

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: FEBRUARY 3, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF WATER AND WASTEWATER (CLAPP, REDEMANN)
DIVISION OF LEGAL SERVICES (VAN LEUVEN)

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RE: DOCKET NO. 991660-WS - APPLICATION OF UNITED WATER FLORIDA INC., HOLDER OF CERTIFICATES NOS. 236-W AND 179-S IN DUVAL, NASSAU, AND ST. JOHNS COUNTIES, FOR TRANSFER OF MAJORITY ORGANIZATIONAL CONTROL OF CORPORATE GRANDPARENT, UNITED WATER RESOURCES, INC., TO LYONNAISE AMERICAN HOLDING, INC.
COUNTY: DUVAL, NASSAU, AND ST. JOHNS

AGENDA: FEBRUARY 15, 2000 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\991660WS.RCM

CASE BACKGROUND

United Water Florida Inc. (United Water or utility) is a Class A utility located in Duval, Nassau, and St. Johns Counties and serves approximately 30,425 water and 22,909 wastewater customers. United Water is a wholly owned subsidiary of United Waterworks, Inc. (UWW), which is a wholly owned subsidiary of United Water Resources, Inc. (UWR or grandparent). The utility's 1998 annual report lists total operating revenues of \$9,952,625 for water and \$17,873,010 and a total income of \$1,744,078.

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Jacksonville Suburban Utilities Corporation (Jacksonville Suburban) was issued Water Certificate No. 236-W and Wastewater Certificate No. 179-S pursuant to Order No. 13672, in Docket No. 840177-WS, issued September 11, 1984. An application for transfer of majority organizational control from GWC Corporation to UWR was approved pursuant to Order No. PSC-95-0215-FOF-WS, in Docket No. 940743-WS, issued February 16, 1995. Subsequently, Jacksonville Suburban filed an application for a name change of the utility to United Water Florida Inc., which was approved pursuant to Order No. PSC-95-0604-FOF-WS, issued May 16, 1995, in Docket No. 950386-WS.

On November 1, 1999, United Water filed a petition requesting an emergency temporary variance from Rule 25-30.030(4)(c), Florida Administrative Code, which related to this Application for Transfer of Majority Organizational Control (TMOC). Lyonnaise American Holding, Inc. (LAH or buyer) is currently a 30.1% shareholder of UWR's common stock and 98.1% of its preference stock and is seeking to become the sole shareholder through a pending merger. The variance was granted pursuant to Order No. PSC-99-2422-PAA-WS, issued December 9, 1999, in this Docket.

On December 7, 1999, United Water filed an application for TMOC of UWR to LAH. This TMOC application is the subject of this recommendation.

It has been Commission practice that rate base is not established in TMOC proceedings, and thus, rate base audits are not conducted in TMOC cases. However, for informational purposes, the 1998 annual report gives United Water's rate base as \$32,006,796 for water and \$55,648,855 for wastewater.

DISCUSSION OF ISSUES

ISSUE 1: Should the application for transfer of majority organizational control of UWR to LAH be approved?

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RECOMMENDATION: Yes, the application for transfer of majority organizational control of UWR to LAH should be approved. (CLAPP, REDEMANN)

STAFF ANALYSIS: As discussed in the case background, on December 7, 1999, United Water filed an application for transfer of majority organizational control of the grandparent. The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of majority organizational control. The application contains a check in the amount of \$6,000, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. Three letters from customers expressing concern about a possible rate increase have been filed. Each of these customers has been sent a letter stating that no rate increase has been requested for this transfer. No objections to the notice of application have been received and the time for filing such has expired. A description of the territory served by the utility, in the form of a map, is appended to this recommendation as Attachment A.

The application states that the transfer is in the public interest because the buyer is a wholly-owned subsidiary of Suez Lyonnaise des Eaux (SLDE), an international business having utility operations in over 120 countries. These utility operations include electricity and natural gas, waste services, communications services, and water services. SLDE makes funds and new technology developed by SLDE available to its subsidiaries to continue to provide high quality service and cutting edge technology to existing and new communities. Additionally, the application contains a statement that the buyer will fulfill the commitments, obligations and representations of United Water with regard to utility matters.

