

MEMORANDUM

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May 18, 1998

MAY 19 1998
10:43
FPSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (OTTINOT) *ALB YAS*

RE: DOCKET NO. 971667-WS - APPLICATION FOR APPROVAL OF TRANSFER OF FACILITIES OF FLORIDA WATER SERVICES CORPORATION TO ORANGE COUNTY AND CANCELLATION OF CERTIFICATES NOS. 84-W AND 73-S IN ORANGE COUNTY.

98-0688-FOF-WS

Attached is an ORDER ACKNOWLEDGING TRANSFER, CANCELING CERTIFICATE NO. 73-S, CLOSING DOCKET, AND OPENING NEW DOCKET TO EVALUATE GAIN ON SALE, to be issued in the above-referenced docket.

(Number of pages in order - 7)

HO/lw

Attachment

cc: Division of Water and Wastewater (Walker)

I:971667or.ho

See 1

C. memo to M.L.
sent a/o.
RAF -
per M. J. Lake
3/0 -

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval
of transfer of facilities of
Florida Water Services
Corporation to Orange County and
cancellation of Certificates
Nos. 84-W and 73-S in Orange
County.

DOCKET NO. 971667-WS
ORDER NO. PSC-98-0688-FOF-WS
ISSUED: May 19, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER ACKNOWLEDGING TRANSFER,
CANCELING CERTIFICATE NO. 73-S, CLOSING DOCKET,
AND OPENING NEW DOCKET TO EVALUATE GAIN ON SALE

BY THE COMMISSION:

BACKGROUND

Florida Water Services Corporation (FWSC or utility) is a Class A utility which provides water and wastewater service throughout Florida. According to its 1996 annual report, FWSC recorded operating revenues of \$23,324,759 for water service and \$21,480,059 for wastewater service for facilities regulated by the Commission. The corresponding income amounts were \$4,401,534 and \$4,799,065, respectively.

On December 30, 1997, FWSC filed an application to transfer all of its water and wastewater facilities in Orange County to Orange County with the exception of the Druid Hills water system. The transfer is based on an agreement executed by FWSC and Orange County. The anticipated closing date of the agreement was December 30, 1997. According to the contract, the sale price for the Orange County facilities is \$13,100,000, subject to adjustments and prorations permitted therein.

DOCUMENT NUMBER-DATE
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APPLICATION

In its application, FWSC states that it is selling the following systems to Orange County: a) the University Shores water and wastewater system; b) the Holiday Heights water system; c) the Daetwyler Shores water system; d) the Lake Conway water system; and e) the Westmont water system. FWSC is not selling the Druid Hills water system in Orange County, which also serves customers in Seminole County. The application was filed in accordance with Section 367.071(4), Florida Statutes, and Rule 25-30.037, Florida Administrative Code. Pursuant to Section 367.071(4), a sale of facilities to a governmental authority shall be approved as a matter of right.

The application included a copy of the purchase and sale agreement, which is required pursuant to Rule 25-30.037(4)(c), Florida Administrative Code, and a sworn statement by Orange County's Public Utilities Director that he received a copy of FWSC's annual report. The annual report provides recent information concerning the utility's income and expense statement, its balance sheet, its rate base, and contributions-in-aid-of-construction amounts.

Rule 25-30.037(4)(g), Florida Administrative Code, requires a utility to submit a statement regarding the disposition of customer deposits when a utility is transferred. According to the agreement, FWSC will transfer its customers' security deposits to Orange County in return for Orange County's agreement to continue serving those customers. Furthermore, FWSC will offset each customer's final bill with accrued interest on the customer's deposit through the closing date.

FWSC has filed revised tariffs that eliminate all previous references to the Orange County facilities except Druid Hills. FWSC further reported that regulatory assessment fees for 1997 in Orange County will be paid in the manner and time prescribed by Rule 25-30.120(2)(a), Florida Administrative Code.

Rule 25.30.037(3)(r), Florida Administrative Code, requires a statement regarding the disposition of any outstanding refunds. FWSC reported that its Orange County facilities were included in Docket No. 920199-WS, wherein the utility's rates were restructured

and potential refunds and surcharges were declared. Those refund and surcharge features are reviewed in Section 12 of the purchase agreement under the heading "Indemnities." Specifically, FWSC agreed to forego collection of any potential surcharges in Orange County, while accepting responsibility for any required refunds.

