

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ST. GEORGE	)	DOCKET NO. 871177-WU
ISLAND UTILITIES COMPANY, LTD. for	)	ORDER NO. 22779
increased rates and service	)	ISSUED: 4-4-90
availability charges for water	)	
service in Franklin County	)	
	)	

The following Commissioners participated in the disposition of this matter:

BETTY EASLEY  
JOHN T. HERNDON

ORDER APPROVING DEVELOPER AND ESCROW AGREEMENTS

BY THE COMMISSION:

BACKGROUND

On June 30, 1988, St. George Island Utility Company, Ltd. (St. George or utility) filed an application for increased water rates in Franklin County. The information did not satisfy the minimum filing requirements, however, and St. George was notified of the deficiencies. St. George completed the minimum filing requirements on September 1, 1988, and that date was established as the official date of filing

By Order No. 21122, issued April 24, 1989, this Commission established increased rates and service availability charges for St. George. Also by Order No. 21122, we required St. George to place the increased rates and charges into escrow, imposed a moratorium on the water system, and ordered the utility to comply with a number of other requirements regarding quality of service, unaccounted for water, preservation and maintenance of records, customer deposits, and utility management.

By Order No. 21917, issued September 19, 1989, we reaffirmed these requirements and clarified that, in addition to being prohibited from connecting newly constructed dwellings, St. George was prohibited from providing new service to existing homes already served by private wells.

On December 19, 1989, by Order No. 22321, we authorized St. George to connect up to 200 new equivalent residential connections (ERCs) before the new well and storage tank are in use, based upon a consent order entered into between St. George and the Department of Environmental Regulation (DER). However, we also cautioned St. George that any pre-paid connections that

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were placed in service were to be counted as part of the 200 connections.

On January 19, 1990, St. George filed a developer agreement along with a motion to amend the escrow requirements. The purpose of the agreement was to provide the money to purchase and install an elevated storage tank, as required by Order No. 21122. For a number of reasons, these documents did not appear to be satisfactory. Accordingly, after numerous discussions with the Staff of this Commission (Staff) and Andrew Jackson Savings Bank (Andrew Jackson), the utility filed a revised developer agreement, an escrow agreement with First Florida Bank and a lease for an elevated storage tank site.

#### DEVELOPER AGREEMENT

The revised developer agreement provides for Andrew Jackson's prepayment of service availability charges for 80 ERCs. The money from this prepayment is to be placed into an escrow account at the First Florida Bank, to be used only for the tank and other improvements mandated by Order No. 21122. In order to insure that DER's building moratorium is complied with, the agreement also specifies that St. George cannot provide service to these 80 units prior to its completion of the tank.

At first blush, we hesitate to approve these agreements since we believe that there are a number of requirements from Order No. 21122 that have yet to be addressed. In addition, we are informed that there may have been some possibly egregious violations of that and/or other orders of this Commission. Nevertheless, we are also aware that the elevated storage tank is necessary to provide a minimal quality of service to St. George's existing customers and that, if we do not approve the developer agreement, any such improvement may be a long time in coming. Accordingly, and only with extreme reluctance, we hereby approve the developer agreement. In addition, we wish to clarify that the 80 units may not be connected until the tank is installed and operational.

#### ESCROW AGREEMENT

Although we have certain reservations about approving a second escrow account when St. George has one already approved

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by this Commission, we are somewhat comforted by the protections afforded by the agreement for the second escrow account. Under the agreement, before First Florida Bank may release any funds from escrow, it must first receive: a written request for the release of such funds from St George, including certification of the percentage of completion; written approval of each disbursement and the amount thereof from this Commission; an affidavit from St. George stating the names of all parties owed, the amount owed to each and a lien waiver from each, and; evidence of the proper payment of all prior disbursements. In addition, each disbursement must be released jointly to St. George and the payee.

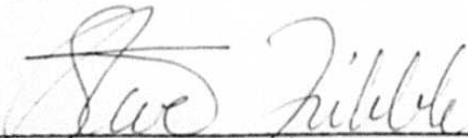
Based upon the terms discussed above, it appears that the funds are adequately protected and shall remain available for the construction of the tank. Accordingly, we hereby approve the escrow agreement. Notwithstanding our approval of this escrow agreement, the utility shall continue to escrow \$1,520 of each service availability charge it collects in the approved escrow account at Apalachicola State Bank.

Upon consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the developer agreement between St. George Island Utility Company, Ltd. and Andrew Jackson Savings Bank, dated March 15, 1990, is hereby approved. It is further

ORDERED that the escrow agreement between First Florida Bank, N.A., St. George Island Utility Company, Ltd. and Andrew Jackson Savings Bank, dated March 15, 1990, is hereby approved.

By ORDER of the Florida Public Service Commission  
 this 4th day of APRIL, 1990.

  
 STEVE TRIBBLE, Director  
 Division of Records and Reporting

( S E A L )

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