

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of Abandonment of ) DOCKET NO. 951038-SU  
Wastewater System Serving ) ORDER NO. PSC-96-0167-FOF-SU  
Hacienda Village Subdivision, ) ISSUED: February 6, 1996  
Citadel and Colonnades )  
Condominiums, and Comfort Inn in )  
Lee County by Hacienda Treatment )  
Plant, Inc. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER ACKNOWLEDGING ABANDONMENT AND APPOINTMENT OF RECEIVER

BY THE COMMISSION:

On July 11, 1995, Mr. Robert G. Brown, president and owner of Hacienda Treatment Plant, Inc. (Hacienda or utility), notified the Commission by copy of a notice to Lee County of his intent to abandon the utility pursuant to Section 367.165, Florida Statutes. Hacienda is a Class C utility, presently serving 351 customers in Bonita Springs, Lee County, Florida. In its 1994 annual report, the utility listed revenues of \$72,192 and a net operating loss of \$20,189. On October 5, 1995, Circuit Judge R. Wallace Pack, Circuit Court, Twentieth Judicial Circuit, Lee County, Florida, appointed Bonita Springs Utilities (BSU) receiver for Hacienda. BSU is a utility exempt from Commission regulation.

The court order appointing receiver provides, inter alia, that:

The term of the receivership shall continue until the receiver sells or otherwise disposes of the property or is relieved by the Court.

All property, assets, documents, and facilities pertaining to Hacienda shall be surrendered to the receiver.

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The receiver shall have the power to make any extensions, expansions, repairs, replacements and improvements to the wastewater collection service as appropriate and necessary.

The receiver shall have the power to collect any applicable rates, fees, charges and deposits; borrow money and pledge or encumber the facilities, assets and revenues; enter into contracts or agreements relating to the operation and maintenance of the system; and accept any gifts, grants and contributions in connection with the system.

The receiver shall have the power to retain and pay any fees, costs, and salaries as necessary and desirable for management and operation of the system and pay all necessary and reasonable operating expenses from the revenues collected from the system's customers.

The receiver is authorized to act on behalf of the utility with respect to all legal actions and to apply for and obtain any applicable permits, certificates, licenses or approvals to operate and maintain the system.

As a result of a series of violations, Hacienda entered into a consent order with the Florida Department of Environmental Protection on May 12, 1995, in which it chose to abandon its 85,000 gallons per day treatment plant and drainfield and to connect with BSU's regional treatment plant. After the connection occurred in May and June, 1995, the remaining system consisted of Hacienda's collection and transmission lines and a pump station.

On October 12, 1995, Hacienda submitted an application for transfer to BSU and the cancellation of its Certificate No. 370-S, with payment of its 1995 regulatory assessment fees up to the time of BSU's appointment. The application for transfer was inappropriate. BSU's legal status is simply and clearly that of receiver for the utility. In the appointment order, the court said that "[n]othing in this Order is intended to determine what entity may be ultimately and/or permanently responsible for the operation and maintenance of the System." Neither BSU nor anyone else has entered into a purchase and sale agreement for Hacienda. Section 365.165(2), Florida Statutes, provides that the receiver shall operate the utility until such time as the receiver disposes of the property of the utility in a manner designed to continue the

efficient and effective operation of utility service. Section 367.165(3), Florida Statutes, provides that a receiver operating an abandoned utility shall be considered to hold a temporary authorization from the Commission.

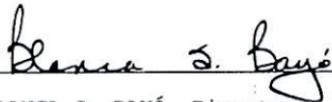
Accordingly, we find it appropriate to acknowledge the abandonment of Hacienda Treatment Plant, Inc., and the appointment of Bonita Springs Utilities, Inc., as its receiver. Furthermore, we find it appropriate to disregard the utility's application for transfer. Nevertheless, Hacienda's payment of the utility's regulatory assessment fee for the period of time in 1995 preceding BSU's appointment was proper.

Based on the foregoing, it is, therefore:

ORDERED by the Florida Public Service Commission that the abandonment of Hacienda Treatment Plant, Inc., and the appointment of Bonita Springs Utilities, Inc., on October 5, 1995, as its receiver are hereby acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 6th day of February, 1996.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

CJP

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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.