

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint application for transfer)	DOCKET NO. 890127-WS
of Certificates Nos. 388-W and 332-S)	ORDER NO. 21421
from TAMIAMI UTILITY COMPANY in Lee)	ISSUED: 6-20-89
County to TAMIAMI VILLAGE UTILITY, INC.)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER APPROVING TRANSFERANDNOTICE OF PROPOSED AGENCY ACTIONORDER SETTING RATE BASE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein setting rate bases for purposes of transfer 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.

BACKGROUND

On January 23, 1989, Tamiami Utility Company (Tamiami Utility) and Tamiami Village Utility, inc. (Tamiami Village) filed a joint application for the transfer of its certificates and facilities to Tamiami Village. The facilities include a water distribution system, and a wastewater treatment plant and collection system. Water is purchased in bulk from Lee County and resold to the customers of the utility.

Tamiami Utility initially agreed to sell the utility to Southern States Utilities, Inc. (SSUI). On March 14, 1988, SSUI and Tamiami Utility filed a joint application for transfer of these facilities and certificates to SSUI. The association objected to the transfer due to the association's belief that it had the right of first refusal to any sale of Tamiami Utility. The objection was dismissed by Order No. 19543, issued June 21, 1988, due to lack of jurisdiction over the subject matter. The association subsequently filed a motion for reconsideration of the order, but the Commission denied the motion for reconsideration in Order No. 19828.

The association then entered into negotiations with Tamiami Utility and SSUI for purchase of the utility. The

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. 21421
DOCKET NO. 890127-WS
PAGE 2

negotiations resulted in an agreement between Tamiami Utility and the association which would allow Tamiami Village to purchase the utility, pending approval of this Commission. Also, SSUI and Tamiami Utility, agreed to withdraw its application for transfer to SSUI. We acknowledged the withdrawal of such application in Order No. 21096, issued April 21, 1989.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of facilities. In particular, the notarized application contains:

- a) A check in the amount of \$900 which, upon calculation, equates to the correct filing fee as prescribed by Section 367.141, Florida Statutes.
- b) Adequate service territory description pursuant to Rule 25-30.035(i), Florida Administrative Code. Said territory to be served is described as being in Lee County, and more particularly as described in Attachment A.
- c) Proof of notice to all customers of record pursuant to Rule 25-30.030(g), Florida Administrative Code.
- d) Proof of notice to all interested governmental and regulatory agencies, and all utilities within a four-mile radius of the territory to be served, and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030 Florida Administrative Code.

No objections to the requested transfer have been received and the time for filing such has expired.

The applicants state that the requested transfer is in the public interest in that: The service area will consist primarily of the shareholders of Tamiami Village, a not-for-profit Florida corporation; Tamiami Village had raised some \$315,000 in certificates of deposits for the purchase and operation of the utility; The association had arranged for Charter Utilities, Inc. to operate and maintain the utility, as it has since 1979; and finally, no objections to the transfer were received within the time for filing such objections.

Upon due consideration, we find the subject transfer application to be in the public interest and is approved. Accordingly, we direct that Certificates Nos. 388-W and 332-S shall be returned to this Commission so they can be updated to reflect the transfer of utility ownership.

RATE BASE

An audit of the books and records of the utility was conducted to determine rate base at the time of transfer. Water and sewer rate bases were last established by way of

ORDER NO. 21421
DOCKET NO. 890127-WS
PAGE 3

Order No. 13796, issued October 22, 1984, for this utility. The water system's rate base was set at \$57,919, excluding rate making adjustments, as of December 31, 1983. Since then, Tamiami Utility has added \$17,286 in additional transmission and distribution lines and meters in 1984, and \$485 in meters in 1988. No retirements have occurred. The sewer system's rate base was set at \$105,210, excluding rate making adjustments, as of December 31, 1983. Since that time, Tamiami Utility has added \$141,707 in pumping structures, flow measuring devices, collection lines and other treatment and disposal equipment in 1984 and \$2,243 in collection lines in 1988. No retirements have occurred.

The balance of the utility plant in service accounts, excluding land, are \$199,953 for water and \$549,248 for sewer.

There is no land associated with the water system since water is purchased from Lee County and resold to the customers. The wastewater treatment system is located on five acres that Tamiami Utility leased from an affiliate, Tamiami Village Ltd., Partnership, for \$18,000 per year. The land is owned by Tamiami Utility's parent company, Cynwyd Investments (Cynwyd). Tamiami Village is buying the land from Cynwyd for \$15,000. Since the actual cost of the land at the time it was dedicated to public service is not available, we estimate the approximate value of the land to be \$90,060 at the time it was dedicated to public service. Therefore, we find that the purchase price of \$15,000 is not excessive and should be included in rate base.

The projected date of June 30, 1989 was used as the date of transfer since this is the date that all regulatory approvals are anticipated.

The accumulated depreciation was brought forward using the depreciation rates approved in Order No. 13796, issued October 22, 1984, taking into consideration the plant additions. Based on our calculation, accumulated depreciation is \$103,763 for the water system and \$179,887 for the sewer system.

