

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to transfer facilities of Heartland Utilities, Inc., holder of Certificate No. 420-W in Highlands County, to AquaSource Utility, Inc., holder of Certificate No. 424-W, and for cancellation of Certificate No. 420-W.

DOCKET NO. 011401-WU
ORDER NO. PSC-02-0651-PAA-WU
ISSUED: May 13, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING TRANSFER, CANCELLING CERTIFICATE NO. 420-W, HELD BY HEARTLAND UTILITIES, INC., AND AMENDING CERTIFICATE NO. 424-W, HELD BY AQUASOURCE UTILITY, INC., TO INCLUDE THE TERRITORY SERVED BY HEARTLAND UTILITIES, INC.

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING RATE BASE FOR PURPOSES OF THE
TRANSFER AND DECLINING TO INCLUDE A POSITIVE
ACQUISITION IN THE CALCULATION OF RATE BASE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the actions establishing rate base for purposes of the transfer and declining to include a positive acquisition in the calculation of rate base discussed herein are preliminary in nature

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FPSC-COMMISSION CLERK

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

On October 30, 2001, Heartland Utilities, Inc. (Heartland or utility) and Aquasource Utility, Inc. (Aquasource) filed a joint application for approval of the transfer of the Sebring Lakes water system from Heartland to AquaSource. Heartland is a Class C utility which provides water service to approximately 37 customers in Highlands County. The utility is within the Southwest Florida Water Management District in the Highlands Ridge Water Use Caution Area. Wastewater service is provided by septic tanks.

Originally, Heartland, which holds Certificate No. 420-W, consisted of two water systems, DeSoto City (DeSoto) and Sebring County Estates (Estates). Heartland's certificate was amended to add Sebring Lakes (Lakes) by Order No. PSC-98-0797-FOF-WU, issued June 8, 1998, in Docket No. 980433-WU, after the Department of Environmental Protection (DEP) requested that service be extended because of contaminated wells. The DeSoto and Estates systems were transferred to the City of Sebring, pursuant to Order No. PSC-01-1986-PAA-WU, issued October 8, 2001, in Docket No. 001826-WU.

Heartland's remaining system, Lakes, has two 6" wells constructed in 1998, with a total permitted capacity of 280,000 gallons per day (gpd). Although the system is designed to serve 400 connections, the utility was only serving 37 connections at the end of 2001. The transfer of the Lakes system to AquaSource is the subject of this Order. We have jurisdiction pursuant to Section 367.071, Florida Statutes.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$750 pursuant to Rule 25-30.020, Florida Administrative Code. The application also contains proof, in the form of a recorded warranty deed, that the utility owns the land upon which its facilities are located.

Section 367.071, Florida Statutes, states, in part, that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof without prior Commission approval unless such sale, assignment, or transfer is made contingent upon our approval. The closing on the transfer occurred on October 30, 2001. According to an addendum to the purchase agreement, the closing is contingent upon Commission approval.

The application contains proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code. No objections to the application have been received and the time for filing such has expired.

A copy of the purchase agreement was provided with the application. The agreement includes the sales price, terms of payment, and a list of the assets purchased and liabilities assumed. According to the agreement, the purchase price of the utility and land is \$90,000. Because the sale was a cash transaction from funds provided by the operations of AquaSource, no outside financing was required.

According to the application, the transfer is in the public interest because AquaSource has the requisite technical and superior financial ability to own and operate the Heartland system. AquaSource has been providing operation, maintenance, and management services for municipal and private water utilities for more than 25 years and has been operating in Florida since 1999. With regard to financial ability, AquaSource stated that it has the financial ability to ensure continued operation of the utility because of the financial strength of its parent, DQE, Inc.

AquaSource provided a statement with the application that it will fulfill the commitments, obligations, and representations of the seller with regard to utility matters. Further, AquaSource indicated that it performed a reasonable investigation of the utility system as required by Rule 25-30.037(3)(p), Florida Administrative Code. According to the statement, the overall condition of the water treatment plants and facilities were found them to be in satisfactory condition, and in compliance with the requirements of the Department of Environmental Protection (DEP).

