BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of)
Certificate Nos. 475-W and 411-S from)
ST. JOHNS NORTH UTILITY CORP. to)
JACKSONVILLE SUBURBAN UTILITIES CORP.)
and for a limited proceeding to adjust)
rates.)

DOCKET NO. 891110-WS ORDER NO. 23111 ISSUED: 6-25-90

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION

ORDER ESTABLISHING RATE BASE, APPROVING IMPLEMENTATION OF UNIFORM RATES FOR WATER AND WASTEWATER, AND DENYING REQUEST FOR SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

St. Johns North Utility Corporation (SJN) is a Class C utility which provides service to approximately 211 water and 170 wastewater customers in St. Johns County. According to its 1988 annual report, SJN realized operating revenues of \$29,425 and a net operating loss of \$38,492 for water service, and operating revenues of \$47,702 and a net operating loss of \$55,065 for wastewater service.

We first obtained jurisdiction over SJN on July 25, 1985, when the Board of County Commissioners for St. Johns County passed a resolution transferring jurisdiction over all privately owned water and wastewater utilities to this Commission. We granted Certificate Nos. 475-W and 411-S to SJN by Order No. 16199, issued June 6, 1986. Also by Order No. 16199, we "grandfathered" SJN's existing rates and charges.

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it has been under our jurisdiction, presented numerous regulatory problems. By Order No. 20409, issued December 5, 1988, we ordered SJN to show cause, in writing, why it should not be fined: up to \$5,000 per day for serving outside of its authorized service territory, in violation of Section 367.061, Florida Statutes; up to \$5,000 collecting taxes on contributions-in-aid-ofday for construction (CIAC) in violation of Orders Nos. 16971 and 17058, issued December 18, 1986, and January 6, 1987, respectively; and up to \$5,000 per day for not filing copies of developer agreements for our approval, in violation of Rule 25-30.550, Florida Administrative Code. In addition, by Order No. 20409, we required SJN to file a request to collect taxes on CIAC, to file an application for extension of its service territory, and to submit a written response to certain questions regarding one of the developer's agreements that it had entered into.

SJN failed to file a timely response to Order No. 20409. Accordingly, by Order No. 20762, we fined SJN \$5,000 for each of the aforementioned violations. Also by Order No. 20762, we required SJN to show cause why it should not be fined up to \$5,000 per day for its failure to file a request to collect taxes on CIAC and to respond to our questions regarding the developer agreement, in violation of Order No. 20409. By Order No. 20762, we also directed SJN to refund approximately \$82,000 in principal amounts, plus interest, of unauthorized taxes on CIAC collected from a developer, Fruit Cove, Ltd.

SJN also failed to file an application to amend its service territory as required by Order No. 20409. Accordingly, by Order No. 21197, issued May 8, 1989, we required SJN to show cause why it should not be fined up to \$5,000 per day for this violation. SJN failed to file a timely response to Order No. 21197. Therefore, by Order No. 21559, issued July 17, 1989, we fined SJN an additional \$5,000.

In addition to the above, we note that there are two matters regarding SJN which, while still pending, are outside of the scope of this proceeding. On March 6, 1989, SJN filed a response to the show cause provisions of Order No. 20762. SJN's response, taken in its most favorable light, appeared to raise questions of fact or law. We, therefore, set this matter for an administrative hearing before the Division of Administrative Hearings. A hearing was held in this regard on

February 12, 1990. The Hearing Officer had not, as of June 5, 1990, the date of the Agenda Conference at which we made our decision on this matter, filed a recommended order. In addition, by Order No. 20668, issued January 27, 1989, we awarded General Development Utilities, Inc. (GDU) attorney's fees and costs pursuant to Section 120.57(1)(b)5, Florida Statutes, for wrongfully objecting to a notice by GDU of its intent to extend its service territory. This award was appealed at the First District Court of Appeals, which affirmed our decision. The matter is now pending before us for the determination of reasonable attorney's fees and costs.

TRANSFER

On September 5, 1989, SJN and Jacksonville Suburban Utilities Corporation (JSUC) filed a joint application for the transfer of Certificates Nos. 475-W and 411-S and the assets of SJN to JSUC. The parties also requested that we establish rate base, approve a positive acquisition adjustment, and requested a limited proceeding to implement JSUC's uniform rates and charges within SJN's approved service territory. At the time that they filed their application, SJN was close to foreclosure and was operating its wastewater plant improperly. JSUC, however, was unwilling to either assume SJN's loan payments or upgrade the plant until we approved the transfer. Accordingly, the parties requested that we consider the transfer prior to our consideration of the other matters involved in this docket. By Order No. 22342, issued December 12, 1989, we approved the transfer and directed SJN to use any of the proceeds of the sale in excess of the prepayment amount to pay the fines and refund discussed in the background section of this Order.

