

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application For Transfer ) DOCKET NO. 930582-WU  
of Certificate No. 71-W From ) ORDER NO. PSC-94-0083-FOF-WU  
Rolling Acres Enterprises, Inc. ) ISSUED: January 24, 1994  
to Rolling Hills Water, Inc. in )  
Hernando County. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING  
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 regarding the establishment of rate base for purposes of the transfer and denial of a positive acquisition adjustment is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On June 15, 1993, an application was filed with this Commission seeking approval of the transfer of Certificate No. 71-W from Rolling Acres Enterprises, Inc. (Rolling Acres or utility) to Rolling Hills Water, Inc. (Rolling Hills). Rolling Acres is a Class C Utility providing water service to approximately 162 customers in Hernando County.

Rolling Acres was previously owned by Ghale C. Thomas, Sr. and Elinor F. Thomas (prior owners). On March 14, 1986, the prior

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owners borrowed \$50,000 from a relative, Ms. Anna Smeal. According to the terms of the note, interest accrued on the unpaid balance of the principal would be paid annually for a period of five years at an annual rate of 13 percent. The utility was pledged as collateral for the loan.

After the demise of Ms. Smeal in August, 1990, Mr. Ronald McMaster was appointed Personal Representative of her Estate on September 4, 1990. His wife and Ms. Smeal's daughter, Joan McMaster, was appointed assignee by Pinellas County.

Subsequent thereto, Mrs. McMaster filed a complaint with the Circuit Court of Hernando County against Rolling Acres. According to the complaint, the principal (\$50,000) and accrued interest through September 1, 1992 (\$42,009.89) remained outstanding. On February 17, 1993, the Clerk of the Court of Hernando County sold the utility property and land at a public sale to the highest bidder. Mrs. McMaster purchased the utility for a total of \$93,402.18, which includes the \$50,000 debt, outstanding interest, attorneys' fees, title search expenses and court costs.

Upon becoming aware of the sale, the Commission Staff advised the McMasters of the necessity of filing an application for approval of the transfer. As stated previously, the application was filed on June 15, 1993.

Section 367.071, Florida Statutes, requires Commission approval prior to any sale or transfer of a utility. However, since the McMasters obtained the utility through foreclosure, show cause proceedings will not be instituted.

#### 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 \$150, pursuant to Rule 25-30.020, Florida Administrative Code. Rolling Hills provided evidence that it owns the land upon which the utility's facilities are located, as required by Rule 25-30.037(1)(o), Florida Administrative Code.

Rolling Hills 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. No objections to the notice of application have been received and the time for filing such has expired.

Rolling Hills provided a copy of the foreclosure action, which reflects the purchase price, terms of payment and a list of the assets purchased. All customer deposits held by Rolling Acres were transferred to Rolling Hills.

Rolling Hills paid the 1992 outstanding regulatory fees for Rolling Acres; it did not, however, pay the penalties and interest due on the outstanding fees. Upon review, it was determined that Rolling Hills does not owe 1992 regulatory assessment fees since it acquired the utility after December 31, 1992. Rolling Hills will receive a credit of the fees paid for 1992.

From information provided with the application, it appears that Rolling Hills has the technical and financial ability to operate the utility. In addition, according to the Department of Environmental Protection, there are no outstanding notices of violation against the utility.

Based on the foregoing, we find that the transfer of Certificate No. 71-W from Rolling Acres to Rolling Hills is in the public interest and it is approved. Normally the utility is required to return its certificate to this Commission for entry reflecting the change in ownership. However, since the utility has been unable to locate Certificate No. 71-W, it will be reissued in the name of Rolling Hills. The territory which Rolling Hills is authorized to serve is described on Attachment A of this Order, which by reference is incorporated herein.

#### Rate Base

Rate base was previously established for Rolling Acres in Docket No. 810343-W. According to Order No. 12182, issued on June 30, 1983 in that Docket, rate base was found to be \$29,752 as of June 30, 1983. This amount includes rate case adjustments for working capital and plant held for future use. After removing these adjustments, the net book value of the system was determined to be \$45,999 as of June 30, 1983.

An audit of the books and records of the utility has been conducted to establish rate base (net book value) at the time of the transfer. Rolling Acres did not maintain a general ledger and a plant ledger. In addition, the utility has not retained source documents or ledgers to support the cost of plant acquired from inception of the utility in 1961 through 1981. Also, the utility did not use the NARUC system of accounts to keep its books and records. In the future, Rolling Hills is directed to use the NARUC system of accounts, retain plant invoices, and maintain plant accounting records.

As a result of the audit, plant-in-service has been increased by \$2,481, which reflects installation of meters and line extensions. Adjusted plant-in-service is \$60,273.

Land value was included in plant-in-service in Order No. 12182. Land value has been broken out and is determined to be \$3,505.

The utility did not use the rates specified in Rule 25-30.140, Florida Administrative Code, when depreciating and amortizing certain plant accounts. Therefore, accumulated depreciation and contributions-in-aid-of-construction (CIAC) amortization has been adjusted to conform to the rates set forth in that Rule. Adjusted accumulated depreciation is \$33,454. Adjusted CIAC amortization is \$1,675. CIAC has also been adjusted to reflect additional service availability charges paid since June 30, 1983. Adjusted CIAC is \$9,934.

Based on the adjustments set forth herein, rate base for Rolling Acres is \$22,065 as of February 17, 1993, the date of transfer. Our calculation of rate base is shown on Schedule No. 1, with adjustments shown on Schedule No. 2.

The calculation of rate base is used purely to establish the net book value of the property being transferred. It does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

#### Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the rate base calculation. Rolling Hills has requested a positive acquisition adjustment of \$96,415.29. This amount includes the purchase price of the utility (\$93,402) plus additional costs (\$25,078.29), less rate base (\$22,065).

