

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a staff-) DOCKET NO. 900967-SU
assisted rate case in Citrus) ORDER NO. PSC-92-0542-FOF-SU
County for the Riverhaven) ISSUED: 06/23/92
System of Homosassa Utilities,)
Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER IMPOSING AND SUSPENDING FINE

BY THE COMMISSION:

Homosassa Utilities, Inc., Riverhaven System, (HUI or utility) is a class "C" wastewater utility whose service area is located near the city of Homosassa in Citrus County, Florida.

On December 7, 1990, HUI applied for the instant staff-assisted rate case and paid the appropriate filing fee. Pursuant to Section 367.0814, Florida Statutes, February 7, 1991, was established as the official date of filing. The test year for setting rates was the twelve-month period ended December 31, 1990.

By proposed agency action (PAA) Order No. 24937, issued August 20, 1991, this Commission proposed allowing HUI to collect rates designed to produce \$112,951 in annual wastewater revenues, an increase of \$23,646 (26.5%). The provisions of the PAA Order became final and effective when no timely protest was filed.

In Order No. 24937, we allowed in rate base \$161,855 in proforma plant items, including a sand filter, improvements to the lift stations, and improvements to the percolation ponds. We ordered that the portion of the approved rates attributable to proforma plant were to be held subject to refund with interest; we ordered HUI to adhere to the September 1, 1991, deadline which the Florida Department of Environmental Regulation (DER) established for HUI to reobtain its operating permit; and we ordered HUI to submit, by February 20, 1992, a comprehensive study of available connection capacity and plans for plant expansion if expansion was required.

By Order No. PSC-92-0192-FOF-SU, issued April 13, 1992, we ordered HUI to show cause why it should not be fined up to \$5,000 a day for failing to reobtain its DER operating permit and for not

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submitting the capacity study as required by Order No. 24937. HUI responded in writing to Order No. PSC-92-0192-FOF-SU on May 4, 1992. This Order addresses HUI's response to our Order to Show Cause.

In HUI's response to Order No. PSC-92-0192-FOF-SU, Mr. Terrance Sullivan, President of HUI, states, "In an effort to comply with the PSC requirements and provide service Homosassa Utilities has offered to sell the system to a group of home owners who propose to buy the system in less than one month. They have agreed to rapidly complete all of the required outstanding maintenance items."

The utility has not completed the ordered plant improvements or capacity study. HUI's response does not dispute these facts, does not raise any issues of material fact, and does not request a hearing for the purpose of determining compliance. As set forth in Order No. PSC-92-0192-FOF-SU, HUI's failure to dispute noncompliance constitutes an admission.

Pursuant to Section 367.161, Florida Statutes, we have the authority to impose penalties of up to \$5,000 a day for each day that a utility fails to comply with an Order. In consideration of the above, we hereby impose a \$5,000 fine on HUI for its failure to comply with Order No. 24937.

As of the date of our deciding this matter, the transfer referenced in HUI's response has not taken place. In light of the potential transfer, however, we shall suspend the \$5,000 fine imposed for a period of six months from the date of this Order. If by the end of the suspension period, the current owner makes no significant progress towards selling the system or towards completing the improvements and capacity study, we shall consider levying the fine. Conversely, if by the end of the suspension period, the utility has at least filed a transfer application, we shall consider abrogating the fine.

Our goal in this decision is that the plant improvements be made and an operating permit be obtained as soon as possible. We have spoken with a member of the potential buyers group, and he stated that the buyers are already working with DER and intend to complete the ordered plant improvements. Since the potential buyers are homeowners in the area, we think they have a vested interest in making the ordered improvements and operating the utility properly. Thus, the sale of the utility would be a positive step toward correcting the utility's problems.

It is, therefore,

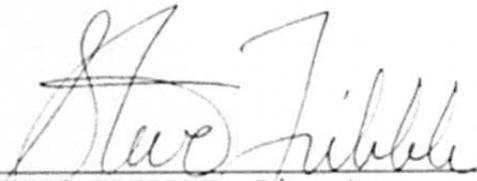
ORDERED by the Florida Public Service Commission that

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Homosassa Utilities, Inc., Riverhaven System, is hereby fined \$5,000 for failing to comply with Order No. 24937. It is further

ORDERED that the fine assessed is suspended for six months, after the end of which period we shall determine the ultimate disposition of the fine as set forth herein.

By ORDER of the Florida Public Service Commission, this 23rd day of June, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MJF

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.