CUSTOMER MEETING

On April 25, 1990, Staff conducted a customer meeting in St. Johns County. The purpose of the customer meeting was to take testimony regarding both quality of service and JSUC's proposal to implement its uniform rates and charges within SJN's approved service territory. Only two customers attended the customer meeting. Neither of these customers expressed any concerns with the quality of service provided. Their primary concerns related to the potential impact of development and the impact of the proposed change in rates. These customers appeared to be satisfied when informed that the average water and wastewater bill should be lower under JSUC's rates and that it is anticipated that future growth would pay for itself.

RATE BASE

Our calculations of the appropriate water and wastewater rate bases are attached to this Order as Schedule No. 1. These calculations are solely for the purpose of establishing net book value as of the date of the transfer, and do not include our usual ratemaking adjustments, such as used and useful or working capital.

In the application for transfer, JSUC requested that we establish rate base, however, it did not include proposed rate base amounts in the application. Accordingly, we have based our determination of rate base (net book value), as of the date of the transfer, upon our audit of SJN's books and records.

Although SJN has been subject to our jurisdiction since 1985, we have never established rate base for either the water or wastewater systems. SJN did not keep its books and records in accordance with the NARUC Uniform System of Accounts. Its early annual reports are also somewhat questionable. Nevertheless, we were able to calculate plant and CIAC balances from SJN's inception through May 31, 1989, when JSUC began operating SJN, using SJN's general ledger, invoices, bank account records and other documents.

Our audit revealed, among other things, that SJN had been depreciating utility plant at an accelerated rate of 10 percent. We have, therefore, recalculated both accumulated depreciation and accumulated amortization of CIAC at a 2 1/2 percent composite rate, through May 31, 1989.

In addition to our original audit report, we also issued a supplemental audit report on March 27, 1990. On April 9, 1990, JSUC filed a response to our supplemental audit report. In response to Disclosure No. 1, regarding the capitalization of taxes on CIAC, JSUC contended that, since SJN has been responsible for the tax effect of its collection of CIAC, rate base should be increased by the amount of such tax effect. We agree that SJN was responsible for such taxes. However, we note that, due to operating losses, SJN has never paid income taxes. Since SJN has never incurred any actual tax expense, we do not believe that it is appropriate to include taxes on CIAC in rate base.

Based upon the discussion above, we find that rate base, including the acquisition adjustment discussed below, is \$501,805 for the water system and \$342,677 for the wastewater system, as of May 31, 1989. Since the total acquisition adjustment of \$118,334 is based upon the difference between the total purchase price and the total combined rate bases, we have allocated this amount to the water and wastewater systems based upon the percentage of each system's rate base to total rate base.

ACQUISITION ADJUSTMENT

As discussed above, JSUC has requested that we include a positive acquisition adjustment in our calculation of rate base. An acquisition adjustment results any time a utility is purchased for other than its book value.

Generally, our policy is to disregard any acquisition adjustment, positive or negative, for ratemaking purposes, unless extraordinary circumstances dictate otherwise. However, allowed a positive acquisition adjustment in a situation in which it was necessary in order to offset a negative rate base and allow the buyer to initiate its tenure from a break-even position. In re: Application for transfer of Certificate No. 180-W from Leisure Properties, Inc., to the South Waterfront Park Homeowners' Association, Inc., in Volusia County, Florida, 86 F.P.S.C. 4:40 (1986). We have also allowed a positive acquisition adjustment in situations in which the acquisition was likely to result in significant cost-savings to the customers. In re: Application of General Waterworks Corporation for approval of transfer of Certificates Nos. 194-W and 140-S and utility facilities from Lucina Utilities Co. in Duval County to Jacksonville Suburban Utilities Corporation, 86 F.P.S.C. 8:250 (1986), and In re: Petition of Central Florida Gas Company to increase its rates and charges, 88 F.P.S.C. 1:301 (1988).