Pursuant to Rule 25-30.037(2)(j), Florida Administrative Code, the application provides a statement of the buyer's technical and financial ability. Regarding the buyer's technical ability, LAH is

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a holding company with (1) ownership interest in UWR, (2) 50% of the voting interest in United Water Services LLC, which provides services in the water and wastewater industries to municipalities in the United States, (3) majority interests in United Water Services Canada L.P., and United Water Services Mexico LLC, which provide services in the water and wastewater industries to municipalities in Canada and Mexico, respectively, and (4) a 49% interest in Tecnologia y Servicios De Agua, S.A., a Mexican company which provides certain water services to Mexico City, Mexico. Regarding the financial ability of LAH, the buyer supplied a consolidated financial statement. LAH has total assets of \$291,110,000 and is committed to providing financial assistance to United Water as needed. Additionally, the application contains the statement that "All of the management expertise, experience, and strength of UWR will be retained." Thus, staff believes that the buyer possesses the overall technical and financial ability to operate the water and wastewater systems.

According to our records, the utility is current on its regulatory assessment fees and has filed an annual report for 1998. The application states that a reasonable investigation of the systems owned by UWR appear to be in satisfactory condition and in compliance with applicable standards set by the Florida Department of Environmental Protection.

Rule 25-30.037(3)(i), Florida Administrative Code, requires a utility to provide proof of ownership of the land upon which its facilities are located. United Water provided evidence of ownership at the time of initial certification and subsequent amendments. Since the transfer of UWR does not effect the real property of United Water, no additional evidence of ownership was necessary.

Based on the above, staff recommends that the Commission find the transfer of majority organizational control of UWR to LAH to be in the public interest and that therefore, it should be approved.

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ISSUE 2: Should rate base be established?

RECOMMENDATION: No, different ownership of stock does not affect the rate base balance. (CLAPP)

STAFF ANALYSIS: It is Commission practice that rate base is not established in TMOC proceedings. The reason behind this approach is the philosophy that stock is traded and has no regulatory relationship to rate base. Thus, different ownership of stock does not affect a utility's rate base balance. Consequently, stock purchase price and rate base are not considered in making a public interest determination of a TMOC. This approach is followed if the stock is privately held or publicly traded.

Because rate base is not considered in TMOC proceedings, rate base audits have historically not been conducted in TMOC proceedings. Further, staff believes that establishment of rate base in this docket would result in an unnecessary deviation from Commission practice. Staff does not believe the facts of this particular case warrant a deviation from past practice. The sale of the stock of UWR will not alter United Water's asset and liability accounts. Accordingly, the transfer of stock ownership will not change the rate base balance. In consideration of the above, staff recommends that rate base not be established in this docket.

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ISSUE 3: Should an acquisition adjustment be approved?

RECOMMENDATION: No, an acquisition adjustment should not be included in the calculation of rate base for transfer purposes. (CLAPP)

STAFF ANALYSIS: An acquisition adjustment results when the purchase price differs from the original cost calculation. The Commission routinely makes determinations regarding acquisition adjustments in cases involving the transfer of certificates, assets, or facilities because the purchase price is considered when determining whether the transfer is in the public interest. Conversely, it is Commission practice that acquisition adjustments are generally not considered in stock transfers because the price of stock has no regulatory relationship to a utility's established rate base.

Because the assets are not actually being sold and the value will remain the same after the transfer, staff believes that an acquisition adjustment does not result from this transfer. Therefore, staff recommends that an acquisition adjustment should not be included in the calculation of rate base.

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ISSUE 4: Should the rates and charges approved for this utility be continued?

RECOMMENDATION: Yes, the rates and charges approved for United Water should be continued. (CLAPP)

STAFF ANALYSIS: United Water's approved rates and service availability charges were effective May 21, 1999, pursuant to a rate case filed in Docket No. 980214-WS.

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case 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).

