

STATE OF FLORIDA

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER  
CHARLES H. HILL  
DIRECTOR  
(850) 413-6900

Public Service Commission

June 18, 1999

Mr. J. Ray Keen  
Keen Sales, Rentals and Utilities, Inc.  
685 Dyson Road  
Haines City, Florida 33844

Re: Docket No. 990731-WU: Application for transfer of water facilities from Sunrise Water Company, Inc., holder of Certificate No. 584-W, to Keen Sales, Rentals, and Utilities, Inc., holder of Certificate No. 582-W, in Polk County, for cancellation of Certificate No. 584-W, and for amendment of Certificate No. 582-W to include additional territory.

Dear Mr. Keen:

Your application for transfer of facilities from Sunrise Water Company to Keen Sales, Rentals and Utilities, Inc. was received by the Commission on June 4, 1999, and assigned the above referenced docket number and name. Staff has preliminarily reviewed the application for deficiencies as well as for items that need clarification or correction. These items are as follows:

Deficiencies:

1. Contract for Sale. Pursuant to Rule 25-30.037(2)(g), Florida Administrative Code (F.A.C.), the applicant is to provide a copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:

- (1) Purchase price and terms of payment.
- (2) A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of nonregulated operations or entities.
- (3) A description of all consideration between the parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.

The Mortgage and Security Agreement provided does not address any of the above requirements. Please provide a copy of the executed contract for sale for Sunrise Water Company, Inc. (Please see item 2 below.)

AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMU \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 LEG \_\_\_\_\_  
 MAS \_\_\_\_\_  
 CPC \_\_\_\_\_  
 RRR \_\_\_\_\_  
 SEC \_\_\_\_\_  
 WAV/ \_\_\_\_\_  
 OTH \_\_\_\_\_

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

An Affirmative Action/Equal Opportunity Employer

PSC Website: www.scri.net/psc

Internet E-mail: contact@psc.state.fl.us

DOCUMENT NUMBER - DATE

07544 JUN 22 99

FPSC-RECORDS/REPORTING

Mr. J. Ray Keen

Page 2

June 18, 1999

2. **Contract for Sale.** Pursuant to Rule 25-30.037(2)(h), F.A.C., the applicant is to provide a copy of the contract for sale which shall provide for the disposition, where applicable, of the following:
  - (a) Customer deposits and interest thereon;
  - (b) Any guaranteed revenue contracts;
  - (c) Developer agreements;
  - (d) Customer advances;
  - (e) Debt of the utility; and
  - (f) Leases.

No contract for sale was provided with the application submitted on June 4, 1999. Please provide a copy of the contract for sale which addresses the information needed in this item and item 1 above.

3. **Business Statement.** Pursuant to Rule 25-30.037(2)(j), F.A.C., the applicant is to provide a statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water and/or wastewater utility operations, a showing of the buyer's financial ability to provide service and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters. The statement provided as Exhibit A of the application does not address any of the specific topics required under this rule. Please provide a financial statement for Keen Sales, Rentals and Utilities, Inc., in addition to a statement which specifically addresses each specific topic in this item.
4. **Income Tax Returns.** Pursuant to Rule 25-30.037(2)(o), F.A.C., the buyer is to provide a statement that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns. The statement provided as Exhibit K of the application does not meet this requirement. Please provide a statement which specifically addresses this item.
5. **Notice to Customers.** Pursuant to Rule 25-30.030(6), F.A.C., no sooner than 21 days before the application is filed and no later than 7 days after the application is filed, the utility shall also provide a copy of the Notice, by regular mail or personal service, to each customer, of the system to be certificated, transferred, acquired, or deleted. Please note that this section concerns legal notices. The notice delivered to the customers is to be the same notice mailed to the governmental officials. The customers must be sent the correct notice, using the date the notices are actually sent to the customers as the date of "Notice is hereby given on (date)..." A copy of the corrected notice and a new affidavit must be submitted. For your convenience a copy of Rule 25-30.030, F.A.C., is attached as well as a sample legal notice.

Mr. J. Ray Keen

Page 3

June 18, 1999

6. Prior Approval. Pursuant to Section 367.071, Florida Statutes, approval is to be received from the Commission prior to sale, assignment, or transfer of certificate of authorization, facilities or any portion thereof, or majority organizational control of a utility. The Sunrise Water Company, Inc., was purchased on February 23, 1999. Please submit a statement explaining why the purchase took place prior to applying for and receiving approval from the Commission.