In support of its request for an acquisition adjustment, JSUC argued that:

- 1. The contemplated transaction is at arms length;
- JSUC is better able than SJN to meet existing and future needs for service in SJN's certificated territory;

- SJN's customers will experience lower rates immediately and as well as over time due to JSUC's financial stability and relatively large customer base;
- 4. JSUC is able to render more reliable service;
- The increase in the capacity of the wastewater system will have less of an impact due to JSUC's customer base;
- SJN is not likely to be able to generate funds internally or externally to continue operations and to finance wastewater capacity expansion;
- The risk of higher rates to finance expansion will be reduced under JSUC;
- 8. JSUC is in the primary business of utility system operation; and
- Future customers are less likely to be denied service due to any moratoriums imposed by any regulatory agencies such as the Department of Environmental Regulation (DER).

After careful consideration of JSUC's arguments, we believe that JSUC can improve SJN's systems and bring them into compliance with the requirements of DER and this Commission at a significantly lowered cost of capital and with a minimum of impact to SJN's ratepayers. We find that these circumstances are extraordinary and that a positive acquisition adjustment is, therefore, appropriate in this case.

JSUC argues that the acquisition adjustment, if allowed, should be the greater of the Commission determined rate base, plus additions made by JSUC after the official date of transfer, plus \$300,000, or an amount equal to the debts which must be paid in order for SJN to be able to transfer the utility assets free and clear of all liens and encumbrances, less the Commission determined rate base.

JSUC originally offered SJN \$1,194,000 for the utility systems, which represented the total amounts by which the systems were encumbered. Considering SJN's rate base per its

1987 annual report, \$364,900, this would have resulted in a positive acquisition adjustment of \$830,000.

Although SJN owed \$1,194,900 on the systems, \$207,000 of this amount was for personal loans. The remainder, or \$987,100, was for notes and interest payable to Southeast Bank, N.A. In an attempt to unencumber the utility assets, JSUC engaged in negotiations with Southeast Bank, N.A., which eventually resulted in the bank accepting \$485,700 in satisfaction of SJN's obligations.

Based upon the above, JSUC revised its offer for the utility systems to \$1,064,900. This amount represented the sum of \$364,900, SJN's rate base per its 1987 annual report, additional rate base of \$400,000 claimed by SJN, and a positive acquisition adjustment of \$300,000.

Upon consideration, we believe that only the following obligations and liabilities are legitimate for the purpose of this proceeding:

Advance to SJN to pay immediately required settlements	\$100,000
Interest bearing loan to SJN for immediately required settlements	161,200
Payoff to Southeast Bank, N.A.	485,700
Payment to developer for income tax on CIAC plus interest	97,582
Adjusted sales price	\$844,482

Taking the adjusted purchase price of \$844,482 and subtracting the total combined water and wastewater rate bases, or \$726,148, we find that the appropriate positive acquisition adjustment for the purpose of this proceeding is \$118,334.

RATES AND MISCELLANEOUS SERVICE CHARGES

As mentioned in the background section of this Order, in addition to the application for transfer, JSUC filed a limited - proceeding to implement its uniform rates and charges in SJN's authorized service territory. In support of its request, JSUC

argues that the application of its uniform rates and charges will result in decreased utility bills for most of SJN's customers. JSUC also states that the application of its uniform rates and charges within SJN's authorized service territory will result in JSUC having uniform, nonpreferential rates for all of its customers. JSUC argues that such uniformity may result in cost savings due to a reduction in accounting, data processing and administrative expenses. JSUC argues that this cost savings will benefit current and future ratepayers of all of JSUC's systems, including the SJN systems.

JSUC operates 11 water and 9 wastewater utility systems that are separate and distinct from each other. According to JSUC, it takes approximately as long to drive from its headquarters in Duval County to SJN's service area as it does to some of JSUC's other service areas. The only difference is that SJN is in another county. From an operational standpoint, JSUC states that operating SJN's systems would not be any different for JSUC than operating its other utility systems.

A comparison of the current rates and miscellaneous service charges of both JSUC and SJN is attached to this Order as Schedule No. 2. A residential bill comparison at various levels of consumption is also attached hereto as Schedule No. 3.

The comparison in Schedule No. 3 indicates that a water bill generated by either SJN's or JSUC's rates would be approximately equal at a consumption level of 36,000 gallons per quarter. Below this amount, SJN's customers would realize a savings under JSUC's rates, while higher users would see an increase.

The comparison of wastewater bills indicates that all of SJN's customers would see a reduction in their bills, except for bills rendered for quarterly usage of between 26,000 and 30,000 gallons. The major benefit to JSUC's wastewater rate is that the bill is capped at 30,000 gallons, whereas SJN uses total water consumption in calculating wastewater bills.

