

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

TOTAL ENVIRONMENTAL SOLUTIONS, INC.
WC-123-1866-00

DOCKET NO. 2006-UN-0054

**IN RE: NOTICE OF INTENT OF TOTAL ENVIRONMENTAL
SOLUTIONS, INC., TO CHANGE RATES FOR WATER
SERVICE IN ITS CERTIFICATED AREAS IN ADAMS,
HANCOCK, HARRISON AND JACKSON COUNTIES,
MISSISSIPPI**

FINAL ORDER

COMES NOW, the Mississippi Public Service Commission ("Commission") and issues the following Order in this cause.

INTRODUCTION

1. Total Environmental Solutions, Inc. ("TESI") is a public utility as defined in Miss. Code Ann. § 77-3-3(d)(iv) (Revised 2000) and is engaged in the business of providing water service to and for the public for compensation. TESI's last rate change was approved by the Commission in Docket No. 2001-UN-0808.

2. TESI is the holder of a Certificate of Public Convenience and Necessity issued in Docket 00-UA-660, as supplemented from time to time, authorizing its operations in specified areas of Adams, Hancock, Harrison and Jackson Counties, Mississippi. In addition to the rules and regulations of the Commission governing certificate holders, TESI is charged with rendering service pursuant to its service rules and regulations and in accordance with the schedule of rates and charges, both of which are comprised in its currently approved tariff on file with the Commission.

PROCEDURAL HISTORY

3. On February 10, 2006, TESI filed its Notice of Intent ("Notice") to change its rates presently on file with the Commission for water service to be effective with the first billing cycle of April 2006, for bills rendered on and after such date. TESI requested an increase in its flat water rate service

from \$19.80 per month to \$45.99 per month. TESI further requested an increase in its monthly metered rate, applicable to the Bryandale system only, as follows:

<u>From</u>	\$14.00 (minimum bill) for first 2,000 gallons 1.75 per 1,000 for next 5,000 gallons 2.00 per 1,000 over 2,000 gallons
<u>To</u>	\$32.59 first 2,000 gallons (minimum bill) 4.07 next 5,000 gallons per thousand 4.66 over 7,000 gallons per thousand

Therefore, TESI's requested monthly increase was more than double the currently approved monthly rate for the average residential customer's water rates.

4. Notice of TESI's filing was issued in the *Natchez Democrat* on February 17, 2006, the *Sun Herald* and *Sea Coast Echo* on February 18, 2006, and the *Clarion Ledger* on February 21, 2006. In addition to the published notice, TESI provided notice of its filing in each retail customer's bill on February 27, 2006. As required by Rule 9 of the Commission's Public Utilities Rules of Practice and Procedure ("Rules"), TESI filed its verification of notice to its customers on March 22, 2006.

5. The following parties intervened in this matter by order of the Commission: Jourdan River Shores Property Owner's Civic Association, Inc. ("Jourdan River Shores"); Barry I. Fox; Windance Property Owners Association ("Windance"); Lake Village Property Owners Association ("Lake Village"); Ray Boudreau; and the Jackson County Board of Supervisors. The Commission finds that each party of record received notice according to statute and regulation and had a full opportunity to participate in this Docket.

6. On February 15, 2006, pursuant to its Rules and as is customary in rate cases, the Commission suspended the filing and requested the Public Utilities Staff (Staff), a separate state agency, to review the proposed rates and charges contained in TESI's filing. A full opportunity for discovery was provided to all parties. While the Commission takes the Staff's recommendation under advisement, a full hearing was conducted in this matter in which the entirety of the file was reviewed including discovery had between TESI and the Staff as well as comments filed by the public at large.

7. On April 26, 2006, a consolidated prehearing conference was held for this Docket and for TESI's notice of intent to change sewer rates filed in Docket No. 05-UN-0055. All parties of record were notified of this conference. Each party present was afforded the opportunity to discuss any issues they had with TESI's filing. At the conclusion of the conference, the parties were encouraged to continue discussions toward a recommendation to the Commission of the requests made in the filing. Despite this encouragement, the parties, at this point, did not reach a recommendation in this Docket, therefore, on May 1, 2006, the Staff filed its prefiled direct testimony which recommended a flat monthly rate of \$35.00 for the furnishing of water service by TESI. The Staff incorporated into its prefiled testimony certain adjustments to TESI's proposed net rate base; total water system expenses; revenue requirements; metered rate design and various other fees.

8. The Staff and TESI reached a recommendation on May 12, 2006, which was entered into and filed in the record in this Docket as a Stipulation addressing various matters presented in TESI's filing and the Staff's prefiled testimony. As a result of the discussions and exchange of information the recommendation included, but was not limited to, a monthly flat rate for water service of \$36.00, reflecting a \$16.02 increase from the average monthly residential bill which was still close to a doubling of the current bill.

