

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for approval ) DOCKET NO. 950933-WS  
for allowance of funds prudently ) ORDER NO. PSC-97-0257-FOF-WS  
invested by Southlake Utilities, ) ISSUED: March 7, 1997  
Inc. in Lake County. )  
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The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING UTILITY'S MOTION FOR RELIEF FROM  
TIME FRAMES IMPOSED BY ORDER NO. PSC-96-1082-FOF-WS AND  
ESTABLISHING DEADLINE FOR COMPLETION OF REFUNDS

BY THE COMMISSION:

Background

Southlake Utilities, Inc. (Southlake or utility) is a Class C utility providing service to approximately 33 water and wastewater customers (434 units) in Lake County. According to the utility's 1994 annual report, the water system had actual operating revenues of \$15,678 and a net operating loss of \$54,277. The wastewater system had actual operating revenues of \$17,369 and a net operating loss of \$68,250.

By Order No. 23947, issued January 2, 1991, in Docket No. 900738-WS, we granted Southlake Certificates Nos. 533-W and 464-S. In that same docket, we issued Order No. 24564, on May 21, 1991, establishing the current customer rates of the utility, including Allowance for Funds Prudently Invested (AFPI) charges. Consistent with Commission practice, Southlake's original rates and charges were based upon estimated rates at 80% of build-out and a plant completion date of July 1, 1991.

On August 8, 1995, the utility filed an Application for Approval of AFPI Charges. The utility filed this application to obtain approval of a change in the starting date of the AFPI charges and to adjust the specified AFPI amounts to reflect actual construction costs. In its application, the utility used the water and wastewater treatment plant balances as of December 31, 1994, as

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the test year for its calculation. The utility requested a waiver of Rule 25-30.434(4), Florida Administrative Code, which requires the effective date of the charge to be the month following the end of the test year. The utility requested that the charges be effective as of January 1, 1993, instead of January 1, 1995. In addition, the utility agreed to collect its currently tariffed AFPI charges subject to refund of any amounts exceeding the charges approved in this docket.

By Order No. PSC-96-1082-FOF-WS, issued August 22, 1996, we canceled Southlake's existing AFPI tariff, but allowed Southlake to file revised tariffs for an AFPI charge for a five year period beginning January 1, 1995, and ending December, 1999. We required Southlake to refund all AFPI charges collected prior to January 1, 1995. For the AFPI charges collected after that date, the utility was ordered to refund any amount which exceeded the amount allowed in the new tariff. Finally, the Commission required Southlake to submit reports in compliance with Rule 25-30.360, Florida Administrative Code. Pursuant to the Order and to Rule 25-30.360, Florida Administrative Code, the refunds were to be made within 90 days of the order. On January 13, 1997, Southlake filed a Motion For Relief from the time frames established in Order No. PSC-96-1082-FOF-WS. This Order disposes of the utility's motion.

#### Motion for Relief

On November 22, 1996, Southlake submitted its proposed reconciliation report documenting the refund of the AFPI charges. After reviewing the report, our staff identified concerns over whether the utility was in compliance with the refund requirement of the Order. A meeting was held between the utility and staff on January 10, 1997. During the meeting, it was apparent that there was some confusion regarding the methodology for calculating the refunds.

Although styled as a Motion for Relief, Southlake is essentially seeking an extension of time to comply with all requirements of the Order. Southlake requests the opportunity to recalculate the refunds in accordance with the appropriate methodology. Specifically, the utility requests an additional 90 days to completely prepare its final report of refunded AFPI charges and submit it to the Commission with appropriate documentation demonstrating the complete refund of AFPI. In support of its request, the utility states that no one will be harmed if the extension is granted because any AFPI charges that have not been refunded are accruing interest pursuant to Rule 25-30.360, Florida Administrative Code.

Rule 25-30.360, Florida Administrative Code, sets forth the following:

(1) Applicability. With the exception of deposit refunds, all refunds ordered by the Commission shall be made in accordance with the provisions of this Rule unless otherwise ordered by the Commission.

(2) Timing of Refunds. Refunds must be made within 90 days of the Commission's order unless a different time frame is prescribed by the Commission.

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(7) Refund Reports. During the processing of the refund, monthly reports on the status of the refund shall be made by the 20th of the following month. In addition, a preliminary report shall be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. The above reports shall specify the following:

- (a) The amount of money to be refunded and how that amount was computed;
- (b) The amount of money actually refunded;
- (c) The amount of any unclaimed refunds; and
- (d) The status of any unclaimed amounts.

The effective date of Order No. PSC-96-1082-FOF-WS was September 13, 1996. Accordingly, the refunds should have been completed by December 12, 1996. The utility did attempt to comply with that date. As stated earlier, the utility filed its refund report on November 12, 1996. However, due to the confusion surrounding the refund methodology, Southlake seeks additional time to recalculate the refunds and submit a report for our staff's approval. We believe that the utility has demonstrated that it legitimately misunderstood the AFPI calculation methodology and the calculations for the related refunds. Our staff has met with the utility to demonstrate how the calculations should be made. We find that the utility's request to have additional time to make the

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calculations and refunds is reasonable and appropriate. Further, we have verified that the AFPI charges that have not yet been refunded are accruing interest pursuant to Rule 25-30.360(4), Florida Administrative Code.

Based on the foregoing, Southlake's Motion for Relief is granted. Southlake shall complete all refunds by May 30, 1997.

This docket shall remain open pending verification that all requirements of Order No. PSC-96-1082-FOF-WS and of this Order have been met. Once our staff has verified that all requirements of the orders have been met, this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Southlake Utilities, Inc.'s, Motion for Relief is granted as set forth herein. It is further

ORDERED that Southlake Utilities, Inc., shall complete all refunds by May 30, 1997. It is further

ORDERED that upon Staff's verification that all requirements of Order No. PSC-96-1082-FOF-WS and of this Order have been met, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission, this 7th day of March, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Fejn  
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.