Our review of the books and records show that no additional contributions-in-aid-of-construction (CIAC) has been collected since the last rate case proceeding. Amortization of CIAC was computed using the composite depreciation rate of 4.10% for the water system and 3.51% for the wastewater treatment system. Amortization of CIAC was calculated as \$41,838 for the water system and \$107,333 for the sewer system. The rate base calculations do not include any ratemaking adjustments normally performed in rate cases, such as used and useful adjustments or working capital calculations. The rate base calculations are used purely to establish the book value of the property being transferred. Accordingly, we find that rate bases of \$61,739 for water and \$240,787 for sewer are appropriate.

Rates

Rule 25-9.044(1), Florida Administrative Code, provides in pertinent part:

ORDER NO. 21421
DOCKET NO. 890127-WS
PAGE 4

In cases 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).

Our evaluation of the present transfer application provides no basis for variation from the above-cited rule. Further, Tamiami Village did not request a change in the rates being charged by Tamiami Utility Company. Therefore, the utility is directed to continue to charge the rates previously approved for Tamiami Utility Company. Further, Tamiami Village Utility, Inc. is directed to file an original tariff within thirty days of the date of this Order.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the utility's rate base at the date of transfer. In the absence of extraordinary circumstances, it has been Commission policy that a subsequent purchase of a utility system at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange were not extraordinary or unusual, nor has the utility requested that an acquisition adjustment be included in rate base. Therefore, no positive acquisition adjustment is included in rate base.

It is, therefore,

ORDERED by the Florida Public Service Commission that the joint application for the transfer of Certificates Nos. 388-W and 332-S from Tamiami Utility Company, 2645 U.S. 41 North, North Fort Meyers, Florida 33903 to Tamiami Village Utility, Inc., 333 South Tamiami Trail, Suite 199, Venice, Florida 34255 is hereby approved as shown in the body of this Order. It is further

ORDERED that the rate bases, for the purpose of this transfer, are \$61,739 for water and \$240,787 for sewer. It is further

ORDERED that the portion of this Order establishing a rate base for Tamiami Village Utility, Inc. is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding in the form provided by Rule 25-22.036, Florida Administrative Code, with the Director, Division of Records and Reporting, 101 East Gaines Street, Fletcher Building, Tallahassee, Florida 32399-0870, by the close of business on July 11, 1989. All other provisions of this Order, excluding that portion establishing rate base, shall be considered to be a Final Order of this Commission. It is further

ORDERED that Tamiami Village Utility, Inc. shall adopt and use the rates and charges previously approved for Tamiami Utility Company. It is further

ORDER NO. 21421
DOCKET NO. 890127-WS
PAGE 5

ORDERED that if no timely petition is filed objecting to the proposed agency action provision of this Order, Docket No. 890127-WS shall be closed.

By ORDER of the Florida Public Service Commission
this 20th day of JUNE, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JRF

by: Kay Flynn
Chief, Bureau of Records

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 action approving rate bases for Tamiami Village Utility Company, Inc. is 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 his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 11, 1988. In the absence of such a petition, this order shall become effective July 12, 1988, as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent 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.

If the relevant portion of this order becomes final and effective on July 12, 1988, any party adversely affected may request judicial review by the Florida Supreme Court in the

ORDER NO. 21421
DOCKET NO. 890127-WS
PAGE 6

case of an electric, gas or telephone utility or by 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 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 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. 21421
DOCKET NO. 890127-WS
PAGE 7

ATTACHMENT A

LEGAL DESCRIPTION

Tract or Parcel of land in the South Half (S 1/2) of the Northwest Quarter (NW 1/4) and in the North Half (N 1/2) of the Southwest Quarter (SW 1/4) of Section 27, Township 43 South, Range 24 East, Lee County, Florida and in LEASURE VILLAGE, a Mobile Home Park as recorded in Condominium Plat Book 3, pages 60 through 76 of the Lee County, Florida Public Records which is described as follows: From the Southwest corner of said North Half (N 1/2) of the Southwest Quarters (SW 1/4); thence North 89 degrees 48 minutes 29 seconds East along the South line of said fraction for 25.0 feet; thence North 0 degrees 19 minutes 10 seconds West parallel with the West line of said Section for 1937.92 feet to the Point of Beginning; thence continue North 0 degrees 19 minutes 10 seconds West for 378.77 feet; thence North 89 degrees 33 minutes 50 seconds East for 575.62 feet; thence South 0 degrees 18 minutes 50 seconds East for 169.78 feet; thence South 0 degrees 26 minutes 10 seconds East for 209.19 feet; thence South 89 degrees 33 minutes 50 seconds West for 576.03 feet to the Point of Beginning.

Subject to easements, restrictions and reservations of record.

Bearings based upon Plat of TAMAMI VILLAGE, Unit 1, Plat Book 33, page 100, of the Public Records of Lee County, Florida.