In the absence of extraordinary circumstances, the purchase of a utility at a premium or discount should not affect the rate base calculation. The circumstances in this transfer do not appear to be extraordinary. The purchase price reflects an artificial value of debt, outstanding interest, and expenses unrelated to plant improvements or quality of service. The customers of the utility are receiving the same service that they received prior to the foreclosure and subsequent transfer. Therefore, we find that an acquisition adjustment is not justified and none is included in the calculation of rate base.

Rates and Charges

Rolling Acres' rates and charges became effective on January 1, 1986, pursuant to Order No. 15594 issued in Docket No. 851111-W. 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 this Commission. Rolling Hills has not requested to change the rates and charges of the utility and we see no reason to change them at this time.

It should be noted that during the audit of Rolling Acres' books and records it was found that the utility was deviating from its approved tariff regarding the collection of customer deposits. The utility collected deposits from renters, but not homeowners. In addition, the utility was not paying interest on deposits, as required by Rule 25-30.311, Florida Administrative Code. Also, the utility did not comply with its approved service availability policy.

Rolling Hills shall charge the rates and charges approved in Rolling Acres' tariff until authorized to change by this Commission in a subsequent proceeding. Further, Rolling Hills shall comply with the utility's tariff regarding service availability charges and customer deposits. Customer deposits shall be collected uniformly and interest shall be paid on deposits, pursuant to Rule 25-30.311, Florida Administrative Code. If Rolling Hills desires to revise the utility's customer deposit policy, a request for revision of its tariff shall be filed with this Commission for review.

Rolling Hills has filed a tariff with this Commission 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. 71-W from Rolling Acres Enterprises, Inc., 6128 Spring Lake Highway, Brooksville, Florida 34601-7902, to Rolling Hills Water, Inc., 3 Phyllis Lane, Rochester, New York 14624, is hereby approved. It is further

ORDERED that rate base, for purposes of the transfer, which reflects the net book value of the system, is \$22,065. It is further

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ORDERED that Rolling Hills Water, Inc. shall use the NARUC system of accounts, retain plant invoices and maintain plant accounting records. It is further

ORDERED that Rolling Hills Water, Inc. shall charge the rates and charges approved in Rolling Acres Enterprises, Inc.'s tariff until authorized to change by this Commission. It is further

ORDERED that Rolling Hills Water, Inc. shall comply with Rolling Acres Enterprises, Inc.'s tariff regarding service availability charges and customer deposits. Rolling Hills Water, Inc. shall collect customer deposits uniformly and shall pay interest on all deposits collected, pursuant to Rule 25-30.311, Florida Administrative Code. It is further

ORDERED that the tariff filed by Rolling Hills Water, Inc. shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that the provisions of this Order regarding the establishment of rate base for purposes of the transfer and denial of a positive acquisition adjustment are issued as proposed agency action and 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 24th day of January, 1994.

  
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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.

As identified in the body of this order, our action establishing rate base for purposes of the transfer and denying a positive acquisition adjustment 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 February 14, 1994. 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 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

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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.



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ATTACHMENT A

ROLLING HILLS WATER, INC.

Territory Description

The following described lands located in portions of Section 3,  
Township 23 South, Range 20 East, Hernando County, Florida:

Section 3 - The North 1/2.

The West 1/2 of the Southwest 1/4.

SCHEDULE NO. 1

ROLLING ACRES ENTERPRISES, INC.

SCHEDULE OF WATER RATE BASE

As of February 17, 1993

| <u>DESCRIPTION</u>                   | <u>PER FPSC ORDER<br/>12182 ISSUED<br/>6/30/83</u> | <u>COMMISSION<br/>ADJUSTMENTS</u> | <u>BALANCE PER<br/>COMMISSION</u> |
|--------------------------------------|--|-----------------------------------|-----------------------------------|
| Utility Plant in Service             | \$57,792   | \$ 2,481                          | (1) \$60,273                      |
| Land                                 | 0  | 3,505                             | (2) 3,505                         |
| Accumulated Depreciation             | (9,640)  | (23,814)                          | (3) (33,454)                      |
| CIAC Amortization                    | 0  | 1,675                             | (4) 1,675                         |
| Contributions-in-aid-of-Construction | <u>(2,153)</u>                                     | <u>(7,781)</u>                    | (5) <u>(9,934)</u>                |
| TOTAL                                | <u>\$45,999</u>                                    | <u>(\$23,934)</u>                 | <u>\$22,065</u>                   |

SCHEDULE NO. 2

ROLLING ACRES ENTERPRISES, INC.

SCHEDULE OF WATER RATE BASE ADJUSTMENTS

| <u>EXPLANATION</u>  | <u>ADJUSTMENT</u> |
|---|-------------------|
| Utility Plant in Service<br>The auditor increased plant in service to reflect meters and line extensions.   | (1) \$ 2,481      |
| =====   |                   |
| Land<br>Staff broke out the land value which was included in plant in service in Order 12182.   | (2) \$ 3,505      |
| =====   |                   |
| Accumulated Depreciation<br>Recalculated accumulated depreciation for plant accounts using rates per Rule 25-30.140, Florida Administrative Code.   | (3) (\$23,814)    |
| =====   |                   |
| CIAC Amortization<br>Recalculated amortization for plant accounts using rates per Rule 25-30.140, Florida Administrative Code.                      | (4) \$ 1,675      |
| =====   |                   |
| Contributions-in-aid-of-Construction<br>Staff adjusted the CIAC amount to reflect additional service availability charges paid since June 30, 1983. | (5) (\$ 7,781)    |
| =====   |                   |