Our staff contacted DEP and verified that there are no outstanding notices of violation against the utility.

Heartland is current with regard to payment of its regulatory assessment fees (RAFs) through 2000, and has filed an annual report for 2000, and all prior years. Heartland has also paid RAfs for January 1 through October 30, 2001, the date of the transfer. AquaSource is responsible for the RAfs for November and December 2001 and all future RAfs. AquaSource is also responsible for filing the 2001 annual report and all future annual reports.

Based on the foregoing, we find that the transfer of facilities from Heartland to AquaSource is in the public interest and it is approved. Certificate No. 420-W, held by Heartland, is hereby cancelled, and Certificate No. 424-W, held by AquaSource, is hereby amended to include the territory served by Heartland. The description of the territory being transferred is shown on Attachment A of this Order, which by reference is incorporated herein.

Rate Base

Because rate base has never been set for the Heartland's Lakes system, an audit was performed by examining, on a test basis, the utility's books and records since the system's inception. According to the utility's records, proposed rate base for the Lakes water system is (\$14,066) as of December 31, 2001.

Although the closing took place on October 30, 2001, with the approval of the buyer and seller, our audit staff used the period ending October 31, 2001, for reporting purposes. The audit report contains three audit exceptions concerning the utility's books and records.

Audit Exception No. 1. Pursuant to Rule 25-30.115(1), Florida Administrative Code, all water and wastewater utilities must maintain their accounts and records in conformity with the National Association of Regulatory Utility Commissions (NARUC) Uniform System of Accounts. According to the audit, Heartland did not maintain its books and records in accordance with the NARUC Uniform System of Accounts.

Because the utility's remaining system is being transferred to AquaSource, Heartland will not longer be a utility. Therefore, we find that no action is necessary at this time with regard to Heartland's failure to maintain its books according to the NARUC Uniform System of Accounts. However, AquaSource is hereby reminded that it must maintain utility books and records pursuant to Rule 25-30.115(1), Florida Administrative Code.

Audit Exception No. 2. According to the audit, Heartland's water utility-plant-in-service (UPIS) account is understated. Heartland's books and records include the original cost associated with the water infrastructure for the Lakes system. The utility's general ledgers confirm that a portion of the contributions-in-aid-of-construction (CIAC) is not reflected in UPIS.

The utility received grants totaling \$297,010 from DEP in 1998 to construct a stand-alone water system to serve the Lakes development. In addition, the utility collected \$13,892 in meter installation and customer connection charges pursuant to the utility's approved service availability policy. Therefore, it appears that the cost of the water system was fully funded by DEP grants. However, our audit staff was unable to verify the utility costs associated with the customer meter installations and customer connections.

The audit found that UPIS accounts should be increased to reflect the plant costs associated with the meter installations and customer connections. The accounts that would be increased are Meters by \$10,670; Services by \$3,222; and Transmission and Distribution Equipment by \$6,230. However, without the supporting documentation, we find that the adjustments to UPIS should not be made. Because all utility costs were funded by DEP, the utility's collection of meter installation and customer connection costs result in contributions in excess of the plant costs. Therefore, we find that the utility's rate base shall not be adjusted to record the contributed property in UPIS.

Audit Exception No. 3. The utility's books for Lakes, as of December 31, 2001, contained incorrect depreciation because of using wrong depreciation rates. Depreciation for Distribution Reservoirs, Services, and Water Treatment Equipment was recalculated pursuant to Rule 25-30.140, Florida Administrative

Code, and the books have been adjusted to October 31, 2001, closing date, which reduced the reserve balances of Depreciation.

Accumulated depreciation has been reduced by \$1,687 to remove the November and December accumulated depreciation recorded on the utility's books and increased by \$827 to reflect the appropriate depreciation rates pursuant to Rule 25-30.140, Florida Administrative Code. The net decrease to Accumulated Depreciation is \$860.

