

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Utilities, Inc.) DOCKET NO. 890335-WU
of Florida for amendment of Certificate) ORDER NO. 22303
No. 383-W in Lake County.) ISSUED: 12-12-89
_____)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
JOHN T. HERNDON

ORDER GRANTING MOTION FOR RECONSIDERATION, IN PART,
AND DENYING MOTION FOR RECONSIDERATION, IN PART

BY THE COMMISSION:

Background

On January 25, 1989, Utilities, Inc., of Florida (UIF or Utility) filed an application with this Commission for amendment of Certificate No. 383-W to include 70 acres of territory in the Crescent West Subdivision (CWS). On July 17, 1989, this Commission issued Order No. 21555 granting the amendment and requiring the uniform application of the Utility's rates and charges authorized in its Lake County Tariff.

On August 1, 1989, UIF timely filed a Motion for Reconsideration of Order No. 21555. UIF stated, in its motion, that Order No. 21555 incorrectly stated the money transactions between UIF and CWS. Order No. 21555, at Page 2, stated that, "the Utility will pay the Developer \$5,000, which means that the Utility will receive \$105,300 in contributions-in-aid-of-construction (CIAC) . . ." This statement was based on the original Purchase Agreement, which stated \$5,000 as the purchase price of the water facilities.

The original Purchase Agreement was clarified by a Supplemental Agreement between UIF and CWS filed on August 17, 1989. The Supplemental Agreement, filed by UIF, stated that the original agreement inadvertently referred to the \$5,000 cash payment from the Utility to the Developer as the purchase price of the facilities. The Supplemental Agreement clarifies the purchase price in the original water service agreement.

DOCUMENT NUMBER-DATE

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Further, as explained in the original Agreement, the difference between the purchase price and the original cost of the facilities is considered CIAC. As stated in the Supplemental Agreement, the purchase price of the facilities is \$44,250. According to the invoices submitted by the Utility, the original cost of the facilities (excluding land) is \$109,300; CIAC is \$65,050.

Therefore, UIF's Motion for Reconsideration is hereby granted on this point, and the language on Page 2 of Order No. 21555 is amended to reflect the Supplemental Agreement, which states as follows:

- 1) The original cost of the facilities is \$109,300.
- 2) The purchase price paid by the utility to developer is \$44,250.
- 3) The developer reimbursement to utility for the tax gross-up on contributions in aid of construction is \$39,250.
- 4) The net cash effect of the above transactions amount is a \$5,000 transfer from the utility to the developer.

In its Motion, UIF also stated that Order No. 21555 incorrectly stated that the original cost of the facility, including land, was \$110,300. We requested and received the projected construction costs of the facilities serving CWS on May 4, 1989. According to the invoices submitted, the original cost of the well, water plant, and water distribution system for CWS is \$109,300. On June 2, 1989, we received a letter from UIF, stating that the land upon which the facilities are located was valued at approximately \$1,000 at the time of purchase. The original cost of the facilities and land is, therefore, \$110,300. Thus, Commission Order No. 21555 did not err on this point and UIF's Motion for Consideration on this point is denied.

Further, in its Motion, UIF objected to that portion of Order No. 21555 which stated that the Utility intended to continue providing water without charge. The Utility stated

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that it ". . . objects to the allegations that the Utility is operating in violation of the Utility's tariff and Commission Rule 25-30.135(2), F.A.C. . . ."

Upon review we find that in the agreement between the Developer and UIF, UIF agreed to provide free water for one year from the date of the execution of the agreement, for irrigation of the entrance to the property, the center of three cul-de-sacs, and a planted buffer area along the south edge of the property. The agreement further stated that the "Utility agrees to limit the rates, fees and charges . . . to the same rates, fees and charges now in effect for the Utility's other Lake County Water Systems." Although the Utility provided free water for a period of one year it does not intend to continue to do so. Since we misconstrued this portion of the agreement, we will correct Order No. 21555 on this point. Therefore, Order No. 21555 is amended at Page 2 to read as follows:

The Utility has been providing water service to the Developer at no charge since July, 1988, but does not intend to continue to do so. Utilities, Inc. will, as stated in the Agreement, charge the rates and charges approved for the Utility's other Lake County water systems. However, if Utilities, Inc. were to continue to provide free water service to the Developer without charge, it would be in violation of its tariff and Commission Rule 25-30.135(2), Florida Administrative Code. Such a violation could result in Commission enforcement action. In addition, in a future rate case, we would impute revenue for the water.

It is, therefore,

ORDERED by the Florida Public Service Commission that Utilities, Inc. of Florida's Motion for Reconsideration is granted, in part, and denied, in part, as set forth in the body of this Order. It is further

ORDERED that Order No. 21555 is hereby amended as set forth in the body of this Order. It is further

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ORDERED that Docket No. 890335-WU is hereby closed.

By ORDER of the Florida Public Service Commission,
this 12th day of DECEMBER, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

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 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.