

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint application for approval of transfer of Tamiami Village Water Company, Inc.'s water system and Certificate No. 388-W in Lee County to Ni Florida, LLC.

DOCKET NO. 080183-WU
ORDER NO. PSC-09-0260-PAA-WU
ISSUED: April 27, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING RATE BASE AND
FINAL ORDER DECLINING TO INCLUDE A NEGATIVE ACQUISITION
ADJUSTMENT IN THE CALCULATION OF RATE BASE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, except for declining to include a negative acquisition adjustment in the calculation of rate base for transfer purposes, 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 (F.A.C.).

BACKGROUND

Tamiami Village Water Company, Inc. (Tamiami or Utility) is a Class C water utility serving approximately 718 residential and 27 general service customers. The Utility facilities consist of water distribution lines which deliver water purchased from Lee County pursuant to a bulk service agreement. Wastewater services are provided by North Fort Myers Utility, Inc. The Utility is located in the South Florida Water Management District where, due to drought related conditions, irrigation water use is restricted to twice a week. The Utility's 2007 annual report shows total operating revenues of \$208,744 and net a operating loss of \$4,900.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The Utility was granted Certificate No. 388-W in 1983.¹ The Utility has also had two prior transfers² and an amendment.³

On March 31, 2008, Tamiami and Ni Florida, LLC (Ni Florida) filed a joint application in this docket for the transfer of Tamiami's facilities and certificate to Ni Florida. On September 24, 2008, the Commission issued Order No. PSC-08-0621-FOF-WU approving the transfer of Tamiami's water system and Certificate No. 388-W to Ni Florida. An amendatory order was issued on October 7, 2008. The transfer of the water facilities occurred on September 10, 2008, immediately following the Commission's vote on the transfer. Since rate base was last established in 1995 pursuant to the transfer in Order No. PSC-95-1441-FOF-WU, it was decided that rate base should be updated with the change in ownership. Therefore, an audit was conducted to establish rate base as of December 31, 2007.

This order addresses the establishment of rate base and an acquisition adjustment for the transfer of the water facilities and Certificate No. 388-W from Tamiami to Ni Florida. We have jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes (F.S.).

RATE BASE

Rate base was last set for the Utility on December 31, 1994, by Order No. PSC-95-1441-FOF-WU. Therefore, an audit was conducted to establish rate base as of December 31, 2007, and to determine the extent to which the Utility books and records conform with the 1996 National Association of Regulatory Utility Commissioners' (NARUC's) Uniform System of Accounts (USOA). The audit determined that the Utility was not using NARUC's USOA account numbers. However, audit staff was able to convert the Utility's account numbers to NARUC account numbers with no effect on the general ledger. Our findings regarding rate base are discussed below. It should be noted that rate base for transfer purposes does not include the normal rate-making adjustments for working capital or used and useful plant.

Utility Plant in Service (UPIS). The Utility's books reflected a December 31, 2007, balance for UPIS of \$280,923, which includes the cost of transmission and distribution mains, services, meters and meter installation, and office furniture and equipment. According to the audit, the Utility did not appropriately record retirements when it added new plant to replace existing plant. Audit staff used 75 percent of the cost of the new equipment for the value of retired equipment, which is a reasonable estimate of original costs.⁴ The total audit adjustment

¹ Order No. 11734, issued March 18, 1983, in Docket No. 820183-WS (MC), In Re: Application of Tamiami Utility Company for an original certificate to operate a water and sewer utility in Lee County, Florida.

² Order No. 21421, issued June 20, 1989, in Docket No. 890127-WS, In Re: Joint application for transfer of Certificates Nos. 388-W and 332-S from Tamiami Utility Company in Lee County to Tamiami Village Utility, Inc.; and Order No. PSC-95-1441-FOF-WU, issued November 28, 1995, in Docket No. 950015-WU, In Re: Application for transfer of Certificate No. 388-W in Lee County from Tamiami Village Utility, Inc.; and for a limited proceeding to increase rates to recover increased operation and maintenance expenses as a result of pending transfer by Tamiami Village Water Company, Inc.