It is apparent, upon review of Schedule No. 3, that customers using over 36,000 gallons of water per quarter would see an increase in their water bill. However, these customers would receive the benefit of JSUC's capped wastewater rate, resulting in a lower wastewater bill. For most customers, the combined water and wastewater bill would be lower under JSUC's rates.

We agree with JSUC that there is really no difference between SJN's utility systems and other separate and distinct systems operated by JSUC, except that they happen to be located in another county. Further, since SJN's current rates have never been scrutinized in a rate case, and do not utilize the base facility/gallonage charge rate structure or an appropriate wastewater cap, we do not believe that SJN's current rates have been shown to be any more appropriate than JSUC's rates. Accordingly, we find it appropriate to allow JSUC to implement its uniform rates and miscellaneous service charges for services rendered within SJN's approved service territory.

SERVICE AVAILABILITY CHARGES

JSUC also requested that it be allowed to charge its presently approved service availability charges for the SJN system. A comparison of both JSUC's and SJN's service availability charges is attached to this Order as Schedule No. 4. SJN's charges were "grandfathered" by the Commission when we assumed jurisdiction in St. Johns County. Therefore, the cost basis, if any, is unknown. JSUC's charges have been approved by this Commission, but they are based upon lower embedded costs. We note that JSUC's charges are much lower than SJN's.

JSUC plans to construct both additional well capacity and a new wastewater treatment plant. Further, developers will be required to donate all lines. Since these changes will impact both plant and CIAC balances, we were concerned whether either JSUC's or SJN's service availability charges would be appropriate for the future operation of the utility. Accordingly, we asked JSUC to provide a service availability analysis. JSUC submitted its analysis by letter dated April 19, 1990. Its analysis takes into account existing plant and associated balances, and projects customer growth and plant additions until design capacity is reached in the year 2000.

Our analysis of the appropriate service availability charges for these systems is attached to this Order as Schedule No. 5. As shown on that schedule, plant capacity charges of \$240 for water and \$510 for wastewater would place both systems at a 75 percent level of contribution at buildout. Accordingly, we hereby approve these plant capacity charges, as well as JSUC's currently approved meter installation charges. Since the charges approved herein are lower than those that

were "grandfathered" for SJN, any customers who have prepaid CIAC based upon SJN's higher charges are entitled to a refund of the excess over the charges approved herein at the time that they connect to the systems.

Upon consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that this Order is issued as proposed agency action and will become final unless an appropriate petition is filed with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0860, by the close of business on the date indicated in the Notice of Further Proceedings and Judicial Review. It is further

ORDERED that a positive acquisition adjustment is hereby approved in the amount of \$118,334. It is further

ORDERED that the appropriate levels of rate base, as of May 31, 1989, are \$501,805 for water and \$342,677 for wastewater, which amounts represent net book value plus the acquisition adjustment approved herein. It is further

ORDERED that Jacksonville Suburban Utilities Corporation's request to implement its uniform water and wastewater rates and miscellaneous service charges within the approved service territory of St. Johns North Utility Corporation is hereby approved. It is further

ORDERED that Jacksonville Suburban Utilities Corporation's request to implement its uniform service availability charges within the approved service territory of St. Johns North Utility Corporation is hereby denied. Jacksonville Suburban Utilities Corporation shall charge the service availability charges approved in the body of this Order. It is further

ORDERED that Jacksonville Suburban Utilities Corporation shall refund the difference between the previously approved service availability charges and the charges approved herein to any customers who have prepaid the previously approved amount, at the time that they connect to the utility systems. It is further

ORDERED that all matters contained herein, whether in the form of discourse in the body of this Order or schedules

attached hereto are, by reference, specifically incorporated herein. It is further

ORDERED that, after the expiration of the protest period, this Commission will issue either a notice of further proceedings or an order closing this docket.

By ORDER of the Florida Public Service Commission this 25th day of June , 1990 .

STEVE TRIBBLE Director Division of Records and Reporting

(SEAL)

RJP

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida

Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on _____July 16, 1990_____.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.

