

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate ) DOCKET NO. 920733-WS  
Increase for Silver Springs )  
Shores Division in Marion County )  
by GENERAL DEVELOPMENT )  
UTILITIES, INC. )  

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In Re: Application for a Rate ) DOCKET NO. 920734-WS  
Increase for Port LaBelle ) ORDER NO. PSC-93-1546-FOF-WS  
Division in Glades and Hendry ) ISSUED: October 21, 1993  
Counties by GENERAL DEVELOPMENT )  
UTILITIES, INC. )  

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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
LUIS J. LAUREDO

ORDER GRANTING MOTIONS FOR  
RECONSIDERATION AND STAY

BY THE COMMISSION:

Background

General Development Utilities, Inc. (GDU or utility) is a Class A water and wastewater utility, wholly owned by Atlantic Gulf Communities Corporation. On September 29, 1992, GDU filed applications for general water and wastewater rate increases for two of its divisions: Silver Springs Shores (SSS) and Port LaBelle (PLB). The applications, as filed, did not meet the minimum filing requirements (MFRs). On October 19, 1992, the utility completed the MFRs for both applications and that date was established as the official filing date for each division. By Order No. PSC-93-0010-FOF-WS, issued January 4, 1993, the Commission suspended the utility's proposed rates and granted interim water and wastewater rate increases, subject to refund.

By Order No. PSC-93-1113-FOF-WS (Final Order), issued July 30, 1993, the Commission granted the utility's request for a general rate increase. On August 13, 1993, GDU timely filed a Motion for Reconsideration of Order No. PSC-93-1113-FOF-WS and a Motion for Stay Pending Reconsideration.

DOCUMENT NUMBER-DATE

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FILED RECORDS/REGISTRATION

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Stay Pending Reconsideration

On August 13, 1993, GDU filed a Motion to Stay Pending Reconsideration of the Final Order which, among other things, required a refund of excess interim rates, with interest. Rule 25-22.060(c), Florida Administrative Code, states that a motion for reconsideration of an order does not serve to automatically stay the effectiveness of such order. Accordingly, GDU filed its Motion for Stay.

As no appeal of the Final Order has yet been filed, GDU is not automatically entitled to a stay pending reconsideration. However, we find that a stay of Order No. PSC-93-1113-FOF-WS is appropriate pending the disposition of reconsideration. We believe it would be wasteful to require a refund of monies prior to the Commission's order disposing of the pending motion for reconsideration, which, if granted, might affect the amount of such refund. In addition, the customers are protected during the pendency of reconsideration as Rule 25-30.360(4), Florida Administrative Code, provides that interest continues to accrue until the refunds are made. Pursuant to Rule 25-30.360, Florida Administrative Code, the ninety day period to refund shall commence from the effective date of this Order. In consideration of the above, we grant GDU's Motion for Stay Pending Reconsideration of Order No. PSC-93-1113-FOF-WS.

Motion for Reconsideration

By Order No. PSC-93-0010-FOF-WS, issued January 4, 1993, this Commission approved interim rates for this utility, subject to refund. On July 30, 1993, the Commission issued Order No. PSC-93-1113-FOF-WS, approving final rate increases and revenues and requiring a refund of interim rates. GDU timely filed a Motion for Reconsideration on August 13, 1993, pursuant to Rule 25-22.060, Florida Administrative Code, whereby it requested reconsideration of the refunds ordered by the Commission, which are:

	<u>WATER</u>	<u>WASTEWATER</u>
<u>Silver Springs Shores</u>		
Annualized Interim Refund	\$ 28,806	\$ 233,085
Percentage of Interim Refund	4.21%	14.56%

	<u>WATER</u>	<u>WASTEWATER</u>
<u>Port LaBelle</u>		
Annualized Interim Refund	\$ 64,590	N/A
Percentage of Interim Refund	17.69%	N/A

The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Company of Miami v. King, 146 So.2d 89 (Fla. 1962). In Diamond Cab, the Court held that the purpose for a petition for reconsideration is to bring to an agency's attention a point which was overlooked or which the agency failed to consider when it rendered its order.

In its motion, GDU asserts that: 1) Staff made a minor technical error in its calculation of the refund, which resulted in an overstatement; 2) the error relates to the manner in which the service charge and miscellaneous revenues were taken into account; 3) the utility has recalculated the percentages to be 3.4 percent, 17.27 percent, and 13.64 percent for SSS water, SSS wastewater, and PLB water, respectively; and 4) the Commission's decision overlooked or failed to consider the proper treatment of miscellaneous revenues in calculating the required refund percentages.

The test period for establishing the interim rates was the twelve months ended December 31, 1991, and the test period for establishing the final rates was the twelve months ended December 31, 1992. The approved interim rates did not include any provisions for pro forma consideration of increased operating expenses or increased plant. The interim increase was designed to allow recovery of actual interest costs, and the floor of the last authorized range for equity earnings.

In establishing the proper refund amounts for the final order, a revised revenue requirement for the interim period was calculated excluding the provision for rate case expense. This pro forma change was excluded because it was not an actual expense during the interim collection period. No other adjustments were made in determining the adjusted final revenues. The comparable revenue requirement was computed using the approved cost of capital including the return on equity that, by statute, is the prescribed return to be used to test for excessive earnings during the interim collection period. The utility did not dispute the calculation of the adjusted final revenues in its motion for reconsideration.

