

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for)	DOCKET NO. 920419-SU
Transfer of Certificate No.)	ORDER NO. PSC-93-0020-FOF-SU
285-S and Assets of Hacienda)	ISSUED: 01/05/93
Utilities, Inc. in Pasco)	
County to Hacienda Village)	
Utilities, Inc.)	

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 OF CERTIFICATE NO. 285-S
AND ASSETS

BY THE COMMISSION:

On May 11, 1992, Hacienda Utilities, Inc. (Hacienda), filed an application for the transfer of Wastewater Certificate No. 285-S and its assets to Hacienda Village Utilities, Inc. (Hacienda Village). Hacienda is a Class C utility that provides wastewater service to approximately 500 customers in a mobile home park and a housing development in Pasco County. According to its 1991 Annual Report, Hacienda had annual revenues of \$74,202, which is attributable to both the residents of the housing development and the tenants of the mobile home park.

Pursuant to Order No. PSC-92-0602-FOF-SU, issued July 1, 1992, we ordered Hacienda to cease collecting rates in excess of what was contained in Hacienda's approved tariff and refund with interest monies collected pursuant to the two illegal rate increases that occurred in 1988 and 1990. Hacienda has completed these refunds including interest in compliance with that Order. After reviewing the transfer application, we discovered that the transfer had occurred on March 2, 1992, prior to our approval, which violates Section 367.071, Florida Statutes. However, because the utility purchaser bought the entire property including the mobile home park and placed monies in escrow with the closing agent pending our approval in this case, we believe a fine is not appropriate under these circumstances. Moreover, because Mr. Hachem purchased the entire property, we are not setting rate base as no specific purchase price has been set for the utility.

DOCUMENT NUMBER-DATE

00076 JAN-58

FPSC-RECORDS/REPORTING

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of a certificate and utility assets. The application contains a check in the amount of \$900 which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(1)(o), Florida Administrative Code.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system to be transferred. No objections to the transfer have been received and the time for filing such has expired.

The territory being transferred is described in Attachment A of this Order, which by reference is incorporated herein.

The buyer of Hacienda, Mr. Saleh Hachem, President of Hacienda Village Utilities, Inc., operates a utility in Hillsborough County. He has also provided financial statements from Sun Bank of Florida indicating that he has the financial ability to operate the wastewater system. Also, according to the Department of Environmental Regulation, there are no notices of violations issued against the utility.

The application contains a copy of the contract for sale which includes the purchase price, terms of payment and a list of the assets purchased and the liabilities assumed. Hacienda Village provided a statement in its application that it will fulfill the commitments, obligations and representations of Hacienda. There are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, debt of the utility or leases affecting the utility's operation. In addition, there are no outstanding regulatory assessment fees, fines or refunds owed. Hacienda Village will be responsible for the regulatory assessment fees for 1992.

Based on the foregoing, we find that the transfer of Wastewater Certificate No. 285-S and assets from Hacienda Utilities, Inc., to Hacienda Village Utilities, Inc., is in the public interest and is hereby approved.

Rates and Charges

The current rates and charges approved for Hacienda were established by Order No. 9600, and became effective on October 24, 1980.

Rule 25-9.044(1), Florida Administrative Code, states that the new owner of a utility must adopt and use the rates, classifications and regulations of the former operating company unless authorized to change by this Commission. Hacienda Village has not requested a change in Hacienda's rates and charges and we see no reason to change them at this time.

Hacienda Village shall continue to charge the rates and charges approved in Hacienda's tariff until authorized to change by this Commission in a subsequent proceeding. Hacienda Village has filed a tariff reflecting the change of ownership. The tariff shall be effective for service rendered or connections made on or after the stamped approval date.

As previously discussed, we required Hacienda to refund the monies collected from two illegal rate increases. The approved rate in Hacienda's tariff is a flat rate of \$10.00 per month for wastewater service. The first increase implemented by the utility was \$2.00 per month. The second rate increase occurred in 1990 and was an additional \$4.00 per month. Both of these increases were implemented without this Commission's approval. In Order No. PSC-92-0602-FOF-SU, issued July 1, 1992, we required Hacienda to cease collecting the illegal rate and refund the monies collected with interest as a result of these increases within ninety days of the date of that Order, or by October 1, 1992. On October 14, 1992, we received a report from Hacienda indicating that the refund was complete and that the utility had lowered its rate to \$10.00. After reviewing this report, we believe that Hacienda has refunded the correct amount, and no further action is required.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Wastewater Certificate No. 285-S and assets from Hacienda Utilities, Inc., to Hacienda Village Utilities, Inc., is in the public interest and is hereby approved. It is further

ORDERED that Hacienda Village Utilities, Inc. shall, continue to charge the rates and charges approved in Hacienda's tariff until authorized to change by this Commission. It is further

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ORDERED that Docket No. 920419-SU is hereby closed.

By ORDER of the Florida Public Service Commission this 5th day
of January, 1993.



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.

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ATTACHMENT A

Hacienda Utilities, Inc.

TERRITORY DESCRIPTION

The following described lands located in portions of Section 03, Township 26 South, Range 16 East, Pasco County, Florida:

Section 03

The West 1/2 of the Southeast 1/4