

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by residents of Woodlawn)	DOCKET NO. 871316-WU
in objection to transfer of Certificate)	
No. 155-W from WOODLAWN UTILITY COMPANY)	ORDER NO. 22627
to PIONEER WOODLAWN UTILITIES, INC. in)	
Bay County and application of PIONEER)	ISSUED: 3-1-90
WOODLAWN UTILITIES, INC. to transfer)	
Certificate No. 155-W from Woodlawn)	
UTILITY COMPANY in Bay County)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
JOHN T. HERNDON

ORDER ACKNOWLEDGING TRANSFER, CANCELLING
CERTIFICATE 155-W, AND
CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

Woodlawn Utility Company (Woodlawn or utility) was, at all times material hereto, a Class C utility which provided water service to approximately 200 customers in Bay County (County). Woodlawn consists entirely of a water distribution system; water was provided to the system by the County through a master meter.

Woodlawn did not charge its customers for water service rendered between approximately January of 1982 and October of 1987. As a result, Woodlawn accumulated a substantial debt for water purchased from the County. Woodlawn made periodic payments on the debt, however, by October of 1987, its past-due debt to the County approximated \$40,000.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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On October 2, 1987, a plan to pay off the debt was devised between the County, Woodlawn and Pioneer Woodlawn Utilities, Inc. (Pioneer Woodlawn). Under the arrangement, the County would raise the wholesale water rate solely to Woodlawn until the increased amount paid off the past-due debt and Pioneer Woodlawn would purchase the system from Woodlawn for \$10,000, payable after the debt was extinguished.

In November of 1987, Pioneer Woodlawn gave notice of its intent to apply for a transfer of Certificate No. 155-W and back-billed Woodlawn's customers for water service provided between July 3, 1987, and October 30, 1987.

On December 7, 1987, a substantial number of Woodlawn's customers objected to the proposed transfer, and the proposed wholesale water rate increase and the backbilling. On February 26, 1988, the Office of Public Counsel (OPC) intervened on behalf of Woodlawn's customers.

On or about May of 1988, the County instituted foreclosure proceedings against Woodlawn based upon the past-due debt. Accordingly, by Order No. 19519, issued June 20, 1988, the proceedings in this docket were continued, pending the resolution of the foreclosure proceedings.

As a result of the foreclosure proceedings, the County purchased the Woodlawn system at a judicial sale. Woodlawn appealed the lower court's action.

By letter dated October 5, 1989, Counsel for Woodlawn indicated that it had entered into an agreement with the county, which agreement involved a dismissal of its appeal and confirmation of the County's title to the system.

TRANSFER

Under Section 367.071(4)(a), Florida Statutes,

The sale of facilities to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission . . . the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

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Under Rule 25-30.041, Florida Administrative Code, before this Commission will issue an order acknowledging a sale to a governmental authority, it requires an application for transfer including the names and addresses of the buyer and seller, the date the governmental authority took official action to acquire the utility, the contract between the utility and the governmental authority, and the above-referenced financial information.

In this case, we believe that to have the County file an application for transfer would be a meaningless formality. Since the transfer is a result of foreclosure proceedings, no contract exists. In addition, as mentioned in the background section, Woodlawn did not charge for water service for a number of years. Accordingly, no income and expense statements exist. In fact, it is doubtful that any records exist. We, therefore, find it appropriate to waive the application requirement and to acknowledge the County's takeover of this system.

CANCELLATION OF CERTIFICATE

Under Rule 25-39.041, Florida Administrative Code, before this Commission will cancel a certificate of a utility transferred to a governmental authority, we also require a statement of regulatory assessment fees owed and a statement of the amount and disposition of customer deposits. While we have not received any such statements, we are informed that, with regard to regulatory assessment fees, the utility is current through 1989. As for the amount and disposition of customer deposits, according to Section 25.0 of Woodlawn's tariff, no customer deposits were ever required or collected.

Since there do not appear to be any remaining regulatory matters to be disposed of, we find it appropriate to cancel Certificate No. 155-W.

Based upon the foregoing, it is,

ORDERED by the Florida Public Service Commission that Certificate No. 155-W is hereby cancelled. It is further

ORDERED that Docket No. 871316-WU be and is hereby closed.

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By ORDER of the Florida Public Service Commission
this 1st day of MARCH, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

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