

State of Florida



Public Service Commission  
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION  
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-M-E-M-O-R-A-N-D-U-M-

**DATE:** December 2, 2010

**TO:** Office of Commission Clerk (Cole) *BF ALM*

**FROM:** Division of Economic Regulation (Fletcher)  
Office of the General Counsel (Crawford) *JC*

**RE:** Docket No. 100446-SU – Settlement proposal for possible overearnings by Tierra Verde Utilities, Inc. in Pinellas County.

**AGENDA:** 12/14/10 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\100446.RCM.DOC

Case Background

Utilities, Inc. (UI) is an Illinois corporation which owns approximately 75 subsidiaries throughout 15 states including 15 water and wastewater utilities within the State of Florida. Tierra Verde Utilities, Inc. (Tierra Verde or Utility) is one of the aforementioned subsidiaries in Florida.

Rates were last established for this utility in 2009.<sup>1</sup> On March 20, 2010, the Commission approved a 2009 index and pass-through rate adjustment which represented a \$20,271 revenue increase. Staff's review of the 2009 Annual Report for Tierra Verde revealed possible

<sup>1</sup> See Order No. PSC-09-0372-PAA-SU, issued May 27, 2009, in Docket No. 080248-SU, In re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.

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overearnings of approximately 4.39 percent of total revenues. Subsequently, staff engaged in noticed discussions with the Utility regarding these possible overearnings. Staff notes that the Office of Public Counsel was involved in these discussions. In a letter dated November 18, 2010, Tierra Verde proposed a settlement offer to address the possible overearnings. Tierra Verde proposed to withdraw its 2010 index application and refund with interest and reduce rates by the amount of the 2009 index that was previously approved. Further, the Utility stated it would reduce rates by any incremental 2009 overearnings above the amount of the 2009 index. The Utility's proposed settlement is attached to this recommendation as Attachment A.

The purpose of this recommendation is to present the settlement proposal to the Commission for approval. The Commission has jurisdiction pursuant to Sections 367.081, 367.082, and 367.121, Florida Statutes.

**Discussion of Issues**

**Issue 1:** Should the Commission accept the settlement offer proposed by Tierra Verde Utilities, Inc.?

**Recommendation:** Yes. Pursuant to the settlement proposal, Tierra Verde will make an across-the-board rate reduction of \$39,681 or 4.39 percent of total revenues, as well as a refund of \$20,271 with interest. The Utility should file a proposed customer notice reflecting the Commission's decision within 15 days of the Commission vote. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.), after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice. (Fletcher)

**Staff Analysis:** As stated in the case background, staff reviewed the Utility's 2009 Annual Report, which revealed possible overearnings. Staff notes that this amount represents possible overearnings because the annual report analysis is unaudited and the Utility's books and records have not been examined by staff auditors for the 2009 calendar year.

By letter dated November 18, 2010, Tierra Verde proposed a settlement to address possible overearnings. Specifically, the Utility agreed to withdraw its 2010 index application (submitted on May 24, 2010) and refund with interest and reduce rates by the amount of the previously approved 2009 index. Further, the Utility stated it would reduce rates by any incremental 2009 overearnings above the amount of the 2009 index. This settlement represents an across-the-board rate reduction of \$39,681 or 4.39 percent, as well as a refund of \$20,271 with interest.

Possible Overearnings	\$39,681
2009 Index Amount	<u>20,271</u>
Difference	<u>\$19,410</u>
Proposed Rate Reduction	<u>\$39,681</u> <u>(4.39%)</u>
Proposed Refund	<u>\$20,271</u>

In the Tierra Verde's last rate case, the Utility's purchased wastewater expense was reduced because of excessive inflow and infiltration (I&I). In the last case, the Commission granted \$13,720 annually for a video inspection project of the Utility's collection system. On September 21, 2010, Tierra Verde provided an I&I calculation as of June 30, 2010, which showed no excessive I&I. Staff believes the above-mentioned inspection project has enabled Tierra Verde to identify areas of the collection system needing repair. Based on the above, staff made no adjustment to purchased wastewater expense in its 2009 earnings calculation for the Utility.

