

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER U-35444

FRENCH SETTLEMENT WATER COMPANY, INC.,
EX PARTE

Docket No. U-35444, In re: Request for Rate Increase.

(Decided at the January 27, 2021 Business and Executive Session.)

ORDER

I. Background and Procedural History

On December 12, 2019, French Settlement Water Company, Inc. (“FSWC” or “Company”) filed an application with the Louisiana Public Service Commission (“Commission”) for a rate increase for water service. Notice of FSWC’s application was published in the Commission’s Official Bulletin dated December 27, 2019 with no interventions received. The Company also timely published its request in the state journal and official journals of each parish within the geographical area in which the rates would become applicable. Subsequent to the intervention period expiring, an Administrative Law Judge was assigned to this docket, and after a status conference with Commission Staff (“Staff”) and the Company attending, the Tribunal set a procedural schedule that established various pre-hearing deadlines and a hearing.

The Company provides metered water services to approximately 4,431 (4,181 residential, 233 commercial, and 17 public authority) customers located within Livingston and Tangipahoa Parishes. In its application, FSWC claims that current revenues are inadequate to provide an opportunity for a reasonable return. The Company’s last rate increase, authorized by Order No. U-33457, dated July 2, 2015, no longer provides enough revenue to cover operating costs or reflects earnings on increased infrastructure improvements. By its application, FSWC seeks an increase in rates that would yield a Return on Equity (“ROE”) of 11.50% and a Rate of Return on rate base (“ROR”) of 9.25%.

II. Jurisdiction and Applicable Law

The Commission exercises jurisdiction over common carriers and public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

III. The Company's Request

On December 12, 2019, FSWC filed an application with the Commission requesting an increase in its metered water rates. The Company claimed that an increase is necessary due to the Company's low ROE and ROR, increases in the cost of operating, and recent and on-going capital improvements made to the Company's treatment and distribution facilities. FSWC's actual ROE earned in 2019 was 2.142% and the actual ROR earned in the same period was 2.692%. FSWC's previously authorized ROE was 11.50%, which is significantly higher than the actual ROE of 2.142%. As a result, FSWC's rates are below the level necessary to provide an adequate return on investment.

The Company's requested rates yield an ROE of 11.50% and an ROR of 9.25%. In order to achieve these returns, the Company requested an increase in its non-recurring fees as well as its metered water rates for residential, commercial, and public authority customers in the total amount of \$304,118.00.

IV. Staff Review and Recommendation

Staff conducted a review of the application and accompanying exhibits, as well as responses to formal and informal data requests. On May 1, 2020, Staff filed the Direct Testimony of Thomas Broady, including an Audit Memorandum and Cost of Capital Study. Staff determined that while a rate increase was justified, the amount the revenue increase necessary for FSWC to maintain safe reliable service while maintaining an opportunity to earn a return on its investment is lower than the rates requested in the Application. Further, Staff determined that FSWC improperly included approximately \$47,000.00 for capital improvements that were not in the process of being constructed and without an established timeline for construction. In addition, FSWC did not provide any detailed information for increased cost of service for non-recurring fees.

Staff utilized a Cost of Capital study to determine the required revenue for FSWC. This study indicated an ROE of 10.75% and an ROR of 8.51% are justifiable. Based on these recommended rates, Audit Staff recommended a rate increase that is approximately \$23,817.85 less than what the Company requested.

Staff also made recommendations regarding the Company's compliance with the Commission's General Order dated February 7, 2019 related to the Tax Cut and Jobs Act ("TCJA Order") and associated refunds. Specifically, FSWC sought to implement a dollar-for-dollar refund of the excess taxes collected since January 1, 2018, as mandated by Paragraph B of the TCJA Order, as well as the excess accumulated deferred income taxes. To accomplish this, FSWC indicated in its Application its desire to issue a refund to customers outside of the rate case to fully refund these totals. After review, Staff determined that FSWC was incorrect in assuming it could refund the total amount outside of the cost of service model used in the rate case. Staff made adjustments as necessary to ensure FSWC's full compliance with the TCJA Order, and recommended that the Company be ordered to refund \$20,821.26 to its ratepayers during the first month of the implementations of the authorized rate increase.