Miscellaneous service charges and other revenues were removed from the adjusted final revenues and the interim period revenues before the calculation of the interim refund because these amounts are not increased on an interim basis and are, therefore, not subject to refund by the utility. The difference between the net adjusted final revenues and the net interim period revenues is the interim revenue refund amount. This amount was divided by the interim period revenues, net of miscellaneous service charges and other revenues, to arrive at the refund percentages. The refund percentages are used by the utility in calculating the amount each customer is refunded.

SILVER SPRINGS SHORES

GDU asserts that the miscellaneous service charges and other revenues used in the final order refund calculation are incorrect. We agree with the utility on that point, therefore, the utility's motion for reconsideration is hereby granted. However, we do not agree with the amounts used by the utility in its motion for reconsideration.

We disagree with GDU's motion for reconsideration of the refund calculations for the following reasons. First, we believe that actual 1992 miscellaneous service charges and other revenues should have been used. The final order used actual 1992 interim revenues, as required by a stipulation in the rate case, and incorrectly used 1991 MFR miscellaneous service charges and other revenues. The 1992 interim revenues are not comparable with the 1991 MFR miscellaneous service charges and other revenues. Second, we believe the utility has erred in its motion for reconsideration by deducting inconsistent amounts of miscellaneous service charges and other revenues. GDU deducted 1992 MFR miscellaneous service charges and other revenues from the adjusted final revenues and deducted 1991 MFR amounts from the interim period revenues. The same actual 1992 miscellaneous service charges and other revenues, shown on Late-filed Exhibit No. 20, should have been deducted from both the interim period and the adjusted final revenues.

PORT LABELLE

For Port LaBelle, GDU advocates adjusting miscellaneous service charges for amounts overcharged by the utility and voluntarily refunded. In GDU's motion for reconsideration, an adjustment was made to the miscellaneous service charges deducted from the adjusted final revenues, but the same adjustment was not

made to the amounts deducted from the interim period revenues. This inconsistency causes the refund amount to be reduced by \$4,115. We agree that an adjustment should have been made to miscellaneous service charges for amounts voluntarily refunded by the utility. However, we believe the same adjustment should be made to the miscellaneous service charges deducted from both the adjusted final and the interim period revenues. Therefore, we find that the correct amount of interim revenues, net of miscellaneous service charges, is \$443,577.

SUMMARY

In consideration of the foregoing, we find it appropriate to grant the utility's motion for reconsideration. We find that the appropriate interim refund percentages are 2.58 percent and 17.07 percent for the SSS water and wastewater systems, respectively, and that the interim refund percentage for the PLB water system is 13.66 percent. Therefore, GDU shall refund with interest, the excess interim amounts it has collected. No change should be made to the PLB wastewater interim refund percentage since no refund is necessary.

Once the interim refund has been completed by the utility and verified by our Staff, and after all other requirements of Order No. PSC-93-1113-FOF-WS have been met, these dockets may be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that General Development Utilities, Inc.'s Motion for Stay Pending Reconsideration is granted. It is further

ORDERED that General Development Utilities, Inc.'s Motion for Reconsideration is granted. It is further

ORDERED that General Development Utilities, Inc., shall refund with interest, as set forth in the body of this Order, the excess interim amounts it has collected. It is further

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

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DOCKETS NOS. 920733-WS, 920734-WS  
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ORDERED that these dockets shall be closed once the interim refund has been completed by the utility and verified by our Staff, and all other requirements of Order No. PSC-93-1113-FOF-WS have been met.

By ORDER of the Florida Public Service Commission this 21st day of October, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

LAJ

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 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 or sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

GENERAL DEVELOPMENT UTILITIES, INC.  
 RECONSIDERATION OF INTERIM RATE REFUND  
 TEST YEAR ENDED DECEMBER 31, 1992

SCHEDULE NO. 1  
 DOCKET NOS. 920733-WS, 920734-WS  
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COMMISSION APPROVED

	<u>Silver Springs Shores</u>		<u>Port LaBelle</u>	
	<u>Water</u>	<u>Wastewater</u>	<u>Water</u>	<u>Wastewater</u>
ADJUSTED FINAL REVENUES	\$669,863	\$1,094,666	\$391,529	\$353,374
MISC SERVICE CHRGS & OTHER REVENUES	(3,608)	(1,958)	(8,541)	(436)
NET ADJUSTED FINAL REVENUES	<u>\$666,255</u>	<u>\$1,092,708</u>	<u>\$382,988</u>	<u>\$352,938</u>
INTERIM PERIOD REVENUES	\$687,499	\$1,319,627	\$452,118	\$337,403
MISC SERVICE CHRGS & OTHER REVENUES	(3,608)	(1,958)	(8,541)	(436)
NET INTERIM PERIOD REVENUES	<u>\$683,891</u>	<u>\$1,317,669</u>	<u>\$443,577</u>	<u>\$336,967</u>
ANNUALIZED REFUND AMOUNT	<u>(\$17,636)</u>	<u>(\$224,961)</u>	<u>(\$60,589)</u>	<u>\$15,971</u>
REFUND PERCENTAGE	2.58%	17.07%	13.66%	0.00%