

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application For Transfer) DOCKET NO. 920716-SU
of Certificate No. 58-S from) ORDER NO. PSC-93-0364-FOF-SU
Seagull Utility Company to) ISSUED: 03/09/93
Tierra Verde Utilities, Inc. in)
Pinellas County.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION

ORDER ESTABLISHING RATE BASE FOR PURPOSES
OF THE TRANSFER

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is final except for the establishment of rate base for purposes of the transfer, which is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On July 9, 1992, Tierra Verde Utilities, Inc. (Tierra Verde) filed an application for approval of the transfer of majority organizational control of Seagull Utility Company (Seagull) to Tierra Verde. Prior to the filing of the application, Seagull and Utilities, Inc. (UI) entered into an agreement whereby UI agreed to purchase the assets of Seagull and transfer them to a separate

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wholly-owned subsidiary (Tierra Verde). Tierra Verde amended its application to reflect the transfer of assets.

The closing of the sale occurred on June 30, 1992, prior to Commission approval. However, according to the agreement, the purchase is subject to Commission approval. In addition, Tierra Verde provided an explanation as to why the closing took place prior to making application to the Commission for approval of the transfer. Therefore, we will not initiate show cause proceedings against the parties for executing the transfer without Commission approval.

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains a filing fee in the amount of \$1,500, as prescribed by Rule 25-30.020, Florida Administrative Code.

Tierra Verde provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system being transferred. An objection to the application was filed by Mr. Charles Foss on August 24, 1992. However, after discussions with Mr. Foss, it was determined that he was concerned about the \$15.00 initial connection fee proposed by the utility. Upon being advised that the connection fee would not affect existing customers as it would be charged for future connections, on September 18, 1992, Mr. Foss withdrew his objection. No other objections have been received and the time for filing such has expired.

Rule 25-30.037(1)(o), Florida Administrative Code, requires a utility to provide evidence that it owns the land upon which its facilities are located. This Rule is not applicable, however, since Seagull only has a wastewater collection system and there are no treatment facilities. Water service and wastewater treatment is provided by Pinellas County. Pursuant to an agreement between Seagull and Pinellas County, the County bills Seagull's customers for wastewater treatment service in conjunction with the customers' water bills.

UI, which owns Tierra Verde, has 25 years of experience managing water and wastewater systems and owns and operates approximately 250 systems in 13 states. UI has indicated that it

will provide certified operators, its expertise and management experience, and the financial resources necessary to enable Tierra Verde to operate efficiently. It should also be noted that, at the time of transfer, there were no developer agreements, customer deposits or outstanding regulatory assessment fees.

According to the Department of Environmental Regulation (DER), there are no outstanding notices of violation against the utility. However, DER enforcement standards are applicable to treatment plants and Seagull is a collection system with no treatment facilities.

Based on the foregoing, we find that the transfer of Certificate No. 58-S from Seagull to Tierra Verde is in the public interest and it is approved. The territory Certificate No. 58-S authorizes the utility to serve is described in Attachment A of this Order, which by reference is incorporated herein. Certificate No. 58-S has been returned to the Commission for entry reflecting the change in ownership; it will be reissued in the name of Tierra Verde.

Rate Base

Rate base was previously established for Seagull in Docket No. 850883-SU. Rate base, established by Order No. 16781, issued in that Docket on October 27, 1986, was \$1,069,895 as of September 30, 1985. According to the application in the instant docket, the net book value of the system being transferred is \$500,000 as of the date of transfer.

This rate base figure includes a lease for the transmission and pumping facilities which allows for the removal of wastewater from Seagull's service area. The facilities are owned and operated by the City of St. Petersburg (City). In order to use these facilities, Seagull agreed to reimburse the City for construction of the transmission facilities and for use of up to 700,000 gallons per day of their wastewater treatment plant's capacity. Seagull also agreed to reimburse the City for capital improvements based on reserved capacity. The total reimbursement price is \$1,401,603, which includes \$1,182,256 for construction costs, \$192,260 for reserved plant capacity and \$27,087 for capital improvements.

An audit of the utility's books and records has been conducted to determine rate base (net book value) at the time of transfer. Seagull recorded \$469,600 as rate base on its books. However,

Seagull did not use the rates required by Rule 25-30.140, Florida Administrative Code, when depreciating and amortizing certain plant accounts. Accumulated depreciation and CIAC amortization, adjusted using the rates set forth in the above-mentioned Rule, are \$999,802 and \$448,587, respectively.

Based on the foregoing adjustments, rate base is \$475,448 as of June 30, 1992, the date of transfer. Our calculation of rate base is shown on Schedule No. 1, with adjustments shown on Schedule No. 2. The rate base calculation is used purely to establish the net book value of the property being transferred and does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

Acquisition Adjustment

An acquisition adjustment results when the acquisition cost differs from the original cost calculation. Although rate base is set herein at \$475,448, as discussed previously, that amount includes a capital lease for the transmission and pumping facilities which remove wastewater from Seagull's service area. The total reimbursement price is \$1,401,603, which includes \$1,182,256 for construction costs, \$192,260 for reserved plant capacity and \$27,087 for capital improvements.

