

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for)	DOCKET NO. 920336-WS
transfer of majority)	ORDER NO. PSC-93-0200-FOF-WS
organizational control of)	ISSUED: 02/09/93
PINE ISLAND UTILITY CORP.)	
operating under Certificates)	
Nos. 326-W and 274-S in)	
Volusia County from Mary)	
(Millican) Bennett to Robert)	
J. McTeer.)	
)	

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER ACKNOWLEDGING TRANSFER OF
MAJORITY ORGANIZATIONAL CONTROL

BY THE COMMISSION:

Pine Island Utility Corporation (PIU) is a class "C" water and wastewater utility whose service area is located in the northwestern portion of Volusia County, approximately three miles west of Seville, Florida. The utility provides service to a mobile home park with 86 water customers and 69 wastewater customers. In its 1990 Annual Report the utility reported gross operating revenues of \$9,012 and \$13,905 with corresponding net operating losses of \$3,415 and \$1,614 for its water and wastewater systems, respectively.

Prior to 1990, the utility was jointly owned by Mr. and Mrs. John Millican. Upon their divorce in 1990, Mr. Millican turned over his fifty percent of the utility stock to Mr. Robert McTeer. Mrs. Millican remained an officer and stockholder of the utility until December 10, 1990 when due to poor health she resigned from the corporation and sold her remaining 50% of the stock to Mr. Robert McTeer. In March of 1991, we learned through information filed in PIU'S staff-assisted rate case, Docket No. 910276-WS, that Mr. McTeer was the sole shareholder of the utility. After several letters to both Mrs. Millican and Mr. McTeer, on April 13, 1992, Mr. McTeer filed an application for transfer of majority

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organizational control of PIU. Although this transfer prior to Commission approval was a violation of Section 367.071(1), Florida Statutes, we do not find a show cause appropriate in light of the many problems this utility is experiencing and the fact that Mrs. Millican was in poor health when she sold her interest to Mr. McTeer.

Mr. McTeer has owned and operated the utility for over two years and the prior owner is not in a position to take back the utility. Mr. McTeer has dealt with the Department of Environmental Regulation (DER) and this Commission as owner of the utility for the past two years. On January 4, 1993, Mr. McTeer advised all appropriate parties of his intention to abandon the utility, effective 60 days from December 31, 1992.

Except for the fact that the transfer occurred prior to Commission approval, the application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of majority organizational control. The application contains a check in the amount of \$300, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided a copy of a 50-year lease for the land on which the water and wastewater facilities are sited. While we would prefer a 99-year lease, the 50-year lease was accepted in the last rate case and will outlive the remaining life of the utility plant.

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. The only objection received was from DER, which stated that it did not request a hearing, but which did request that the Commission consider its concern regarding Mr. McTeer's compliance with DER rules and regulations. As is clear later in this order, we have considered DER's concerns in our determination here.

A description of the territory served by the utility is appended to this Order as Attachment A.

While Mr. McTeer has operated the utility for two years, he has numerous problems regarding operation of the systems and acquiring the needed funding to make improvements. Presently, he is under a consent order to make improvements to his water system and has received notices of violation regarding his wastewater

system. Also, he has no operating permit for his wastewater system and has been fined by this Commission for quality of service problems based on his failure to comply with DER requirements for both his water and wastewater systems. Additional fines may be assessed for failure to upgrade his water system. Action is also pending based on Mr. McTeer's failure to file his 1991 Annual Report. Based on these problems coupled with the small revenue of a small utility, on January 4, 1993, Mr. McTeer filed a notice that he would abandon 60 days from December 31, 1992. Despite his problems, Mr. McTeer owns the utility, is aware of all operational problems, and can provide a smoother transition to a receiver than Mrs. Millican. Should the utility revert to Mrs. Millican, she in turn would probably abandon as soon as possible.

