

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for ) DOCKET NO. 911189-SU  
transfer of Certificate No. ) ORDER NO. PSC-92-0809-FOF-SU  
237-S from Imperial Bonita ) ISSUED: 08/12/92  
Estates to Imperial Bonita )  
Associates d/b/a Imperial )  
Bonita Estates in Lee County, )  
Florida. )  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER APPROVING TRANSFER

BY THE COMMISSION:

Background

On December 9, 1991, an application was filed with this Commission for approval of the transfer of Certificate No. 237-S from Imperial Bonita Estates (IBE or Utility) to Imperial Bonita Associates d/b/a Imperial Bonita Estates (IBA). The Utility serves 691 mobile home sites, of which 573 are rental lots and 118 are individually owned. The individually owned lots are charged for wastewater service. The charge for service to the remaining lots is a non-specific portion of the lot rent.

On October 31, 1983, IBA purchased the mobile home park (Imperial Bonita Estates), the recreational vehicle park and the wastewater utility. Since the operating name of the utility was only changed slightly, we did not become aware of the transfer until late 1991. We are not initiating show cause proceedings against the prior owner for transferring the system without Commission approval since no harm was found to have occurred to anyone as a result of the transfer.

DOCUMENT NUMBER-DATE

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REC-RECORDS/REPORTS

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains:

1. A filing fee in the amount of \$900, as prescribed by Rule 25-30.020, Florida Administrative Code.
2. Evidence that the Utility owns the land upon which its facilities are located, as required by Rule 25-30.037(1)(o), Florida Administrative Code.
3. Proof of compliance with the noticing provisions as set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system transferred. No objections to the application have been received and the time for filing such has expired.

Mr. Martin Newby, Partner and trustee of IBA, has over 20 years experience in operating mobile home parks, many of which have on-site water or wastewater systems. IBA has operated the Utility for more than 9 years. The operation of the mobile home park and the Utility is funded through rent and charges for utility service. Additional funding is available from the partners in IBA.

IBA anticipates connecting its customers to Bonita Springs Utilities (Bonita Springs) in late 1993. IBA is presently negotiating a consent order with the Department of Environmental Regulation (DER) to correct treatment and infiltration problems with the plant and collection system. Compliance with the consent order will allow IBA to operate the system until it is interconnected with Bonita Springs Utilities' wastewater plant. According to the Pre-Sale Agreement between IBA and Bonita Springs, the customers will be connected to the Bonita Springs' system within 60 days of service becoming available.

Based on the foregoing, we find that the transfer of Certificate No. 237-S from IBE to IBA is in the public interest and it is, therefore, approved. Certificate No. 237-S has been returned to the Commission for entry reflecting the change in ownership. A description of the territory served by the Utility is shown on Attachment A of this Order, which by reference is incorporated herein.

#### Rate Base

According to the application and based on the Utility's 1982 Annual Report, the net book value of the system being transferred was \$26,263 as of October 31, 1983, the date of transfer. Rate base has never been established by the Commission for this Utility.

An audit of the Utility's books and records has been conducted to determine rate base (net book value) at the time of transfer. The audit updated plant additions and accumulated depreciation through January 31, 1992. However, according to the audit, there are no books and records for the Utility from 1970 through October 1983. When the prior owner of the Utility was contacted, he indicated that he did not retain any records relating to the Utility.

Although we have been able to determine plant additions since the transfer in 1983, determination of rate base would require an original cost study of the initial plant to determine account balances as of the transfer date. Further, in order to update rate base through 1992, the original plant balances would have to be known to properly reflect retirement of the original facilities.

Section 367.071(5), Florida Statutes, provides that this Commission may establish rate base for a utility when it approves a transfer. However, due to the circumstances surrounding this transfer, we do not find it appropriate to establish rate base in this Docket.

#### Rates and Charges

The Utility's rates and charges became effective May 12, 1977, pursuant to Order No. 7800, issued in Docket No. 760804-S. That Docket granted the Utility's original certificate and approved its existing rates and charges.

The Utility has not changed its rates since 1977 and has stated that it has no intention of changing rates until its customers are interconnected to Bonita Springs. According to IBA, the cost of utility service is included in the rent of the majority of the customers. Approximately 20 percent of the customers pay the tariff rate. Anticipated revenue from a rate proceeding would not justify the cost and effort associated with a rate case.

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission. IBA has not requested a change in the rates and charges of the Utility and we see no reason to change them at this time. IBA shall continue to charge the rates and charges approved in IBE's tariff until authorized to change by the Commission. IBA has filed a revised tariff reflecting the change in ownership. The tariff shall be effective for service provided or connections made on or after the stamped approval date on the tariff sheets.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 237-S from Imperial Bonita Estates, 11397 Bourbonniere S.E., Bonita Springs, Florida 33923, to Imperial Bonita Associates d/b/a Imperial Bonita Estates, 3801 Bee Ridge Road, Suite 12, Sarasota, Florida 34233-1104, is hereby approved. It is further

ORDERED that Imperial Bonita Associates d/b/a Imperial Bonita Estates shall continue to charge the rates and charges approved in Imperial Bonita Estates' tariff until authorized to change by the Commission. The tariff shall be effective for service provided or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Docket No. 911189-SU is hereby closed.

By ORDER of the Florida Public Service Commission this 12th day of August, 1992.

  
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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: 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.

ATTACHMENT A

IMPERIAL BONITA ESTATES

Territory Description

The following described lands located in portions of Section 36, Township 47 South, Range 25 East, Lee County, Florida:

Section 36

The Southeast 1/4 of the Northeast 1/4 and the Northwest 1/4 of the Northeast 1/4 of the Southeast 1/4 and the West 1/2 of the Southwest 1/4 of the Northeast 1/4 of the Northwest 1/4 of the Southeast 1/4 less and except the North 100 feet and the West 60 feet and that portion of the Southeast 1/4 of the Northwest 1/4 of the Southeast 1/4 lying North of the Imperial River, less and except the West 60 feet.