Pursuant to the contract, Seagull is repaying the City over a period of 15 years, with interest payments of 5.6 percent over the remaining debt balance. The capital improvements are to be repaid over an 11 year period, with an interest payment of 5.6 percent. As of June 30, 1992, the outstanding balances on both loans were \$485,436 and \$25,826. Also, according to the contract between Seagull and the City, Seagull is allowed to use the facilities for 25 years.

According to the closing statement, Seagull was purchased for \$301,495. The terms of the purchase agreement do not allow for a reduction in the purchase price in the amount of the debt still owed the City. Seagull's lease with the City will be continued by Tierra Verde. The lease is included in the rate base figure established for Seagull and will be included in Tierra Verde's capital structure. Further, it should be noted, that Tierra Verde will never own the assets required for the treatment of wastewater. Therefore, we find that the debt assumed by Tierra Verde (\$511,262) should be added to the purchase price (\$301,495) paid for Seagull.

Accordingly, the purchase price for Seagull is \$812,757; this results in a positive acquisition adjustment of \$337,309.

In the absence of extraordinary circumstances, it is Commission practice not to allow the purchase of a system at a premium or discount to affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary, nor has an acquisition adjustment been requested by Tierra Verde. Therefore, no positive acquisition adjustment has been included in the calculation of rate base.

Rates and Charges

The rates and service availability charges approved for Seagull were established in Docket No. 850883-SU. 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 operating company unless authorized to change by this Commission. Tierra Verde has not requested to change the rates and service availability charges and we see no reason to change them at this time. Tierra Verde shall continue to charge the rates and charges approved in Seagull's tariff until authorized to change by the Commission.

Since Seagull has no miscellaneous service charges approved in its tariff, Tierra Verde has requested that it be allowed to implement miscellaneous service charges. The charges requested are consistent with the Second Revised Staff Advisory Bulletin No. 13. These charges will be administratively approved by the Commission Staff when the tariff is approved.

Tierra Verde has filed a 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. 58-S from Seagull Utility Company, c/o The Deltona Corporation, 3250 Southwest Third Avenue, Miami, Florida 33129, to Tierra Verde Utilities, Inc., c/o Utilities, Inc. of Florida, 200 Weathersfield Avenue, Altamonte Springs, Florida 32714, is hereby approved. It is further

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ORDERED that rate base, for purposes of the transfer, is \$475,448 as of June 30, 1992, the date of transfer. It is further

ORDERED that Tierra Verde shall continue to charge the rates and service availability charges approved in Seagull Utility Company's tariff until authorized to change by this 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 the provision of this Order establishing rate base for purposes of the transfer is issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

by: Kay Flynn
Chief, Bureau of Records

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.

As identified in the body of this order, our action establishing rate base for purposes of the transfer is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 30, 1993. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate

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

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 wastewater 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.

ATTACHMENT A

SEAGULL UTILITY COMPANY

Territory Description

The following described lands located in portions of Sections 17, 18, 19, 20, 29 and 30, Township 32 South, Range 16 East, Pinellas County, Florida:

- Section 30 - The East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4.
- All that portion of the East 1/4 of the East 1/2 lying East of the Waters of the Gulf of Mexico; less and except the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4.
- Section 29 - The North 1/2 of the Northwest 1/4.
- All that portion of the South 1/2 of the Northwest 1/4 and the Southwest 1/4, lying West of the Waters of Tampa Bay.
- Section 20 - All of Section that lies West of the Waters of Tampa Bay.
- Section 19 - All of Section that lies East of Pass-A-Grille Channel.
- Section 18 - That part of the Southeast 1/4 of the Southeast 1/4 of the Southeast 1/4, bounded on the North and West by the Waters of Pass-A-Grille Channel.
- Section 17 - That part of the Southwest 1/4 bounded on the North and East by the Waters of Pass-A-Grille Channel and Boca Ciega Bay.

SCHEDULE NO. 1

SEAGULL

SCHEDULE OF WASTEWATER RATE BASE

As of June 30, 1992

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$2,370,455	\$ 0	\$2,370,455
Construction Work In Progress	3,342	0	3,342
Accumulated Depreciation	(1,011,754)	11,952 (1)	(999,802)
Contributions-in-aid-of-Construction	(1,347,134)	0	(1,347,134)
CIAC Amortization	<u>454,691</u>	<u>(6,104)</u> (2)	<u>448,587</u>
TOTAL	\$ 469,600 =====	\$ 5,848 =====	\$ 475,448 =====

SCHEDULE NO. 2

SEAGULL

SCHEDULE OF WASTEWATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
Accumulated Depreciation Recalculated depreciation for plant accounts Nos. 351.1, 360.2, and 361.2 using rates per Rule 25-30.140, Florida Administrative Code.	(1) \$ 11,952 =====
CIAC Amortization Recalculated amortization for plant accounts Nos. 3.3 and 2.2 using rates per Rule 25-30.140, Florida Administrative Code.	(2) \$(6,104) =====