³ Order No. 22449, issued January 23, 1990, in Docket No. 891148-WS, In Re: Application of Tamiami Village Utility, Inc. for amendment of Certificates 388-W and 332-S in Lee County.

⁴ We found that where original cost is not available for retirements, that 75 percent of replacement cost was a reasonable estimate for the cost of the retirement. Our practice of determining plant costs is consistent with Order

for retirements is (\$6,344). There was also no supporting documentation for some of the journal entries. The total audit adjustment for unsupported plant was (\$1,411). Therefore, we find that UPIS should be decreased by (\$7,755) to reflect adjustments for retirement and to remove unsupported plant. We further find that the UPIS balance for Tamiami's water system was \$273,168 as of December 31, 2007, as shown on Schedule No. 1. The adjustments to UPIS are shown on Schedule No. 2. The balances for UPIS by NARUC USOA are shown on Schedule No. 3.

Accumulated Depreciation. The Utility's books reflected a December 31, 2007, balance for accumulated depreciation of (\$193,933). According to the audit, there were errors in applying depreciation rates as well as plant retirements that were not properly booked. We find that, consistent with the guidelines for depreciation set by Rule 25-30.140, F.A.C., the accumulated depreciation balance for Tamiami was (\$195,859) as of December 31, 2007, as shown on Schedule No. 1. The adjustments to accumulated depreciation are shown on Schedule No. 2. The balances for accumulated depreciation by NARUC USOA are shown on Schedule No. 3.

Contributions-in-aid-of-Construction (CIAC). The Utility's books reflected a December 31, 2007, CIAC balance of (\$110,779). Tamiami is built out and, therefore, currently has no approved service availability charges. The amount of CIAC last established for Tamiami was (\$103,713) as of December 31, 1994, pursuant to the rate base authorized in Order No. PSC-95-1441-FOF-WU. However, during the intervening years, some customers did not cash their reimbursements for deposits and cash advances in the amount of (\$3,911). In addition, the water treatment provider, Lee County, returned (\$3,155) associated with errors in tap-in fees. The total adjustment to CIAC shall be (\$7,066). Therefore, we find that the CIAC balance was (\$110,779) as of December 31, 2007, as shown on Schedule No. 1.

Accumulated Amortization of CIAC. The Utility's books reflected a December 31, 2007 accumulated amortization of CIAC balance of \$106,267. According to the audit, the Utility used 5.9 percent on CIAC additions from 1995 through 2007 and 3.31 percent for prior years. Audit staff used a yearly composite rate pursuant to NARUC's USOA for a Class C utility. The composite rate is based on the guideline average service lives in Rule 25-30.140, F.A.C. Based on this information, we find that the accumulated amortization of CIAC shall be adjusted by (\$5,955) to comport with the rule. Therefore, we find that the balance for accumulated amortization of CIAC was \$100,312 as of December 31, 2007, as shown on Schedule No. 1.

Conclusion. Based on the foregoing, we find that the appropriate rate base for transfer purposes for Tamiami's water system is \$66,842 as of December 31, 2007. Rate base is shown

No. PSC-03-1250-PAA-WU, issued November 6, 2003, in Docket No. 030250-WU, In Re: Application for a staff-assisted rate case in Pasco County by Floralino Properties, Inc.; in Order No. PSC-01-1574-PAA-WS, issued July 30, 2001, in Docket No. 000584-WS, In Re: Application for a staff-assisted rate case in Martin County by Laniger Enterprises of America, Inc.; and in Order No. PSC-09-0017-PAA-SU, issued January 5, 2009, in Docket No. 070740-SU, In Re: Joint application for approval of transfer of Hudson Utilities, Inc.'s wastewater system and Certificate No. 104-S, in Pasco County, to Ni Florida, LLC.

on Schedule No. 1 and adjustments to rate base are shown on Schedule No. 2. The balances by NARUC USOA for UPIS and accumulated depreciation are shown on Schedule No. 3. Within 60 days of the date of this order, Ni Florida shall provide a statement that the Utility's books have been updated to reflect the approved rate base adjustments and balances. In addition, the rate base adjustments approved herein shall be reflected in the Utility's 2009 annual report.