Based on the adjustments, we find rate base for Heartland's Lakes system to be (\$13,206) as of October 31, 2001. The calculation of rate base is shown on Schedule No. 1, with adjustments set forth on Schedule No. 2.

The rate base calculations are used solely to establish the net book value of the system at the time of the transfer. The calculations do not include the normal ratemaking adjustments for working capital calculations and used and useful adjustments.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from rate base for purposes of the transfer. The transaction in this docket results in a positive acquisition adjustment of \$103,206 (Purchase Price: \$90,000 Less Staff Calculated Rate Base: (\$13,206) equals a \$103,206 positive acquisition adjustment).

An acquisition adjustment was not requested by AquaSource. AquaSource stated that it considered the purchase price to be fair considering the number of customers, the monthly expenses, and the potential monthly income of the system.

In the absence of extraordinary circumstances, it has been Commission practice that the purchase of a utility system at a premium or discount shall not affect the rate base calculation. Because AquaSource has not requested an acquisition adjustment and there does not appear to be any extraordinary circumstances in this transaction, no acquisition adjustment has been included in the calculation of rate base. This is consistent with previous decisions regarding acquisition adjustments. See Order No. PSC-01-

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0425-PAA-WU, issued February 22, 2001, in Docket No. 001083-WU; Order No. PSC-01-1271-PAA-SU, issued June 6, 2001, in Docket No. 010382-SU; Order No. PSC-01-1655-PAA-WS, issued August 13, 2001, in Docket No. 000793-WS; and Order No. PSC-01-1917-PAA-WS, issued September 24, 2001, in Docket No. 001551-WS.

Rates and Charges

The current rates for Heartland's Lakes system became effective August 23, 1999, pursuant to a price index rate adjustment. The remainder of the utility's charges were approved by Order No. PSC-96-1389-FOF-WS, issued November 19, 1996, in Docket No. 960517-WS. Heartland's rates and charges are set forth below.

WATER SERVICE
(Monthly Rates)

Residential and General Service

Base Facility Charge
Meter Sizes:

5/8" x 3/4"	\$ 7.68
3/4"	\$ 11.51
1"	\$ 19.18
1 1/2"	\$ 38.36
2"	\$ 61.38
3"	\$ 122.76
4"	\$ 191.81
6"	\$ 383.63

Gallonage Charge

Per 1,000 Gallons \$ 1.74

Miscellaneous Service Charges - Water

Initial Connection	\$ 15.00
Normal Reconnection	\$ 15.00
Violation Reconnection	\$ 15.00
Premises Visit (in lieu of disconnection)	\$ 10.00

Service Availability Charges - Water

Customer Connection and
Meter Installation Fee

Meter Sizes:

5/8" x 3/4"	\$ 500.00
1" and larger	Actual

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classifications and regulations of the former owner unless authorized to change by this Commission. AquaSource has not requested a change in the rates and charges and we see no reason to change them at this time. AquaSource shall continue charging the rates and charges approved in Heartland's tariff until authorized to change by us in a subsequent proceeding. AquaSource has filed revised tariff pages incorporating Heartland in its existing tariff. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of facilities from Heartland Utilities, Inc., Post Office Box 1991, Sebring, Florida 33871-1991, to AquaSource Utility, Inc., c/o DQE, 400 Fairway Drive, Suite 400, Coraopolis, Pennsylvania 15108-3190, is hereby approved. Closing of the transfer occurred on October 30, 2001. It is further

ORDERED that Certificate No. 420-W, held by Heartland Utilities, Inc., is hereby cancelled. It is further

ORDERED that Certificate No. 424-W, held by AquaSource Utilities, Inc., is hereby amended to include the territory served by Heartland Utilities, Inc. The territory the utility is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein. It is further

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ORDERED that rate base, which for transfer purposes reflects the net book value of the system, is (\$13,206) as of October 31, 2001. It is further