SCHEDULE NO. 1

SCHEDULE OF RATE BASE

ST. JOHNS NORTH UTILITY CORPORATION AS OF MAY 31, 1989

DESCRIPTION	WATER	WASTEWATER
Utility plant in service	\$797,863	\$868,735
Land	18,000	21,600
Accumulated depreciation	(50,143)	(55,616)
CIAC	(354,595)	(564,330)
Amortization of CIAC	20,863	23,771
Acquisition adjustment	69,817	48,517
Totals	\$501,805	\$342,677

> SCHEDULE NO. 2 PAGE 1 OF 2

COMPARISON OF RATES FOR RESIDENTIAL SERVICE

QUARTERLY WATER RATES

	ST. JOHNS NORTH UTILITIES CORPORATION		JACKSONVILLE SUBURBAN UTILITIES CORPORATION	
*Base Facility Charge	*Gallonage Allowance	Quarterly	Quarterly	
Meter Size				
5/8" x 3/4" 3/4" 1" 1 1/2" 2"	11,100 - 18,000 37,000 59,000	\$ 27.00 - 44.10 90.65 144.55	\$ 12.50 \$ 17.54 27.57 62.66 122.89	
Gallonage Charge				
(Per 1,000 gallons)		\$.62	\$.8515	

 $^{^{\}star}$ St. Johns North Utilities Corporation utilizes a minimum bill rate structure with a gallonage allowance included within the minimum charge.

SCHEDULE NO. 2 PAGE 2 OF 2

COMPARISON OF RATES FOR RESIDENTIAL SERVICE

QUARTERLY WASTEWATER RATES

	ST. JOHNS NORTH UTILITIES CORPORATION		JACKSONVILLE SUBURBAN UTILITIES CORPORATION	
*Base Facility Charge Minimum Bill	*Gallonage Allowance	Quarterly	Quarterly	
Meter Size 5/8" x 3/4"	11,100 18,000 37,000 59,000	\$ 67.50 110.65 226.66 361.38	\$ 23.88 23.88 23.88 23.88	
Gallonage Charge (Per 1,000 gallons) Maximum of 30,000 gallons/quarter for JSUC, SJN has no maximum		\$ 1.55	\$ 2.5842	

MISCELLANEOUS SERVICE CHARGES

TYPE	ST. JOHNS NORTH	JAX. SUBURBAN
Initial Connection Normal Reconnection	N/A N/A	\$ 10.00 10.00
Violation Reconnection: Normal Working Hours After Working Hours	\$ 10.00 15.00	10.00

SCHEDULE NO. 3

COMPARISON OF RATES

Quarterly Water Rates

Water Consumption,	SJN	JSUC	Difference
in gallons			
10,000	\$ 27.00	\$ 21.01	(\$5.99)
20,000	32.51	29.53	(2.98)
30,000	38.71	38.05	(.66)
40,000	44.91	46.56	1.65
50,000	51.11	55.08	3.97
60,000	57.31	63.59	6.28
70,000	63.51	72.11	8.60
80,000	69.71	80.65	10.94

Quarterly Wastewater Rates

Water Consumption,	SJN	JSUC	Difference
in gallons			
10,000	\$ 67.50	\$ 49.72	(\$17.78)
20,000	81.29	75.56	(5.73)
30,000	96.80	101.41	\$ 4.61
40,000	112.29	101.41	(10.88)
50,000	127.79	101.41	(26.38)
60,000	143.29	101.41	(41.88)
70,000	158.79	101.41	(57.38)
80,000	174.29	101.41	(72.88)

SCHEDULE NO. 4

COMPARISON OF SERVICE AVAILABILITY CHARGES

WATER

	ST. JOHNS NORTH UTILITIES CORPORATION	JACKSONVILLE SUBURBAN UTILITIES CORPORATION
Plant Capacity Charge:	\$ 600.00	\$ 100.00
Meter Installation Fees:		
5/8" x 3/4" 3/4" 1" 1 1/2" 2" 3" 4" 6"	\$ 150.00 - 375.00 500.00 600.00	\$ 70.00 125.00 150.00 235.00 357.00 1,550.00 1,989.00 4,439.00
Customer Tap-in Charge All Meter Sizes	Included in Meter Installation Fee	N/A
	WASTEWATER	
Plant Capacity Charge (Per ERC):	\$1,500.00	\$ 210.00

SCHEDULE NO. 5

ANALYSIS OF SERVICE AVAILABILITY FEES AT CAPACITY (988 ERC's)

	WATER	WASTEWATER
Utility Plant in Service	\$2,099,035	\$3,003,894
Land	18,000	21,600
Accumulated Depreciation	(588,933)	(1,413,607)
Net Plant	1,510,102	1,590,287
CIAC	1,503,730	1,899,144
Accumulated Amortization of CIAC	(371,154)	(706,429)
Net CIAC	1,132,576	1,192,715
Net CIAC/Net Plant	75%	75%
Approved Charges	\$ 240	\$ 510