In a letter dated March 25, 1998, FWSC stated that it would not seek recovery of surcharge dollars attributable to Orange County plants from customers in other counties in Docket No. 920199-WS. By Order No. PSC-98-0143-FOF-WS, issued January 26, 1998, in Docket No. 920199-WS, we determined that the utility should be required to make refunds to the Spring Hill customers, but did not require the utility to make refunds or to surcharge other customers. However, Order No. PSC-98-0143-FOF-WS has been appealed. The Orange County facilities are also included in Docket No. 950495-WS, which has also been appealed.

Regarding the Druid Hills water system, this system is identified as part of FWSC's certificated territory in two counties, a small portion in Orange County and a larger portion in Seminole County. Since FWSC will continue to own the Druid Hills water system, its Water Certificate No. 084-W in Orange County shall not be canceled. Accordingly, FWSC will continue to provide the Commission with annual report information and regulatory assessment fees for Druid Hills for all of 1997.

Based on the foregoing, we find it appropriate to acknowledge the transfer of FWSC's water and wastewater facilities with the exception of the Druid Hills water system, to Orange County, effective as of December 30, 1997. FWSC's Wastewater Certificate No. 073-S in Orange County shall be canceled when all pending cases that involve the Orange County facilities are concluded. As stated previously, the Orange County facilities are included in the Docket Nos. 920199-WS and 950495-WS appeals. In addition, FWSC shall file 1997 annual reports and pay 1997 regulatory assessment fees for these Orange County systems through the December 30, 1997, closing date for the agreement.

GAIN ON SALE

According to the sale contract, the sale price for the Orange County facilities is \$13,100,000, subject to adjustments and prorations permitted by the agreement. The sale price exceeds the rate base values that we approved for those facilities, both before and after used and useful measures. In Docket No. 950495-WS, the most recent rate proceeding for FWSC, the approved rate base value for the combined water and wastewater facilities in Orange County was \$8,503,366 for the projected test year ending December 31, 1996. Restoring used and useful adjustments, the aggregate rate base balance was \$9,006,114.

As the sale occurred in 1997, an updated rate base calculation will be needed to determine the gain, if any, due to sale of these facilities. Initial review indicates that FWSC will record a gain on this transaction. Accordingly, we find it appropriate to initiate a separate docket to evaluate whether that gain should be allocated among customer and stockholder interests.

We believe that our decision herein to evaluate the gain on sale in this docket is consistent with our past decisions. See Order Nos. PSC-93-0301-FOF-WS and PSC-93-0423-FOF-WS. However, we also believe that there are other reasons to evaluate the gain on sale. Before the FWSC's facilities were sold to Orange County, those facilities were subject to our jurisdiction. To some extent, the Orange County's service rates were established under uniform rate considerations in FWSC's recent rate proceedings. Under uniform rates, service rates for other FWSC operating facilities were influenced by ownership of the Orange County facilities. Our initial review suggests that the Orange County facilities, mostly because of the University Shores facilities, contributed to betterment of FWSC's earnings profile under subsidy assumptions. The elimination of Orange County's facilities would tend to worsen FWSC's return on investment condition rather than improve it. In sum, the Orange County facilities seemed to subsidize income for facilities outside Orange County to some extent.

No further action is required and this docket shall be closed.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that the application for transfer of water and wastewater facilities from Florida Water Services Corporation to Orange County, is hereby acknowledged. It is further

ORDERED that Certificate No. 73-S shall be canceled upon the resolution of all pending cases relating to the Orange County facilities. It is further

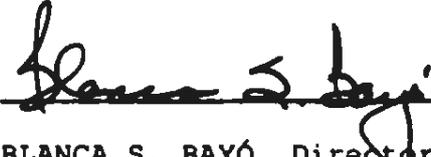
ORDERED that Florida Water Services Corporation shall file 1997 annual report and pay 1997 regulatory assessment fees for the Orange County systems through December 30, 1997. It is further

ORDERED that a new docket shall be opened to evaluate any gain on sale from the sale of facilities from Florida Water Services Corporation to Orange County. It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 19th
day of May, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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

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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.