#### Clarifications or Corrections

1. The statement you provided as Exhibit G concerning the proposed net book value of the system as of the date of the transfer is inadequate. Please provide a detailed explanation on how this value was determined.
2. The statement you provided as Exhibit L indicating that after a reasonable investigation, the acquired system appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection is inadequate. Please provide a statement about the results of having checked with the Department of Environmental Protection concerning the acquired system. Should there be any outstanding Notice of Violations or any outstanding consent orders, provide a copy and a list of the improvements and repairs needed and the approximate cost to make them.
3. Water Certificate 584-W issued to Sunrise Water Company, Inc., was not included in the application package. Please provide the certificate or an explanation of the steps you took to obtain the certificate.
4. The affidavit submitted for the legal notice sent to the governing bodies, privately owned water and wastewater utilities certificated by the PSC, etc. was not signed. Please submit a fully executed affidavit, which includes reference to the date the notices were mailed.
5. Rule 25-9.044(1), F.A.C., provides that: "In cases of change of ownership or control of a utility which places the operation under a different or new utility... the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company" (unless authorized to change by the Commission). A review of your application and cover letter reveals no formal request to modify rates. However, in the tariff submitted with your application Original Sheet No. 12.0 shows different rates than those approved for Sunrise and a notation which states "We would like to have these rates implemented when the Florida Public Service Commission approves the transfer."

Rates can be modified only with strong evidence to justify the request which is submitted in a formal manner. There are essentially two ways to request rate adjustments, either by a request for a limited proceeding or by an application for a rate case. The request for a limited proceeding, which usually is submitted in conjunction with an application for transfer of certificate or facilities, details what the current rates are, what the buyer wants to adjust

Mr. J. Ray Keen

Page 4

June 18, 1999

the rates to and reasons why the Commission should approve the modifications. An application for a rate case (small utilities may apply for a staff assisted rate case) includes an audit of records and facilities, an examination of earnings, and a calculation of rates for the utility. Either of these methods are available to you, but you must make a formal request for it.

6. In Exhibit R of your application you submitted an old copy of your water certificate. A copy of your updated certificate was mailed to you on March 9, 1999. A copy of the March 9 letter and certificate are enclosed for you records. The original certificate will be retained by the Public Service Commission until after all dockets modifying the territory served by your utility have been closed.
7. Exhibit D of your application states that there are no outstanding Regulatory Assessment Fees. However, a statement is needed as to who will be responsible for paying the Regulatory Assessment Fees for the period of January 1 - February 23, 1999.

#### Tariff Corrections

In general, it is important to remember that Keen Sales, Rentals and Utilities, Inc., has only one water tariff. When you buy a water utility you are adding information about that new system to your existing tariff. Therefore, you only need to submit new or revised tariff pages that contain formation about the new system.

1. Original Sheet No. 3.2 - Description of territory served needs to be revised to show (Continued to Sheet No. 3.3). (A page showing handwritten revisions is enclosed)
2. Original Sheet No. 3.3 - Description of territory served needs to be generated to insert the territory description for the former Sunrise Water Company, Inc., into your tariff. Remember to include the notation (Continued from Sheet 3.2) in the proper location at the top of the page. (A page showing handwritten revisions is enclosed)
3. First Revised Sheet No. 4.0 - Communities served listing needs to be revised to show the addition of Sun Acres. (A page showing handwritten revisions is enclosed)
4. First Revised Sheet No. 11.0 - Index of rates and charges schedules needs to be revised to show the inclusion of additional pages relating to the Sunrise Water Company, Inc., transfer. (A page showing handwritten revisions is enclosed)
5. Original Sheet No. 13.2 - Residential Service needs to be generated to insert the residential rates for the former Sunrise Water Company, Inc., into your tariff. (A page showing handwritten revisions is enclosed)

Mr. J. Ray Keen

Page 5

June 18, 1999

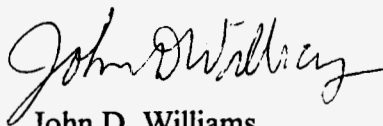
6. Original Sheet No. 14.2 - Customer Deposits needs to be generated to insert the deposit rates for the former Sunrise Water Company, Inc., into your tariff. (A page showing handwritten revisions is enclosed)
7. Original Sheet No. 16.2 - Miscellaneous Service Charges needs to be generated to add these charges for the former Sunrise Water Company, Inc., into your tariff. (A page showing handwritten revisions is enclosed).
8. Original Sheet No. 17.1 - Service Availability Fees and Charges needs to be generated to add these charges for the former Sunrise Water Company, Inc., into your tariff. (A page showing handwritten revisions is enclosed)

The original and four copies of the response to the information requested in this letter should be filed with the Commission on or before **July 30, 1999**. When filing the response, please be sure to reference the docket and to direct the response to :

**Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850**

Should you have any questions concerning the information requested in this letter, please contact Stephanie Clapp, of my staff, at (850) 413-6997.

Sincerely,



John D. Williams  
Chief, Bureau of Policy Development  
and Industry Structure

JDW/sc  
Enclosures

cc: Division of Water and Wastewater (Hill, Lowe, Messer, Clapp, Redemann)  
Division of Legal Services (Crossman)  
Division of Records and Reporting