V. Uncontested Stipulated Settlement

After filing Staff's Direct Testimony, FSWC contacted Staff indicating that it agreed with the majority of the report, but that the Company had concerns regarding Staff's denial of increases in specific non-recurring fees. FSWC provided additional documentation in support of its request for increases in certain non-recurring fees. Based on its review and consideration of this additional documentation, Staff agreed to support an increase to FSWC's non-recurring tap in fees from \$175.00 to \$ 350.00, and provide metered water rates to allow for a ROE of 10.75% and a ROR of 8.55%. These settlement rates would generate an additional \$271,562.13 in revenue from the 2019 test year, which is approximately \$22,438.31 less than what the Company requested in its Application.

On July 22, 2020, FSWC and Staff, pursuant to Rule 6 of the Commission's Rules of Practice and Procedure, filed a Joint Motion to Schedule Uncontested Stipulated Hearing, including a Proposed Stipulated Settlement Term Sheet, settlement testimony of Roger A. Simmons on behalf of the Company, settlement testimony of Staff Auditor Thomas Broady, and a proposed tariff

indicating the stipulated rates¹, (collectively, “Uncontested Stipulated Settlement”).

The Uncontested Stipulated Settlement was also made part of the record at a stipulation hearing held on August 10, 2020 before Chief Administrative Law Judge Verzwylvelt.

VI. Commission Consideration

This matter was considered at the Commission’s January 27, 2021 Business and Executive Session. After discussion, on motion of Vice Chairman Skrmetta, seconded by Chairman Greene, and unanimously adopted, the Commission voted to accept the Uncontested Stipulated Settlement filed into the record on July 22, 2020.

IT IS THEREFORE ORDERED THAT:

1. FSWC be authorized to earn an ROE of 10.75 % and an ROR of 8.55%.
2. Subsequent to Staff review and approval of the same, FSWC be required to provide written notice to its customers no less than thirty (30) days prior to implementing any new rates.
3. FSWC be authorized to implement a recommended rate increase for additional annual revenues in the amount of \$271,562.13 compared to the 2019 test year.
 - a. In order to achieve the authorized revenue increase, FSWC be authorized to increase its metered water rates as follows:

	Present Rates	Recommended Rates	Recommended (\$) Increase	Recommended (%) Increase
First 2,000 gallons	\$13.56	\$16.00	\$2.44	17.99%
All Additional 1,000 gallons	\$3.15	\$3.74	\$0.59	18.73%

- b. Further, FSWC be authorized to increase its non-recurring tap on fees from \$175.00 to \$350.00.
4. FSWC be ordered to continue its compliance with all Louisiana Departments of Health, Office of Public Health, and Environmental Protection Agency compliance standards.
5. FSWC be ordered to file in the record of this proceeding, along with a copy to the Commission’s Utilities Division, a new or revised tariff reflecting the Commission’s action, within thirty (30) days of the issuance of an Order in this proceeding.
6. Upon satisfaction of the above conditions, the approved rates are deemed effective. Any newly approved rates charged to customer prior to satisfying the above-stated conditions shall be considered a direct violation of this rate proceeding and subject to refund with interest.

¹ A copy of the proposed tariff is attached hereto as Exhibit 1.

7. FSWC be ordered to refund \$20,821.16 to its ratepayers during the first month of the implementations of the authorized rate increase. The refund will be reflected on the customers' bills as a separate line item designated as "TCJA Refund".

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
February 25, 2021**

/S/ CRAIG GREENE

**DISTRICT II
CHAIRMAN CRAIG GREENE**

/S/ ERIC F. SKRMETTA

**DISTRICT I
VICE CHAIRMAN ERIC F. SKRMETTA**

/S/ FOSTER L. CAMPBELL

**DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**

/S/ LAMBERT C. BOISSIERE, III

**DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**

/S/ MIKE FRANCIS

**DISTRICT IV
COMMISSIONER MIKE FRANCIS**

**BRANDON M. FREY
SECRETARY**