

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer ) DOCKET NO. 920419-SU  
of Certificate No. 285-S and ) ORDER NO. PSC-92-0602-FOF-SU  
assets of HACIENDA UTILITIES, ) ISSUED: 07/01/92  
INC. in Pasco County to Hacienda )  
Village Utilities, Inc. )  
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The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

FINAL ORDER REQUIRING REFUND

BY THE COMMISSION:

Hacienda Utilities, Inc. (Hacienda Utilities or utility) is a Class C utility that provides wastewater service to a mobile home park and a housing development in Pasco County. There are approximately 42 customers who live in the housing development. The charges for the service provided to the mobile home park are included as an unspecified portion of the rent. The rates and charges for the wastewater service provided to the housing development is pursuant to the utility's tariff approved October 24, 1980. According to its 1990 Annual Report, Hacienda Utilities had annual revenues of \$65,742, that is attributable to both the residents of the small housing development and the tenants of the mobile home park. Hacienda Utilities has been under this Commission's jurisdiction since 1972.

On May 11, 1992, Hacienda Utilities filed an application to transfer its Certificate No. 285-S to provide wastewater service and its assets to Hacienda Village Utilities, Inc. (Hacienda Village).

UNAUTHORIZED RATE INCREASES

By letter dated April 7, 1992, the president of Hacienda Utilities informed us that the utility had implemented two rate increases for the customers in the housing development without this Commission's authorization. According to its letter, the first increase implemented by the utility in 1988 was \$2.00 per month. The second rate increase occurred in 1990 and was an additional \$4.00 per month. The approved rate in Hacienda Utilities' tariff is a flat rate of \$10.00 per month, which was approved October 24, 1980.

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By these two unauthorized rate increases, the utility has violated Chapter 367, Florida Statutes. Specifically Section 367.081(1), Florida Statutes, provides that a utility may only charge rates and charges that have been approved by the Commission.

Subsequent to its April 7, 1992, letter, Hacienda Utilities has stated that it was unfamiliar with the aforementioned statutes and rules and that it would agree to voluntarily refund these rates with interest. Because the utility has agreed to voluntarily refund these rates with interest we find a show cause order is not appropriate in this proceeding.

However, we find it appropriate to require Hacienda Utilities to refund the amount of the unauthorized rate increases within 90 days of the date of this Order. Since this refund is a result of specific rate changes, it should be calculated on a per customer basis. Thus, every customer receiving service during the time the rates were increased should receive a refund of the amount he or she overpaid. This is consistent with Rule 25-30.360, Florida Administrative Code, regarding the timing and basis for refunds. In addition, the utility shall refund any interest that has accrued from the collection of the charges to the date of the refund. Pursuant to Rule 25-30.360, Florida Administrative Code, the amount of interest shall be based on the thirty day commercial paper rate. The utility shall file refund reports consistent with the Rule. In the event any refunds are unclaimed, any unclaimed amounts shall be treated as cash contributions-in-aid-of-construction.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Hacienda Utilities, Inc., shall immediately charge only those rates and charges contained in its approved tariff. It is further

ORDERED that Hacienda Utilities, Inc., shall refund monies collected from its customers pursuant to the two unauthorized increases, with interest calculated in accordance with Rule 25-30.360, Florida Administrative Code, that has accrued or will accrue until the date of refund. The refund shall be accomplished within 90 days of the date of this Order and Hacienda Utilities, Inc., shall file reports consistent with Rule 25-30.360, Florida Administrative Code. In the event these refunds are unclaimed these amounts shall be treated as cash contributions-in-aid-of-construction. It is further

ORDERED that this docket shall remain open pending completion of the transfer proceeding.

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By ORDER of the Florida Public Service Commission, this 1st  
day of July, 1992.

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