |
| Total revenues subject to refund | \$ 12,311 |
| Projected annual revenues | \$145,727 |
| Operating revenue % subject to refund | 8.45% |

Accordingly, North Peninsula shall hold annual wastewater revenues of \$12,311 subject to refund pending our final determination.

SECURITY

Pursuant to Section 367.082, Florida Statutes, when revenues are held subject to refund, the utility is authorized to continue collecting the previously authorized rates. The amount of potential overearnings in the wastewater system is \$12,311 on an annual basis. Assuming a six-month time frame for completion of the investigation, the potential refund amount is \$6,156. Interest, calculated in accordance with Rule 25-30.360, Florida Administrative Code, is \$225, making the total \$6,381, which shall be collected under guarantee, subject to refund with interest.

The security shall be in the form of a bond or letter of credit in the amount of \$6,381. Alternatively, the utility may establish an escrow agreement 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 approves the rate increase; or
- 2) If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as 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 the final Commission order is rendered, and the amount of refund, if any, is determined.

If security is provided through an escrow agreement, the utility shall escrow 8.45% of its monthly revenues as detailed above, and the following conditions shall be part of the escrow agreement:

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

- 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 Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
- 8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance shall the maintenance and administrative costs associated with any refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. Also, by no later than the twentieth (20) day of each month, the utility shall file a report showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

This docket shall remain open pending our final determination of whether the utility is overearning.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that an investigation of the wastewater rates and charges of North Peninsula Utilities Corporation shall be initiated. It is further

ORDERED that North Peninsula Utilities Corporation shall hold annual wastewater revenues of \$6,381 as a guarantee of any potential refund of wastewater revenues collected under interim

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conditions by means of a surety bond, letter of credit, or escrow agreement. It is further

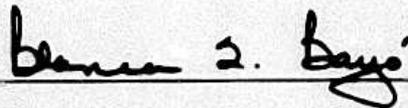
ORDERED that by no later than the twentieth (20) day of each month, North Peninsula Utilities Corporation shall file a report showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount subject to refund. It is further

ORDERED that should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that no maintenance or administrative costs associated with any refund shall be borne by the customers. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 7th day of October, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RGC

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by 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 and/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 after the issuance 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.