

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of) DOCKET NO. 900525-WU
Certificate No. 450-W from Earl W.) ORDER NO. 24273
Stockwell (Pine Harbour) to Pine) ISSUED: 3/21/91
Harbour Water Utilities in Lake)
County.)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
GERALD L. GUNTER
MICHAEL MCK. WILSON

ORDER APPROVING TRANSFER AND
SETTING RATES AND CHARGES

AND

NOTICE OF PROPOSED AGENCY ACTION

ORDER ESTABLISHING RATE BASE, FOR PURPOSES
OF THIS TRANSFER

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is final except for the establishment of rate base, which is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On June 4, 1990, an application was filed with this Commission seeking approval of the transfer of Certificate No. 450-W from Earl W. Stockwell (Pine Harbour) to Pine Harbour Water Utilities (PHWU). Pine Harbour provides water service to approximately 47 single family homes in Lake County.

DOCUMENT NUMBER-DATE

02822 MAR 21 1991

FPSC-RECORDS/REPORTING

Mr. Jim C. Branham, Owner of PHWU, purchased the water system on April 12, 1990, prior to Commission approval. According to Mr. Branham, the parties were not familiar with the procedure regarding transfers and, therefore, did not obtain Commission approval prior to the purchase. We are not penalizing Pine Harbour since Mr. Branham promptly filed the application upon learning that the transfer would have to be approved by the Commission.

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the notarized application contains:

1. A filing fee in the amount of \$150, as prescribed by Rule 25-30.020, Florida Administrative Code.
2. Proof of notice to interested governmental and regulatory agencies, and utilities within a four-mile radius of the territory, and proof of advertisement in a newspaper of general circulation in Lake County, as prescribed by Rule 25-30.030, Florida Administrative Code.
3. Proof of notice to all customers of record pursuant to Rule 25-30.030(g), Florida Administrative Code.
4. Evidence that the Utility owns the land upon which its facilities are located as required by Rule 25-30.035(f), Florida Administrative Code.

No objections to the application have been received and the time for filing such has expired. A description of the territory being transferred is shown on Attachment A of this Order.

Mr. Branham has considerable experience as a Lead Operator in the field of monitoring water and wastewater treatment plants and has been certified for 10 years. Furthermore, he has operated Pine Harbour, under contract with Mr. Stockwell, for 2-1/2 years. Therefore, Mr. Branham appears to have the technical ability necessary to provide safe and sufficient water to the customers of Pine Harbour. Further, according to Mr. Branham's financial statement, it appears that he is financially able to operate the system. In addition, the Department of Environmental Regulation has no citations or corrective orders against Pine Harbour.

Based on the foregoing, we find that the transfer is in the public interest, and it is approved. Since the Certificate cannot be located, Certificate No. 450-W will be reissued to PHWU.

Rate Base

We conducted an audit of Pine Harbour's books and records and performed an original cost study to determine rate base (net book value) at the time of transfer, April 12, 1990. Rate base was previously set at zero in Order No. 16936, issued December 6, 1986, due to insufficient documentation regarding investment in plant.

Based on the original cost study and documentation obtained from Mr. Stockwell, Pine Harbour's estimated plant cost at the date of transfer, is \$85,864, plus \$5,000 for two acres of land upon which the plant site is located. Therefore, depreciable plant in service is calculated to be \$85,864 and land is valued at \$5,000.

We credited Contributions-in-Aid-of-Construction (CIAC) with \$56,883 to reflect developer write-offs of \$53,521 and imputed meter installation charges of \$3,362 for 41 connections at \$82 per connection. Accumulated depreciation and amortization of CIAC have been calculated pursuant to Rule 25-30.140, Florida Administrative Code, resulting in balances of (\$9,297) and \$6,118, respectively.

An acquisition adjustment results when the purchase price differs from the original cost calculation. In the absence of extraordinary circumstances, it is Commission policy that the purchase of a utility at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary; therefore, a negative acquisition adjustment is not included in the calculation of rate base.

As a result of adjustments made herein, rate base for Pine Harbour is determined to be \$30,802, as of April 12, 1990. Our calculation of rate base is shown on Schedule 1.

The rate base calculation is used purely to establish the net book value of the property being transferred and does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

Rates and Charges

The monthly rates and charges approved for Pine Harbour are as follows:

<u>Meter Size</u>	<u>Base Facility Charge</u>
5/8" x 3/4"	\$ 11.45
3/4"	17.18
1"	28.63
1 1/2"	57.25
2"	91.60
3"	183.20
4"	286.25
Gallonage Charge (per 1,000 gallons)	\$ 1.43

Pine Harbour is authorized to collect a meter installation charge of \$82.00 for new connections. There are no miscellaneous service charges or customer deposits approved for Pine Harbour and none are approved herein.

According to Rule 25-9.044(1), Florida Administrative Code, the new owner of a utility must adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission. We find the rates and charges set forth above to be reasonable and they are approved. PHWU shall continue to charge these rates and charges until authorized to change by the Commission. PHWU has filed a tariff reflecting the change in ownership. The tariff shall be effective for service provided or connections made after the stamped approval date.