Mr. McTeer has provided a copy of the purchase agreement and a statement that he will fulfill the commitments, obligations, and representations of the transferor. Therefore, we find it appropriate to approve Mr. McTeer's application for transfer of majority organizational control of Pine Island Utility Corporation. In addition, Mr. McTeer has obtained all the books and records of the utility. As this change in majority organizational control does not affect rate base, rate base is not being established in this docket.

The utility's approved rates and charges were effective April, 8, 1992, pursuant to Order No. PSC-92-0126-AS-WS, issued in Docket No. 910276-WS, which was the utility's last staff-assisted rate case.

Rule 25-9.044(1), Florida Administrative Code, provides that:

In cases of change of ownership or control of a utility which places the operation under a different or new utility...the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission).

Mr. McTeer has not requested a change in the rates and charges of the utility and we see no reason to change them at this time. Accordingly, we hereby find that the utility shall continue operations under the existing tariff and apply the currently approved rates and charges. The utility has filed a revised tariff reflecting the change in issuing officer due to the transfer of

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majority organizational control. The tariff filing shall be effective for services provided or connections made after the stamped approval date.

This docket shall remain open to monitor the abandonment action.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application for transfer of majority organizational control of Pine Island Utility Corporation from Mary Millican Bennett to Robert J. McTeer is hereby approved. It is further

ORDERED that Pine Island Utility Corporation shall continue to charge the existing Commission-approved rates and charges. It is further

ORDERED that the tariff sheets shall be effective for service provided or connections made after the approval date on the tariff sheets. It is further

ORDERED that this Docket shall remain open to monitor the pending abandonment action.

By ORDER of the Florida Public Service Commission this 9th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

KAC

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

Pine Island Utility Corporation

TERRITORY DESCRIPTION

The following described lands located in portions of Section(s) 42, Township 14 South, Range 27 East, Volusia County, Florida:

Township 14 South, Range 27 East

Section 42

Parcel #1

A part of the Andrew Storrs Grant being more specifically described as follows: From the point where the Township line between Township 13 South and Township 14 South crosses the east line of said Andrew Storrs Grant, run thence southwesterly along the east line of said Andrew Storrs Grant (also west line of Section 2-T 14 S-R 27 E) to a 4" X 4" concrete monument (Union Bag and Paper Company) at the waters edge of Lake George to a POINT OF BEGINNING; thence run North 20 degrees 01 minutes 26 seconds East along the east line of said Andrew Storrs Grant, (also the easterly property line of Pine Island Mobile Home Park) a distance of 1985.13; thence run North 70 degrees 01 minutes 08 seconds West, a distance of 352.58; thence run South 49 degrees 44 minutes 42 seconds West, a distance of 138.21 feet to the centerline, more or less, of a sand road; thence North 70 degrees 00 minutes 00 seconds West traversing along said centerline of a sand road, a distance of 71.43 feet; thence North 74 degrees 59 minutes 56 seconds West along said centerline of a sand road, a distance of 806.0 degrees to an iron pipe in the pavement of an 18 foot asphalt road also being known as State Road No. 305; thence South 08 degrees 54 minutes 00 seconds West, a distance of 571.56 feet; thence South 29 degrees 50 minutes 24 seconds West, a distance of 299.58 feet; thence South 46 degrees 40 minutes 25 seconds East, a distance of 713.48 feet; thence South 70 degrees 21 minutes 05 seconds West, a distance of 334.53 feet; thence South 19 degrees 06 minutes 47 seconds East, a distance of 314.42 feet; thence South 08 degrees 24 minutes 36 seconds East, a distance of 477.60 feet; thence South 78 degrees 30 minutes 24 seconds West, a distance of

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269.92 feet to an iron pipe; thence continue to the waters edge of Lake George; thence meander the waters edge of Lake George Southerly and Northerly to the intersection of the shoreline with the Westerly edge of a canal as determined by an iron pin located on the Southerly boundary of Pine Island Mobile Home Park; thence Easterly a distance of 90 feet more or less to the Easterly edge of said canal and waters edge of Willow Cove; thence meander the waters edge of Willow Cove Southerly and Easterly to the POINT OF BEGINNING.