ORDERED that all matters contained in Schedules Nos. 1 and 2 and Attachment A attached hereto are by reference incorporated herein. It is further

ORDERED that no positive acquisition adjustment is included in the calculation of rate base. It is further

ORDERED that AquaSource Utilities, Inc. is hereby reminded that it must maintain the utility's books and records in accordance with Rule 25-30.115(1), Florida Administrative Code. It is further

ORDERED that AquaSource Utilities, Inc. shall continue to charge the rates and charges approved in Heartland Utilities, Inc.'s tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the revised tariff filed by AquaSource Utilities, Inc. shall be effective for service rendered or connections made on or 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 upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

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

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By ORDER of the Florida Public Service Commission this 13th
day of May, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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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.

As identified in the body of this order, our actions establishing rate base for purposes of the transfer and declining to include a positive acquisition in the calculation of rate base are preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a

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petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 3, 2002. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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.

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 the Commission Clerk and Administrative Services 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 wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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

HEARTLAND UTILITIES, INC
Highlands County
Water Service area for Sebring Lakes

A portion of Sebring Lakes Unit 1-A, 1-B, 2-A, 2-B, and 2-C located in Highlands County, Florida, Sections 3 and 4, Township 36 South, Range 29 East, being more particularly described as follows:

Commence at the Southeast Corner of Section 3, Township 36 South, Range 29 East, Thence North 00°29'23" East along the East line of Section 3 a distance of 1298.93 feet to a point on the Westerly Right-of-way line of U.S. Highway 27, thence North 31°32'59" West along the Westerly right-of-way line of U.S. Highway 27 a distance of 400 feet more or less to a point on the North line of Josephine Creek and for a Point of Beginning:

Thence continue North 31°32'59" West along said West right-of-way line U.S. Highway 27 a distance of 1264.43 feet to a point on the North line of the South 1/2 of Section 3; thence South 89°41'36" West along the North line of the South 1/2 of Section 3 a distance of 3155.71 feet to the Southeast corner of the West 1/2 of the Northwest 1/4 thence North 0°53'45" East along the East line of the West 1/2 of the Northwest 1/4 a distance of 669.33 feet, to the Northeast corner of the South 1/2 of the Southwest 1/4 of the Northwest 1/4; thence South 89°46'12" West along the North line of the South 1/2 of the Southwest 1/4 of the Northwest 1/4 a distance of 1331.90 feet to a point on the West line of Section 3; thence North 1°01'32" East along the West line of Section 3 a distance of 2013.48 feet to the Northwest corner of Section 3; also being the Northeast corner of Section 4; thence South 89°55'46" West along the North line of Section 4 for a distance of 570 feet to a point on the Easterly line of Josephine Creek; thence run Southwesterly along the Easterly line of Josephine Creek a distance of 2,400 feet, more or less, thence Southerly along the Easterly line of Josephine Creek a distance of 900 feet; thence Easterly along the Northerly line of Josephine Creek a distance 8,100 feet, more or less, to the Point of Beginning. CONTAINING 250 ACRES MORE OR LESS.

HEARTLAND UTILITY COMPANY, INC.
SCHEDULE OF WATER RATE BASE
AS OF OCTOBER 31, 2001

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$290,780	\$0	\$290,780
Land	4,800	0	4,800
Contributions in Aid of Construction (CIAC)	(310,902)	0	(310,902)
Accumulated Depreciation	(30,313)	860 A	(29,453)
Amortization of CIAC	<u>31,569</u>	<u>0</u>	<u>31,569</u>
WATER RATE BASE	<u>(\$14,066)</u>	<u>\$860</u>	<u>(\$13,206)</u>

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SCHEDULE 2

HEARTLAND UTILITY COMPANY, INC.
SCHEDULE OF WATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
A Accumulated Depreciation	
1) To remove depreciation for partial year	\$1,687
2) To correct depreciation per Rule	<u>(827)</u>
TOTAL	\$860
Total Adjustments	<u>\$860</u>