ACQUISITION ADJUSTMENT

An acquisition adjustment results when the purchase price differs from the original cost of the assets adjusted to the time of the acquisition. Our calculation of the acquisition adjustment is shown below:

Purchase Price	\$745,000
Rate Base	<u>\$ 66,842</u>
Positive Acquisition Adjustment	\$678,158

Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. The buyer has neither requested an acquisition adjustment nor identified any extraordinary circumstances. Therefore, we find that an acquisition adjustment shall not be included in the calculation of rate base for transfer purposes.

In addition, in Order No. PSC-08-0621-FOF-WU approving the transfer, we required that Ni Florida file an updated territory map within six months from the date of the closing to determine whether the Utility may be serving outside its authorized territory. While the Utility is in the process of complying with this requirement, the maps provided are not yet sufficient to meet the requirements of the order. Therefore, the docket shall remain open pending staff verification that the updated territory map meets the requirements of PSC-08-0621-FOF-WU.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the appropriate rate base for transfer purposes for Tamiami Village Water Company, Inc.'s water system is \$66,842 as of December 31, 2007. Within 60 days of the issuance of this Order, Ni Florida, LLC, shall be required to provide a statement that the Tamiami Village Water Company, Inc.'s books have been updated to reflect the rate base adjustments and balances approved herein, and the approved rate base adjustments shall be reflected in the Tamiami Village Water Company, Inc.'s 2009 annual report. It is further

ORDERED that pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment shall not be included in the calculation of rate base for transfer purposes. 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 Commission Clerk, 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 if no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of this Order, a consummating order shall be issued. However, the docket shall remain open pending receipt of the confirmation statement that the Tamiami Village Water Company, Inc.'s books have been adjusted to reflect the rate base adjustments approved herein and verification of an updated territory map. Upon receipt of the statement and updated territory map, the docket shall be administratively closed.

By ORDER of the Florida Public Service Commission this 27th day of April, 2009.



ANN COLE
Commission Clerk

(S E A L)

CMK

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 action herein, except for declining to include a negative acquisition adjustment in the calculation of rate base for transfer purposes, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 18, 2009. 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 Office of Commission Clerk, 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 Office of Commission Clerk 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.

TAMIAMI VILLAGE WATER COMPANY, INC.

Schedule No. 1

**Schedule of Water Rate Base
As of December 31, 2007**

Description	Balance Per Utility Books	Commission's Adjustments		Balance Per Commission
Utility Plant in Service	\$280,923	\$(7,755)	A	\$273,168
Accumulated Depreciation	(193,933)	(1,926)	B	(195,859)
Contributions in Aid of Construction (CIAC)	(110,779)	0		(110,779)
Amortization of CIAC	<u>106,267</u>	<u>(5,955)</u>	C	<u>100,312</u>
Water Rate Base	<u>\$82,478</u>	<u>\$(15,636)</u>		<u>\$66,842</u>

Schedule No. 2

Schedule of Water Rate Base Adjustments

Explanation	Commission-Approved Adjustments
A Utility Plant In Service	
1. To properly record UPIS retirements	\$(6,344)
2. To remove unsupported plant	<u>(1,411)</u>
Total Utility Plant In Service adjustment	<u>(7,755)</u>
B Accumulated Depreciation	
1. To reflect correct depreciation rates and adjustments for retired plant	<u>\$(1,926)</u>
Total Accumulated Depreciation adjustment	<u>\$(1,926)</u>
C Accumulated Amortization of CIAC	

1. To decrease amortization to reflect composite rates	<u>\$(5,955)</u>
Total Accumulated Amortization of CIAC adjustment	<u>\$(5,955)</u>
Total Adjustments	<u>\$15,636</u>

Schedule No. 3

**Commission-Approved Water Account Balances For
 Utility Plant in Service and Accumulated Depreciation
 As of December 31, 2007**

Account Number	Account Name	UPIS BALANCE	ACCUMULATED DEPRECIATION BALANCE
331	Transmission and Distribution Mains	174,568	(105,308)
333	Services	50,932	(42,883)
334	Meters and Meter Installations	36,458	(36,458)
340	Office Furniture and Equipment	<u>11,210</u>	<u>(11,210)</u>
	Totals	\$273,168	\$(195,859)