

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer ) DOCKET NO. 930570-WS  
of Certificates Nos. 414-W and ) ORDER NO. PSC-94-1602-FOF-WS  
347-S and facilities from LAKE ) ISSUED: December 27, 1994  
PLACID UTILITIES in Highlands )  
County to LAKE PLACID UTILITIES, )  
INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ESTABLISHING RATE BASE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Lake Placid Utilities is a Class C utility which provides service to approximately 140 water and 182 wastewater customers in Highlands County. In its 1992 annual report, Lake Placid Utilities reported annual revenues of \$35,722 and a net operating loss of \$3,159. Its 1993 annual report showed annual revenues of \$8,913 and net operating income of \$1,234; however, the 1993 annual report only included the months of October through December, 1993.

On June 8, 1993, Lake Placid Utilities, Inc. (LPUI) filed an application to transfer Certificates Nos. 414-W and 347-S and the water and wastewater facilities of Lake Placid Utilities to LPUI. LPUI is purchasing Lake Placid Utilities out of bankruptcy. LPUI has informed us that some of Lake Placid Utilities' books and records were lost when placed in the custody of the bankruptcy trustee. Accordingly, by Order No. PSC-93-1448-FOF-WS, issued October 4, 1993, we approved the transfer, but left the docket open

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FPSC-RECORDS/REPORTING

pending the completion of an original cost study, by Management and Regulatory Consultants, Inc. (MRC).

At the July 19, 1994 Agenda Conference, we considered the issue of rate base. However, since the sales price resulted in a negative acquisition adjustment, by Order No. PSC-94-0953-FOF-WS, issued August 8, 1994, we deferred establishing rate base until LPUI's next rate proceeding.

On August 18, 1994, LPUI filed a motion for reconsideration of Order No. PSC-94-0953-FOF-WS. In the alternative, LPUI petitioned the Commission to establish rate base and consider the issue of the acquisition adjustment. By Order No. PSC-94-1465-FOF-WS, issued November 29, 1994, we denied LPUI's motion for reconsideration since LPUI had not identified any error or omission of fact or law. Nevertheless, we found that LPUI's rationale for establishing rate in this docket, as opposed to its next rate proceeding, was compelling, and granted its alternative petition. This Order addresses the rate base and acquisition adjustment issues.

#### RATE BASE

Our calculations of rate base for the water and wastewater systems are depicted on Schedules Nos. 1 and 3, with our adjustments itemized on Schedules Nos. 2 and 4, respectively.

As mentioned above, MRC performed an original cost study because the books and records of Lake Placid Utilities were incomplete. MRC reviewed the utility's annual reports, the audit completed in this docket, files in the possession of the agent of the bankruptcy trustee, plant ledger sheets, plans and drawings, affidavits from former employees. MRC also resorted to interviews and on-site inspections. We have reviewed the original cost study and believe that it is adequately supported.

According to the original cost study, the balances of utility plant in service for water and wastewater were \$122,797 and \$264,087, respectively, as of December 31, 1993. To determine the value of land, MRC relied on Lake Placid Utilities' grandfather certificate docket, Docket No. 830141-WS. In that docket, the utility's vice president indicated that the wastewater treatment and disposal site had been donated by the developer. The land was assigned a value of \$17,769. Since there was no mention in that case of the water plant site, MRC assumed that it was donated as well and assigned it a value of zero.

In accordance with Rule 25-30.140, Florida Administrative Code, accumulated depreciation was calculated to be \$(21,148) for

the water system and \$(196,351) for the wastewater system, as of December 31, 1993.

Under Rule 25-30.570(1), Florida Administrative Code:

If the amount of ... [contributions in aid of construction (CIAC)] has not been recorded on the utility's books and the utility does not submit competent substantial evidence as to the amount of CIAC, the amount of CIAC shall be imputed to be the amount of plant costs charged to the cost of land sales for tax purposes if available, or the proportion of the cost of the facilities and plant attributable to the water transmission and distribution system and the sewage collection system.

LPUI provided no evidence of the appropriate balances of CIAC. Therefore, pursuant to Rule 25-30.570(1), Florida Administrative Code, we have imputed CIAC equal to the value of the water transmission and distribution system and the wastewater collection system. We have also imputed the value of the land donated by the developer for wastewater purposes. In accordance with the above, we have determined that the appropriate balances of CIAC are \$(58,933) for water and \$(105,113) for wastewater. The appropriate balances of accumulated amortization of CIAC are \$8,995 for water and \$51,321 for wastewater.

Based upon the discussion above, we find that rate base is \$51,711 for the water system and \$31,713 for the wastewater system, as of December 31, 1993. This 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, such as working capital and used and useful adjustments.

