

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer) DOCKET NO. 960717-WU
of Certificate No. 396-W in) ORDER NO. PSC-96-1539-FOF-WU
Citrus County from Demetree)
Industries, Inc. to Crystal) ISSUED: December 17, 1996
River Utilities, Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION
CONFIRMING DECISION NOT TO INCLUDE
AN ACQUISITION ADJUSTMENT IN THE CALCULATION
OF RATE BASE, IMPLEMENTING A LATE CHARGE,
AND MODIFYING THE DEPOSIT CHARGE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that our decision not to include an acquisition adjustment in the calculation of rate base, implementing a late charge, and modifying the deposit charges, are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal hearing, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Demetree Industries, Inc. (Demetree or utility) provides water service in Citrus County and serves approximately 46 customers. The 1995 annual report reflects that the operating revenue for the system was \$5,645 and the net operating loss was \$9,631. The utility is a Class C utility company under Commission jurisdiction. On June 10, 1996, Demetree applied for a transfer of the Demetree water system (Water Certificate No. 396-W in Citrus County) to Crystal River Utilities, Inc.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Section 367.071, Florida Statutes, states that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without approval of the Commission. We have reviewed the Agreement of Purchase and Sale (Agreement) and find that, although the parties have come to an agreement on the sale, the official closing is contingent upon our approval.

APPLICATION

The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer. The application contains \$750, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(2)(g), Florida Administrative Code.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections were received and the time for filing of such objections has expired. A description of the territory served by the utility is appended to this order as Attachment A.

With regard to the purchaser's technical ability, Crystal River has indicated that it will be retaining the services of H2O Utility Services, Inc. to maintain and operate the system. H2O currently operates and maintains over eighty systems in Florida. According to the Department of Environmental Protection, there are no outstanding notices of violation against the utility. Regarding the financial ability, Crystal River's financial statements indicate that approximately 64% of the company's net worth is in real estate and other assets, and that it has approximately \$885,000 in liquid assets. We find that the owner possesses the overall financial ability to operate the water facility. As stated previously, the annual report for 1995 shows that the consolidated annual operating revenue for the system was \$5,645 and the net operating loss was \$9,631. As the system is small, we find that the assets of the new owner should be adequate to insure the continued operations of the utility.

The application contains a copy of the Agreement which includes the purchase price, terms of payment and a list of the assets purchased and liabilities assumed. Based on the application, there are no guaranteed revenue contracts or customer advances. The seller will remain responsible for the existing

debts of the utility. The developer agreements, customer deposits and interest thereon will be transferred to Crystal River. In addition, Crystal River provided a statement that it will fulfill the commitments, obligations and representations of the transferor.

Based on the above, we find the transfer of facilities of Demetree Industries, Inc., to Crystal River Utilities, Inc., is in the public interest and it shall be approved.

RATE BASE

According to the application, the net book value of the system being transferred was estimated to be \$0.00 on December 31, 1995 as determined from the annual report filed by Demetree. However, we note that we have never officially established rate base. Therefore, we conducted an audit of the books and records of the utility to determine the rate base (net book value) at the time of transfer, July 31, 1996.

Our audit revealed that the records of Demetree Industries, Inc., the developer, are commingled with those applicable to utility operations. As a result, we cannot determine what the appropriate rate base is for Demetree. Rate base will need to be established after an original cost study has been performed and at the time of a rate proceeding. Therefore, we find that rate base shall not be established at this time.

ACQUISITION ADJUSTMENT

An acquisition adjustment results when the purchase price differs from the rate base for transfer purposes. The purchase price for this facility was \$3,500, and an acquisition adjustment was not requested. As discussed earlier, because rate base or net book value cannot be established, a finding regarding an acquisition adjustment cannot be made at this time. Therefore, we find that no acquisition adjustment shall be made for inclusion in the rate base.

RATES AND CHARGES

The utility's current approved rates and charges were effective March 24, 1992 pursuant to Order No. PSC-92-0025-FOF-WU issued in Docket No. 910850-WU. We approved these rates when Demetree filed for a transfer of its certificate.

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case of change of ownership or control of a utility which places the operation under a different or new utility...the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission)

Crystal River has not requested a change in the rates of the utility. However, Crystal River has proposed changing the utility's currently approved deposit charges. Demetree is currently authorized to charge residential and general service customers (all meter sizes) a \$20.00 deposit. Crystal River has requested to implement the following charges:

	<u>Residential</u>	<u>General Service</u>
5/8" x 3/4":	\$ 20.00	\$ 20.00
1":	\$ 50.00	\$ 50.00
1 1/2":	\$100.00	\$100.00
over 2":	\$160.00	\$160.00

We have reviewed the proposed charges and find that they do not exceed the amount equal to the average actual charge for water service for two monthly billing periods. Therefore, we find that it is appropriate to approve the proposed deposit charges.

Crystal River has also requested approval to implement its currently approved late fee of \$5.00. The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing such delinquent notices and accounts solely upon those who are the cost causers. Statistics filed with Crystal River's request show that approximately 24% of its customers are delinquent each month. Crystal River provided documentation showing that the utility incurs a cost of \$7.77 per late account. Therefore, based on the above, we find that the utility's request to implement a currently approved late fee of \$5.00 is fair, just and reasonable and it shall be approved.

Crystal River Utilities, Inc. has not requested a change in the rates of the utility but has requested a change in the charges discussed above. Accordingly, we find that the utility shall continue operations under the existing tariff and apply the above approved rates and charges. The utility has filed a tariff reflecting the transfer of ownership. Staff will approve the

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tariff filing effective for services provided or connections made on or after the stamped approval date. The tariff sheets will be approved upon staff's verification that the tariff is consistent with our decision and Rule 25-30.475, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of facilities and Certificate No. 396-W in Citrus County from Demetree Industries, Inc. to Crystal River Utilities, Inc., is hereby approved. It is further

ORDERED that each of the findings made in the body of this order is hereby approved in every respect. It is further

ORDERED that all matters contained in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that we are not establishing a rate base at this time. It is further

ORDERED that Crystal River Utilities, Inc. shall continue charging the rates and charges in the tariff until authorized to change by this Commission. The tariff reflecting the change in ownership shall become effective for services provided or connections made on or after the stamped approval date. It is further

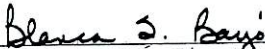
ORDERED that the tariff sheets will be approved upon staff's verification that the tariff is consistent with our decision and Rule 25-30.475, Florida Administrative Code. It is further

ORDERED that the provisions of this order regarding our decision not to include an acquisition adjustment in the calculation of rate base, our implementation of the late charge, and our modification of the deposit charges, are issued as proposed agency action and shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review." 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 17th
day of December, 1996.



BLANCA S. BAYO, Director
Division of Records and Reporting

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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.

As identified in the body of this order, our decision not to include an acquisition adjustment in the calculation of rate base, our implementation of the late charge, and our modification of the deposit charges, are preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 7, 1997. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 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 of the effective date 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.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by

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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 wastewater 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.

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ATTACHMENT A

CRYSTAL RIVER UTILITIES, INC.

WATER SERVICE AREA

CITRUS COUNTY

Township 19 South, Range 18 East, Citrus County, Florida.

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