

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer) DOCKET NO. 910850-WU
of Certificate No. 396-W from) ORDER NO. PSC-92-0025-FOF-WU
Utility Systems, Inc. to) ISSUED: 3/10/92
Demetree Industries, Inc. in)
Citrus County.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

ORDER APPROVING TRANSFER

BY THE COMMISSION:

In 1984, Utility Systems, Inc. (USI) amended its territory to include the Pine Valley system, which serves the Pine Valley Subdivision. Pine Valley is a 50 lot subdivision, which was developed by Demetree Industries, Inc. (DMI). DMI took over operation of the utility system in 1987 when USI was involuntarily dissolved.

DMI reinstated USI's corporate status in 1990 with the intention of purchasing USI. The corporate officers of DMI served as the corporate officers of USI. However, it was discovered that DMI did not deed the utility plant over to USI when USI amended its certificate to include the Pine Valley Subdivision. As a result, DMI already owns the assets associated with Certificate No. 396-W.

On April 22, 1991, DMI was advised of the necessity of filing an application for the transfer of Certificate No. 396-W from USI to DMI. DMI filed its application on August 12, 1991. DMI is in violation of Section 367.031, Florida Statutes. However, we will not penalize DMI for operating a utility without a certificate since, as discussed previously, DMI took over the system when USI was involuntarily dissolved in order to provide service to the Pine Valley Subdivision. DMI has operated the system in accordance with the requirements of the Department of Environmental Regulation (DER) and charged the rates and charges approved in USI's tariff. It should also be noted that DMI has paid all outstanding regulatory assessment fees for USI.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. The application contains a filing fee in the amount of \$150.00, as prescribed by Rule 25-30.020, Florida Administrative Code. In addition, DMI provided evidence, in the form of a Warranty Deed, that it owns the land upon which the facilities are located.

DMI also provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system transferred. No objections to the application have been received and the time for filing such has expired.

DMI has been constructing utility plants since 1974; at times, DMI manages the plants until they are either sold or absorbed by larger systems. The Pine Valley system, which DMI has been operating since 1987, is the only utility system which DMI currently owns. DMI intends to set up a homeowners' association in the future to acquire and operate the plant. According to DER, there are no outstanding notices against the Pine Valley system.

We believe that DMI has demonstrated that it is technically and financially able to operate the system and provide service to the customers. Therefore, we find that the transfer of Certificate No. 396-W from USI to DMI is in the public interest and it is approved. Since the original certificate has been lost, Certificate No. 396-W will be reissued in the name of DMI.

As stated previously, DMI owns the assets associated with Certificate No. 396-W. Therefore, rate base is not being set in this Docket.

Rates and Charges

USI's rates and charges were approved along with the original tariff, and became effective June 17, 1983, pursuant to Order No. 11870, issued in Dockets Nos. 820396-W and 820398-W. Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission.

ORDER NO. PSC-92-0025-FOF-WU
DOCKET NO. 910850-WU
Page 3

DMI has not requested to change the rates and charges and we see no reason to change them at this time. DMI shall continue to charge the existing rates and charges set forth in USI's tariff until authorized to change by the Commission. DMI has filed a tariff reflecting the change in ownership. The tariff shall be effective for services provided or connections made on or after the stamped approval date.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 396-W from Utility Systems, Inc., 3348 Edgewater Drive, Orlando, Florida 32804, to Demetree Industries, Inc., 3348 Edgewater Drive, Orlando, Florida 32804, is hereby approved. It is further

ORDERED that Demetree Industries, Inc., shall charge the customers in the territory described in Attachment A of this Order, the rates and charges approved in Utility Systems, Inc.'s tariff until authorized to change by the Commission. It is further

ORDERED that Docket No. 910850-WU is hereby closed.

By ORDER of the Florida Public Service Commission, this 10th
day of MARCH, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

by: Kay J. Jagan
Chief, Bureau of Records

ORDER NO. PSC-92-0025-FOF-WU
DOCKET NO. 910850-WU
Page 4

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.

ORDER NO. PSC-92-0025-FOF-WU
DOCKET NO. 910850-WU
Page 5

ATTACHMENT A

UTILITY SYSTEMS, INC.

Territory Description

The following described lands located in portions of Section 19, Township 19 South, Range 18 East, Citrus County, Florida:

Section 19

The Southwest 1/4 of the Southwest 1/4 of said Section 19.