Based on the recommendation, the total annual revenue requirement was adjusted to \$1,569,173. Various other issues ancillary to the filing were addressed in the recommendation including keeping meters in the Bryandale system, waiving reconnection fees for customers adversely impacted by Hurricane Katrina and changes to TESI's tariff particularly involving its service extension policy.

The Commission notes that the recommendation, which was entitled "Stipulation," along with other pre-filed testimony was filed in the record of this Docket and was considered during the Commission's deliberations in the matter. The Commission further notes that it is not bound by such stipulation or recommendation and that it is advisory in nature.

9. Consolidated hearings on TESI's water and sewer filings were conducted on May 16, 2006, in the Commission's hearing room. Notice of the hearing was given by the Executive Secretary of the Commission on April 27, 2006. At the hearing, the Commission, pursuant to its Rules governing public witnesses, allowed homeowners to present their concerns to the Commission. The homeowners' testimonials were compelling not only at the hearing conducted on the matter, but also in the file which makes up this record. Furthermore, testimony from the homeowners revealed that the rate increase would be out of line. Despite the fact that TESI's filing did not include Hurricane Katrina costs, a rate increase at this point would place a financial hardship on the homeowners.

10. TESI offered the prefiled testimony of Paul E. Maeder, President and Chief Executive Officer; and Gary D. Shambaugh, Executive Vice President of AUS Consultants, and tendered each witness for cross-examination by all parties. The Staff offered the prefiled direct testimony of Ron Brewer, its Senior Accountant, and tendered him for cross-examination by all parties. Upon conclusion of the hearing, the Commission took the matter under advisement.

JURISDICTION AND SUFFICIENCY OF THE FILING

11. The Commission has jurisdiction over the subject matter and parties herein. We further find that the pleadings, data, documentation and exhibits to this Docket filed by TESI with its Notice Filing comply with all of the statutory filing requirements and all the requirements of the Commission's procedural rules for a major change in rates. Therefore, for good cause shown, the Commission waives any other filing requirements which may be prescribed by those Rules.

COMMISSION'S FINDINGS

12. The Commission, having reviewed and considered the entirety of the record before it, including the official file as well as all testimony, written and oral, finds that the evidence presented in this proceeding by TESI is unpersuasive to support the provisions and numerical adjustments requested particularly in light of the current conditions of the area. The Commission does not accept the recommendation of the Staff and finds the rate increase to be excessive and not supported by the evidence

when viewed in light of the totality of the circumstances. The Commission is charged with balancing the rights of the public to receive reasonably adequate service and the right of the utility to earn a profit. The Commission recognizes this balancing requirement and finds that TESI is entitled to a rate increase, but not to the extent requested.

13. Based upon the experience and expertise of the Commission and after careful consideration of the entire record of this Docket, the Commission further finds that the recommended increase in net rate base of \$3,359,320 for water service is not just and reasonable in light of the fact that the citizens of the State would be paying for water service that is disproportionate to other consumers for the level of quality that TESI currently provides, particularly when considering the economic hardships which area residential consumers have faced and continue to face. The Commission does not agree that operating expenses of \$1,277,377 as presented at the hearing are just and reasonable to the extent to necessitate an adjustment to current total expenses. Because the Commission does not recognize the above quoted rate base and expense figures as being just and reasonable in light of the circumstances, therefore, it does not accept the recommendation of a monthly flat rate water service of \$36.00 to support the requested \$1,569,173 revenue. Likewise, for TESI's only currently functioning metered system, Bryandale Subdivision, the Commission rejects the requested tiered revenue amounts for water usage as being unjust and unreasonable in light of the circumstances. The Commission finds that a rate increase of \$7.20 is supported by the record, and further finds an increased monthly flat rate of \$27.00 for water service is just and reasonable for all systems in this filing.

14. The stipulation proposes, and the Commission finds that TESI's current connection fee of \$1,000.00 applicable to new residential customers shall remain unchanged. The Commission also concludes that a number of TESI's water customer reconnections will be from customers adversely affected by Hurricane Katrina. The Commission strongly believes that no unnecessary additional burden should be placed upon those TESI customers affected by Hurricane Katrina. Therefore, the Commission

agrees with the Staff and finds that TESI shall waive all water reconnection fees for previous customers (as of August 29, 2005) returning to TESI's system after Hurricane Katrina.

15. In its filing, TESI proposed changes to its tariff in regard to its service extension policies. The Staff and TESI have stipulated, and the Commission finds, the changes to TESI's tariff in regard to its service extension policy as proposed are just and reasonable and are approved. TESI shall file a compliance tariff with the Commission which conforms to the provisions of the Staff's prefiled testimony, as modified by the Stipulation, and as approved herein.