#### ACQUISITION ADJUSTMENT

An acquisition adjustment results when the purchase price differs from the rate base (net book value). Absent extraordinary circumstances, it has been our policy that the purchase of a utility system at a premium or discount shall not affect rate base. The acquisition adjustment resulting from the transfer of Lake Placid Utilities would be calculated as follows:

Rate Base:	\$ 83,424
Purchase Price:	\$ 55,000
Acquisition Adjustment:	\$(28,424)

As discussed above, LPUI purchased the Lake Placid Utilities assets out of bankruptcy. According to LPUI, the purchase price was negotiated at arms length and was approved by the Bankruptcy Court. The water and wastewater systems were in a state of disrepair, and will require significant capital improvements.

In support of its argument that we should not recognize the negative acquisition adjustment in setting rate base, LPUI argued that recognizing the negative acquisition adjustment would be inconsistent with our policy of encouraging the purchase of small, poorly-run utilities by larger, more professional utilities. LPUI also noted that Utilities, Inc., its parent, has purchased utility systems at a premium without concomitant positive acquisition adjustments.

LPUI also argued that it negotiated the purchase at arms length with the understanding of our policy on acquisition adjustments, whether positive or negative. It does not believe that the fact the purchase price is less than book value is enough to constitute extraordinary circumstances.

Upon consideration, the circumstances involved in this transfer do not appear to be extraordinary. Accordingly, we decline to recognize the negative acquisition adjustment resulting from the purchase of LPUI for the purpose of establishing rate base.

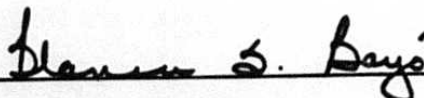
It is, therefore,

ORDERED by the Florida Public Service Commission that rate base is hereby established to be \$51,711 for the water system and \$31,713 for the wastewater system, as of December 31, 1993. It is further

ORDERED that, unless a person whose interests are substantially affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final and this docket shall be closed on the following date.

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By ORDER of the Florida Public Service Commission, this 27th  
day of December, 1994.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

RJP

Chairman J. Terry Deason dissented on the issue regarding the  
acquisition adjustment.

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.

The action proposed herein 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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 17, 1995.

In the absence of such a petition, this order shall become effective on the day 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 this order becomes final and effective on the date described above, any party substantially 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 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 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.

SCHEDULE NO. 1

Lake Placid Utilities

SCHEDULE OF WATER RATE BASE

As of December 31, 1993

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$122,797	\$ 0	\$122,797
Land	0	0	0
Accumulated Depreciation	0 (1)	(21,148)	(21,148)
Contributions-in-aid-of-Construction	0 (2)	(58,933)	(58,933)
CIAC Amortization	<u>0 (3)</u>	<u>8,995</u>	<u>8,995</u>
<b>TOTAL</b>	<b><u>\$122,797</u></b>	<b><u>\$(71,086)</u></b>	<b><u>\$ 51,711</u></b>

SCHEDULE NO. 2

Lake Placid Utilities

SCHEDULE OF WATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
Accumulated Depreciation To calculate Accumulated Depreciation pursuant to Rule 25-30.140, Florida Administrative Code	(1) \$(21,148)
Contributions-in-aid-of- Construction To calculate Contributions- in-aid-of-Construction pursuant to Rule 25-30.570(1), Florida Administrative Code	(2) \$(58,933)
CIAC Amortization To calculate amortization associated with CIAC	(3) \$ 8,995



SCHEDULE NO. 3

Lake Placid Utilities

SCHEDULE OF WASTEWATER RATE BASE

As of December 31, 1993

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$264,087	\$ 0	\$264,087
Land	17,769	0	17,769
Accumulated Depreciation	0	(1) (196,351)	(196,351)
Contributions-in-aid-of-Construction	0	(2) (105,113)	(105,113)
CIAC Amortization	<u>0</u>	(3) <u>51,321</u>	<u>51,321</u>
<b>TOTAL</b>	<b><u>\$281,856</u></b>	<b><u>\$(250,143)</u></b>	<b><u>\$ 31,713</u></b>

SCHEDULE NO. 4

Lake Placid Utilities

SCHEDULE OF WASTEWATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
Accumulated Depreciation To calculate Accumulated Depreciation pursuant to Rule 25-30.140, Florida Administrative Code	(1) \$(196,351)
Contributions-in-aid-of- Construction To calculate Contributions- in-aid-of-Construction pursuant to Rule 25-30.570(1), Florida Administrative Code and to adjust for donated land	(2) \$(105,113)
CIAC Amortization To calculate amortization associated with CIAC	(3) \$ 51,321