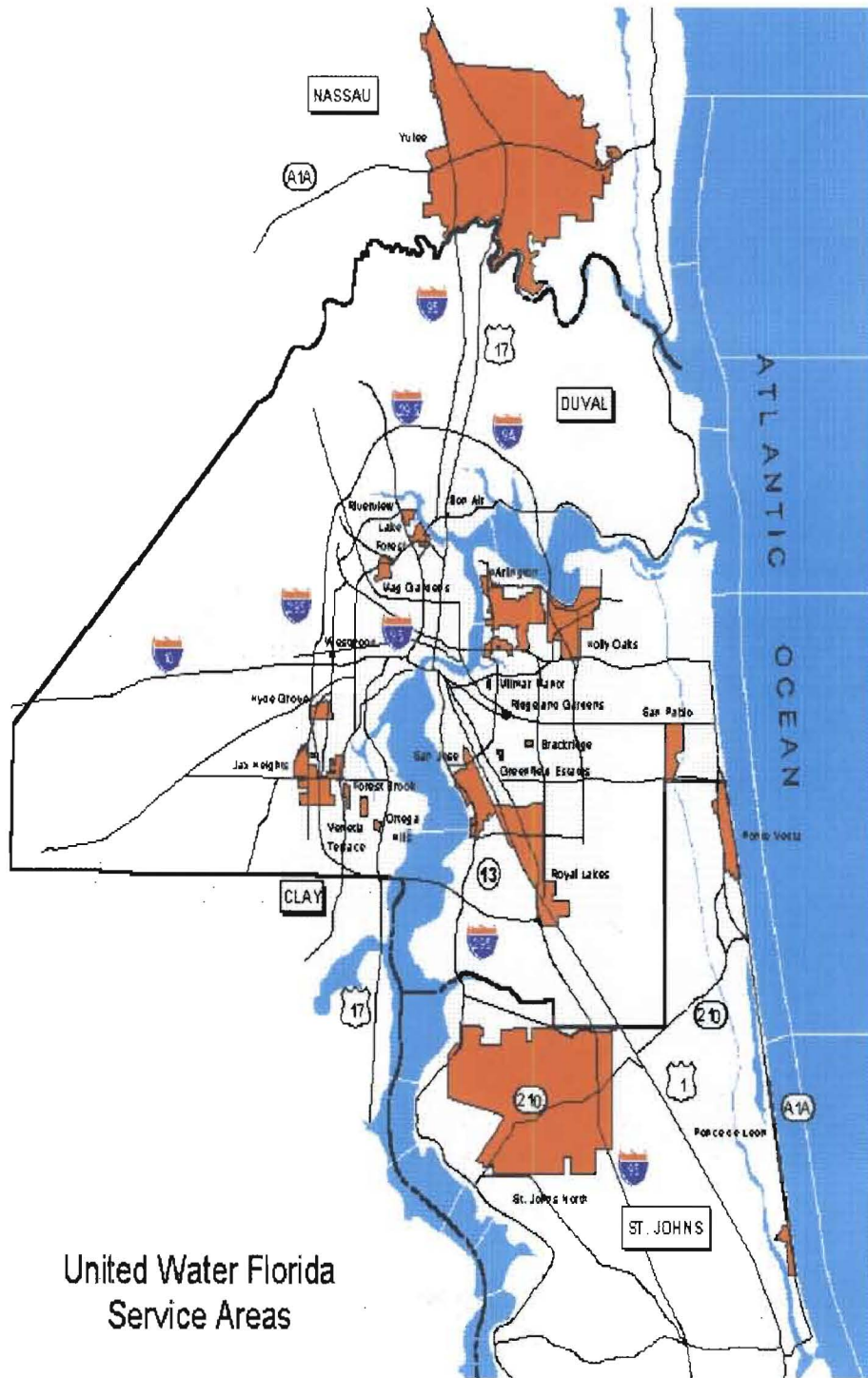
The buyer has not requested a change in the rates and charges of the utility and staff sees no reason to change them at this time. Accordingly, staff recommends that the utility continue operations under the existing tariff and apply the approved rates and charges. The utility has not filed a revised tariff since there are no plans to change the utility name, rates, conditions of service or officers of United Water.

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ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed. (VAN LEUVEN)

STAFF ANALYSIS: No further action is required in this docket.
Therefore, staff recommends that this docket be closed.



United Water Florida
Service Areas