

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Staff-) DOCKET NO. 900967-SU
Assisted Rate Case in Citrus) ORDER NO. PSC-94-0543-FOF-SU
County for the Riverhaven System) ISSUED: May 10, 1994
of HOMOSASSA UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER AUTHORIZING RELEASE OF ESCROW FUNDS

BY THE COMMISSION:

On December 7, 1990, Homosassa Utilities, Inc. (HUI or utility) filed an application for a staff-assisted rate case for its Riverhaven System. By Proposed Agency Action (PAA) Order No. 24937, issued August 20, 1991, this Commission authorized HUI to collect rates designed to produce \$112,951 in annual wastewater revenues, an increase of \$23,646 (26.5 percent) for the test year ended December 31, 1990. Also by Order No. 24937, we allowed \$161,855 in pro forma plant improvements and required HUI to hold that portion of the rates attributable to pro forma plant in escrow, subject to refund with interest, until the improvements were completed. Finally, by Order No. 24937, we required HUI to submit a study of plant capacity.

By Order No. PSC-92-0192-FOF-SU, issued April 13, 1992, we required HUI to show cause why it should not be fined up to \$5,000 a day for failing to obtain a Department of Environmental Protection (DEP) operating permit and for not submitting the capacity study as required under Order No. 24937. Although HUI filed a timely response, its response failed to dispute any of the allegations contained in Order No. PSC-92-0192-FOF-SU or to make any specific factual or legal arguments of its own. Accordingly, by Order No. PSC-92-0542-FOF-SU, issued June 23, 1992, we imposed a fine of \$5,000 upon HUI. However, because HUI's response indicated that a transfer to RHV Utility, Inc. (RHV) was pending, we suspended the fine for a period of six months.

On December 14, 1992, our Staff was informed that the utility had been sold to RHV. RHV filed an application for approval of the

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transfer on July 30, 1993. Because of the transfer, DEP has indicated that it may enter into a consent order and extend the existing deadlines. Accordingly, by Order No. PSC-93-0515-FOF-SU, issued April 5, 1993, we extended our suspension of the fine until the transfer application was considered. In addition, by Order No. PSC-93-1028-FOF-SU, issued July 13, 1993, we required RHV to continue escrowing funds in accordance with Order No. 24937.

All of the pro forma improvements have now been completed, with the exception of a sand filter. RHV actually spent more on certain improvements than allowed by this Commission in pro forma rate base. Upon review, however, we do not believe that the cost overruns were imprudent. The pro forma allowance and actual cost of the improvements are set forth below:

	<u>Pro Forma Allowed</u>	<u>Actual Cost</u>
Percolation Ponds	\$ 38,420	\$ 71,264
Life Stations	39,544	26,797
Drainfield	30,891	30,891
Sand Filter	<u>53,000</u>	<u>0</u>
Total	\$ 161,855	\$ 128,952

Since the majority of the pro forma allowance has been incurred and additional improvements not currently included in rate base will be required in the future, we find it appropriate to discontinue the escrow requirement and to release those funds currently held in escrow. We believe that this will facilitate RHV's completion of the improvements and allow it to obtain an operating permit from DEP. It is important that RHV obtain the permit since, for several years, DEP has prohibited it from adding further connections due to its lack of sufficient effluent disposal capacity.

Upon release of the funds, twenty percent of the escrow balance shall be credited to contributions-in-aid-of construction. This percentage represents the approximate ratio of the unspent pro forma allowance to the total pro forma allowance, and shall be applied to the actual balance at the time the funds are disbursed and all accounts closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that RHV Utility, Inc., 1 Northwest U.S. Highway 19, Post Office Box 2770, Crystal River, Florida 34423, is hereby authorized to cease

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escrowing funds as required by Orders Nos. 24937 and PSC-93-1028-FOF-SU. It is further

ORDERED that those funds currently held in escrow pursuant to Orders Nos. 24937 and PSC-93-1028-FOF-SU are released and shall be disbursed to RHV Utility, Inc. It is further

ORDERED that twenty percent (20%) of the balance in the escrow accounts at the time the funds are released shall be credited to contributions-in-aid-of-construction. It is further

ORDERED that Docket No. 900967-SU shall remain open pending RHV Utility, Inc.'s entering into a consent order with the Department of Environmental Protection. Upon verification that a consent order has been entered, Docket No. 900967-SU shall be closed.

By ORDER of the Florida Public Service Commission, this 10th day of May, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

RJP

Chairman J. Terry Deason dissented to this decision. Commissioner Julia L. Johnson dissented because she believes that the utility should continue to escrow the \$32,903 difference between the amount allowed in rates by Orders Nos. 24937 and PSC-93-1028-FOF-SU and the actual cost of the improvements. She believes it is appropriate to either lower rates by the \$32,903 amount that was not spent as specifically directed by those Orders or to continue the escrow requirement. She thinks the escrow requirement should be continued because lowering rates a small amount at this point, when a rate increase may be needed in the very near future as additional plant improvements required by DEP are completed, may be confusing to customers.

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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.