Pine Harbour overbilled some of its customers prior to May, 1990; none of the customers were billed for the first 4,000 gallons of water consumed from May, 1990 through January, 1991. For some time prior to May, 1990, Pine Harbour charged customers with 5/8 inch x 3/4 inch meters the approved base facility charge, \$17.18, for the larger 3/4 inch meter, and included 4,000 gallons of water without charge. The correct charge for customers with 5/8 inch x 3/4 inch meters is \$11.45, plus a gallonage charge of \$1.43 for each 1,000 gallons. The incorrect charge resulted in a 1 cent overcharge per billing cycle for customers using at least 4,000 gallons of water and a larger overcharge for customers using less than 4,000 gallons. Due to the lack of customer records prior to 1988, we are unable to determine the extent of the incorrect billing. Based on 1990 consumption data, most of the customers use more than 4,000 gallons per month; thus, the overbilled amount appears to be insignificant.

Beginning in May, 1990, Mr. Branham began charging the correct base facility charge but continued to provide 4,000 gallons of water without charge. Therefore, he underbilled the customers from May, 1990 through January, 1991. Beginning with the February, 1991 billing, the customers are being billed in accordance with the approved tariff. PHWU will not backbill for the undercharge.

We do not find it appropriate for PHWU to refund the overcharges since the overcharges were made by the previous owner and PHWU did not benefit from the overcharges. Furthermore, Mr. Branham is charging the approved rates. Also, because of Pine Harbour's lack of records, we are unable to determine the amount to be refunded or the customers due a refund. As stated previously, it appears that the amount of the refund is insignificant.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 450-W from Earl W. Stockwell, Pine Harbour, 2722 Westside Drive, Leesburg, Florida 34748, to Pine Harbour Water Utilities, 2315 West Griffin Road, Unit No. 3, Leesburg, Florida 34748, is hereby approved. Certificate No. 450-W shall be reissued to Pine Harbour Water Utilities. It is further

ORDERED that rate base, for purposes of this transfer which reflects the net book value, is \$30,802. It is further

ORDERED that Pine Harbour Water Utilities shall continue to charge the rates and charges set forth in the body of this Order until authorized to change by the Commission. It is further

ORDERED that the tariff filed by Pine Harbour Water Utilities shall be effective for service provided or connections made after the stamped approval date on the tariff sheets. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless a petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event that this Order becomes final, this docket shall be closed.

ORDER NO. 24273
DOCKET NO. 900525-WU
Page 6

By ORDER of the Florida Public Service Commission, this 21st
day of MARCH, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
ALC

Commissioner J. Terry Deason dissents on the acquisition adjustment decision:

I respectfully dissent from the Commission's decision on the issue of acquisition adjustment only. By its vote the commission has proposed to allow the utility to increase its rate base above and beyond the shareholders' actual investment in the utility. While this may not in all cases be improper, I believe that such a decision -- even in a Notice of Proposed Agency Action -- should be made only after some showing by the utility that the negative acquisition adjustment should be ignored. As the applicant, the utility has the burden of justifying all of the rate base. In casting the dissenting vote, I do not mean to suggest that I have decided that a negative acquisition adjustment should be made in this case. My decision rests on the narrow basis that no evidence has been offered by the applicant to support a decision by this Commission to increase a company's rate base in excess of the actual investment of its owners.

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.

As identified in the body of this order, our action establishing rate base for purposes of this transfer 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 April 11, 1991. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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 the relevant portion of 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.

ATTACHMENT A

Pine Harbor Water Utilities

The Pine Harbour Subdivision

The following described lands located in a portion of Section 6, Township 19 South, Range 26 East, Lake County.

From the N.E. corner of Section 6, run West along the North line of Section 6 a distance of 2,720 more or less to the Point Of Beginning (P.O.B.). From the P.O.B. continue North 89° 28' 45" West, 975.50 feet to the Southerly Right-Of-Way of State Road 44; thence South 54° 12' 40" West along said Southerly Right-Of-Way, 44.47 feet to the Easterly Right-Of-Way of District Road No. 5-5942 (Woodlyn Road); thence South 00° 34' 55" West, along said Easterly Right-Of-Way 992.43 feet; thence South 89° 53' 30" East, 1562.90 feet; thence North 00° 06' 30" East, 188.00 feet; thence North 27° 55' 02" West, 198.70 feet; thence North 29° 53' 30" West 100.00 feet; thence North 26° 38' 55", 243.02 feet; thence North 62° 39' 26" West, 297.75 feet; thence North 06° 55' 19" West, 209.76 feet to the P.O.B.

ORDER NO. 24273
DOCKET NO. 900525-WU
Page 9

SCHEDULE 1

PINE HARBOUR WATER UTILITIES
WATER RATE BASE SCHEDULE
PER STAFF CALCULATION AS OF APRIL 12, 1990

DESCRIPTION	BALANCE PER COMMISSION AS OF APRIL 12, 1990
-----	-----
UTILITY PLANT IN SERVICE	\$85,864
LAND/NON DEPRECIABLE ASSETS	5,000
C. I. A. C.	(56,883)
ACCUMULATED DEPRECIATION	(9,297)
AMORTIZATION - C. I. A. C.	6,118
-----	-----
TOTALS	\$30,802
	=====