

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of options)	DOCKET NO. 900135-SU
regarding transfer of utility and)	
utility assets of WEST ORANGE)	ORDER NO. 25002
UTILITY (M & M UTILITIES))	
_____)	ISSUED: 9/3/91

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

ORDER CLOSING DOCKET

West Orange Utility (M & M Utilities or utility) is currently in receivership, with Southern States Utilities, Inc. (SSUI) serving as the court-appointed receiver. At the conclusion of the staff-assisted rate case for M & M Utilities, processed under Docket No. 890796-SU, two issues relating to the utility were left unresolved and, therefore, this docket was opened to address those issues. The two issues and their resolutions are set forth below.

Transfer of Land

In 1984, the utility and its assets were transferred from Clifford Freeman to Michael Minton without Commission authorization. In 1988, prior to the 1989 abandonment of the utility by Michael Minton, Michael Minton transferred the percolation pond to Land Investment Agency, Inc. As a result of the aforementioned transactions, the utility did not have ownership of or any ownership interest in the percolation ponds, which are the effluent disposal method for this system.

We contemplated issuing a show cause order, but the matter was resolved by Mr. Freeman's success in obtaining the release of the mortgage on the percolation pond property. The property has been conveyed to the City of Ocoee, which has agreed to take over the utility system. The Orange County circuit court judge handling the receivership has conveyed the treatment property to the City of Ocoee. We have received a letter from the City of Ocoee stating that it had accepted the deed for the percolation pond sites.

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Since our concerns regarding the unauthorized transfer of the utility and utility property have been resolved by these actions, we will not proceed with any penalties against the utility owners.

Legal Expenses

The rates currently being charged to the utility's customers include a portion of the legal fees SSUI expended for services provided by an outside law firm in its evaluation and acceptance of the receivership of the utility. Of the \$3,199 annual expense included in the current rates, \$2,157 is secured and subject to refund. Upon consideration, we believe this expense should be allowed since it is reasonable and was expended by the receiver on behalf of the ratepayers in its attempts to reclaim utility assets. Accordingly, the surety bond securing the amount that was in question may be returned to the receiver.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the portion of legal expense being collected subject to refund is appropriate and, therefore, the related surety bond may be returned to the receiver. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 3rd
day of SEPTEMBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NSD

by: Kary Deane
Chief, Bureau of Records

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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 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.