HURRICANE KATRINA IMPACTS

16. In its filings, TESI proposed to include the costs of repairing the damage caused to its water and sewer systems as a result of Hurricane Katrina. Following discussions with the Staff, all costs associated with Hurricane Katrina were excluded from this proceeding. TESI has other avenues of recovery and has stated that it is pursuing all sources of recovery for its Hurricane Katrina related costs and may make a separate application with the Commission, if necessary, to recover its prudently incurred Hurricane Katrina restoration costs, should it fail ultimately to receive reimbursement from such other sources. Until such time as the Commission conducts a separate investigation as to the costs incurred and funds received by TESI as a result of Hurricane Katrina, the Commission directs TESI to create a regulatory asset or regulatory liability, as applicable, on its books to accrue such costs and accrue any reimbursements or recovery of monies from any sources, for any needed future disposition by the Commission, in a separate storm proceeding. Any future proceeding on this issue would address, as needed, any shortfalls or windfalls relating to this issue. All financial information on TESI, including all Katrina related information, would need to be examined at that time in such a proceeding. The Commission further finds that TESI shall file a report no later than May 15, 2007, showing all funds received due to Hurricane Katrina, from whom the funds were received and detailing how such funds were used by TESI for the water and sewer system.

17. Since Hurricane Katrina, TESI has been unable to continue its metered rate service for any of its systems other than the Bryandale system, due to significant damage to many meters and pipes, and due to significant amounts of debris which limits TESI's ability to read its meters. By order dated September 29, 2005, in Docket No. 2001-UN-0808, the Commission, recognizing the many problems affecting TESI's ability to read and bill for metered usage following Hurricane Katrina, ordered TESI to temporarily implement flat rates for most of its water customers. The Commission finds it just and reasonable and in the best interest of both TESI and its customers to continue flat rate service for all customers, including Bryandale, and for such service to continue for the next five years following the issuance of this Order. At the conclusion of the five-year period, the Commission finds that TESI shall file a report on the feasibility of returning to a metered rate for each system.

18. Hurricane Katrina has had a significant affect on TESI's water customers. As a result of this filing, TESI reported, and the Staff confirmed, 3,050 current water customers. The Commission adopts the stipulated water customer count of 3,315, representing the March 2006 count of 3,050 plus a projected 60 new customer connections and an additional 205 hurricane customer reconnections. The Commission directs TESI to file a report on May 15, 2007, and continuing for the next four years, providing the current customer count including the total number of connections and the total number of reconnections listed separately.

IT IS, THEREFORE, ORDERED THAT:

1. The requested rate increase by TESI is denied;
2. The recommended rate increase by Staff and TESI is denied;
3. A rate increase of \$7.20 reflecting a monthly flat rate of \$27.00 for water service is approved as just and reasonable for all systems;
4. TESI shall continue to provide water service on a flat-rate basis for all systems continuing for the next five years after the issuance of this Order and until such time as the Commission deems it appropriate that TESI convert to metered rates based upon review by the Commission of TESI's

ability to read and maintain its metered water systems. TESI shall file at the conclusion of the five year period a status report on the feasibility of utilizing a metered rate;

5. TESI may make changes to its tariff only to the extent addressed by this Order regarding its service extension policies which was recommended by the Staff in its pre-filed testimony and modified in the subsequent stipulation in the record;

6. TESI shall file on May 15, 2007, a report reflecting all monies received due to Hurricane Katrina, identifying all sources of such funds, and a detailed description of how such funds were used by TESI;

7. TESI shall file on May 15, 2007, and for the next four years, a current customer count showing the number of new connections and the number of reconnections for each system;

8. TESI shall not charge any customer returning to the TESI system after Hurricane Katrina a reconnection fee;

9. TESI shall comply with all provisions contained in this Order.

This order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of the Commission who shall note the service date in the file of this Docket.

Chairman Nielsen Cochran voted Abstain; Vice Chairman Leonard Bentz voted Aye; and Commissioner Bo Robinson voted Aye.


DATED this the 1st day of August, 2006.

MISSISSIPPI PUBLIC SERVICE COMMISSION

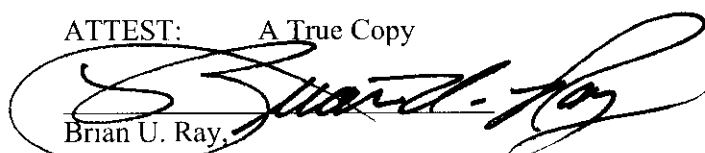



Nielsen Cochran, Chairman


Leonard Bentz, Vice Chairman


Bo Robinson, Commissioner

ATTEST: A True Copy


Brian U. Ray,
Executive Secretary

Effective this the 1st day of AUGUST, 2006.