Staff believes that Tierra Verde's proposed settlement is a reasonable resolution because it will address the possible overearnings on a prospective basis. Further, staff believes that it is in the public interest for the Commission to approve the settlement proposal because this settlement offer promotes administrative efficiency, avoiding the time and expense of a formal earnings investigation.

In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings,<sup>2</sup> staff recommends that the Commission approve the settlement proposal. Schedule No. 1 reflects the Commission-approved rates from the 2008 rate case, the rates from the 2009 index and pass-through rate adjustment, and staff's recommended rates per the Utility's settlement proposal. Staff will continue to monitor the earnings of the Utility, and if any subsequent overearnings are identified, staff may open a formal earnings investigation.

Staff also recommends that the Utility file a proposed customer notice reflecting the Commission's decision within 15 days of the Commission vote. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and this notice has been provided to the customer. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice.

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<sup>2</sup> See Order Nos. PSC-09-0711-AS-WS, issued October 26, 2009, in Docket No. 080249-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.; PSC-08-0640-AS-WU, issued October 3, 2008, in Docket No. 070601-WU, In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply; and PSC-07-0534-AS-WS, issued June 26, 2007, in Docket No. 060261-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively. (Crawford, Fletcher)

**Staff Analysis:** If no timely protest is received from a substantially affected person upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to verify completion of the refund discussed in Issue 1 and to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once staff has verified that the refunds have been made in accordance with Rule 25-30.360, F.A.C., the docket should be closed administratively.

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November 18, 2010

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E-FILING

Ann Cole, Commission Clerk  
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Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RE: Docket No. 100000; Investigation into possible overearnings of Tierra Verde Utilities, Inc.  
Our File No.: 30057.192

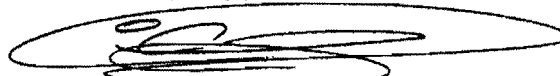
Dear Ms. Cole:

On September 13, 2010, Tierra Verde Utilities, Inc. (the "Utility"), the Office of Public Counsel and Staff of the Florida Public Service Commission held an informal meeting to discuss the alleged overearnings by Tierra Verde Utilities, Inc. In light of these discussions, Staff has requested that the Utility file a proposal to settle the above-referenced matter.

To that end, the Utility would agree to (1) withdraw its 2010 Index Application, (2) refund revenues collected from the 2009 index with interest, (3) reduce rates by the amount of the 2009 index, and (4) reduce rates by the rest of the 2009 overearnings. The Utility would agree that the rate reduction should be calculated based on the adjustments made in the last rate case (Docket No. 080248-SU), except that the calculations will recognize the Utility's investment to correct Inflow and Infiltration since the last rate case. This proposal would avoid the time and expense of multiple refunds and audits, and the customers would get an immediate benefit.

Should you or the Staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



CHRISTIAN W. MARCELLI  
For the Firm

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<b>Tierra Verde Utilities, Inc.</b>		<b>Schedule No. 1</b>	
<b>Wastewater Bi-Monthly Service Rates</b>		<b>Docket No. 100446-SU</b>	
<b>Test Year Ended 12/31/09</b>			
	<b>Comm. Approve 2008 RC</b>	<b>2009 I &amp; P/T 3/24/2010</b>	<b>Staff Recommend Rates</b>
<b>Residential</b>			
Flat Bi-Monthly Rate	\$102.44	\$104.29	\$99.71
<b>General Service</b>			
Base Facility Charge by Meter Size:			
5/8" x 3/4"	\$65.35	\$66.53	\$63.61
1"	\$163.38	\$166.33	\$159.03
1-1/2"	\$326.76	\$332.66	\$318.07
2"	\$522.82	\$532.26	\$508.91
3"	\$1,045.64	\$1,064.53	\$1,017.83
4"	\$1,633.81	\$1,663.32	\$1,590.35
6"	\$3,267.63	\$3,326.65	\$3,180.71
Gallonge Charge, per 1,000 Gallons	\$3.41	\$3.47	\$3.32
<b>Typical Residential Bills 5/8" x 3/4" Meter</b>			
6,000 Gallons	\$102.44	\$104.29	\$99.71
10,000 Gallons	\$102.44	\$104.29	\$99.71
20,000 Gallons	\$102.44	\$104.29	\$99.71
(Bi-Monthly Wastewater Gallonge Cap - 20,000 Gallons)			