

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of MEADOWBROOK)
UTILITY SYSTEMS, INC for interim)
and permanent rate increase in)
Palm Beach County)
_____)

DOCKET NO. 850062-WS
ORDER NO. 21906
ISSUED: 9-19-89

The following Commissioners participated in the disposition of this matter:

BETTY EASLEY
JOHN T. HERNDON

ORDER CLARIFYING REFUND PROVISIONS

BY THE COMMISSION:

By Order No. 13664, issued September 10, 1984, this Commission initiated an investigation into the earnings of Meadowbrook Utility Systems, Inc. (Meadowbrook). On May 31, 1985, during the pendency of the overearnings investigation, Meadowbrook filed an application for increased water and sewer rates. By Order No. 14656, issued July 30, 1985, this Commission suspended Meadowbrook's proposed rates, denied any interim increase and consolidated the overearnings investigation into the rate case docket.

By Order No. 17304, issued March 19, 1987, this Commission reduced Meadowbrook's rates and ordered it to refund, with interest, excessive annual water revenues collected between August 21, 1984 and April 21, 1986, and excessive annual water and sewer revenues collected under the proposed rates between April 21, 1986 and such time as the refund was completed.

On April 6, 1987, Meadowbrook filed a motion for a stay of Order No. 17304 pending judicial review of that order by the First District Court of Appeal (DCA). By Order No. 17567, issued May 20, 1987, this Commission granted Meadowbrook's request for a stay, subject to its providing security to cover its potential refund liability through March of 1988.

On December 10, 1987, the First DCA affirmed Order No. 17304 in all respects. On December 23, 1987, Meadowbrook filed a motion for rehearing with the First DCA. Meadowbrook's motion was denied on February 1, 1988.

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On February 26, 1988, Meadowbrook petitioned the Supreme Court of Florida to review the decision of the First DCA. On June 20, 1988, the Supreme Court denied Meadowbrook's petition for review and granted this Commission's motion for attorney's fees.

On November 7, 1988, by Order No. 20287, this Commission lifted the stay of Order No. 17304 and required Meadowbrook to comply with the refund provisions of Order No. 17304.

On November 22, 1988, Meadowbrook filed a motion for reconsideration of Order No. 20287. By Order No. 20488, issued December 20, 1988, this Commission denied Meadowbrook's motion for reconsideration. Further, we ordered Meadowbrook to begin complying with the refund provisions of Order No. 17304 beginning December 20, 1988.

On January 19, 1989, Meadowbrook served notice of its appeal of Orders Nos. 20287 and 20488. In addition to its notice of appeal, Meadowbrook also filed a motion for a partial stay of Orders Nos. 20287 and 20488 and a motion for clarification of the refund provisions of Order No. 20488. By Order No. 21017, issued April 11, 1989, the Commission granted, in part, Meadowbrook's motion for a partial stay, clarified the "customers of record" date and, again, required Meadowbrook to begin making the refund immediately.

According to Meadowbrook, it is now ready to begin refunding all uncontested revenues. However, it has requested further clarification of to whom it should send refund checks in two distinct circumstances. The first circumstance is, for those residents of Wedgewood Apartments, who have had their utilities subsidized by the Palm Beach County Housing Authority (Housing Authority), should the refund go to the customer of record or the Housing Authority? The second circumstance is, for those customers currently involved in bankruptcy proceedings, should the refund go to the customer of record or the bankruptcy trustee?

Regarding those customers who have had their utilities subsidized, we have contacted Larry Murphy, Director of Operations for the Housing Authority. According to Mr. Murphy, the Housing Authority subsidizes utilities for all residents of certain housing projects by giving them an allowance consisting of ninety percent of the average utility bills for those projects. Since the residents of the subsidized housing

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projects only paid an average of ten percent of their utility bills, we believe that a full refund would result in a windfall to these customers. We believe that the refunds for these residences should be divided between the residents and the Housing Authority. We, therefore, find that Meadowbrook should remit ninety percent of these refund amounts to the Housing Authority and ten percent to the customers of record.

Regarding those customers who are currently involved in bankruptcy proceedings, we believe the appropriate course of action would be for Meadowbrook to refund to the customer of record and the bankruptcy trustee as co-payees, and so find.

Based upon the foregoing, it is

Ordered by the Florida Public Service Commission that, with regard to the residents of Wedgewood Apartments, who have had their utilities subsidized by the Palm Beach County Housing Authority, Meadowbrook Utility Systems, Inc. shall remit ninety percent of the required refunds to the Palm Beach County Authority and ten percent of the required refund to the customers of record. It is further

ORDERED that, with regard to those customers currently involved in bankruptcy proceedings, Meadowbrook Utility Systems, Inc. shall refund to the customer of record and the bankruptcy trustee as co-payees.

By ORDER of the Florida Public Service Commission
this 19th day of SEPTEMBER, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

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