

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer ) DOCKET NO. 930763-SU  
of Certificate No. 429-S from ) ORDER NO. PSC-94-1163-FOF-SU  
HOMOSASSA UTILITIES, INC. to RHV ) ISSUED: September 22, 1994  
UTILITY, INC. in Citrus County. )  
)  
)  
)  
)  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

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 establishment of rate base for purposes of the transfer, as discussed herein, 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 July 30, 1993, an application was filed with this Commission requesting approval of the transfer of Certificate No. 429-S and utility assets from Homosassa Utilities, Inc. (HUI or Utility) to RHV Utility, Inc. (RHV). HUI provides wastewater

DOCUMENT NUMBER-DATE

09772 SEP 22 8

FPSC-RECORDS/REPORTING

service to the Riverhaven development located near the City of Homosassa.

Upon review of the application, it was determined that the transfer occurred on December 7, 1992. Although Section 367.071 (1), Florida Statutes, requires a utility to obtain Commission approval prior to selling or transferring its certificate or facilities, we do not find that it is in the public interest to initiate show cause proceedings against HUI for transferring without prior Commission approval since HUI filed for bankruptcy subsequent to the transfer.

HUI has had ongoing financial and operating problems, including problems complying with Department of Environmental Protection (DEP) requirements. The Riverhaven system has been operating under a consent order without an operating permit and has been prohibited from connecting additional customers. In Docket No. 900967-SU, by Order No. PSC-93-0128-FOF-SU, issued July 13, 1993, a portion of the increased revenues were placed in escrow to be used to make improvements needed to comply with DEP requirements. The funds were released based upon completion of the needed improvements.

In December 1992, after HUI filed for bankruptcy, the Utility was purchased by a group of investors made up primarily of property owners within the Riverhaven development. According to the information provided, the new owners intend to provide quality service and improve the plant to allow for additional connections. The new owners have worked toward bringing the system into compliance with DEP requirements and have entered into a new consent agreement to further improve the plant.

#### Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and rules. In particular, the application contains a filing fee in the amount of \$150.00, pursuant to Rule 25-30.020, Florida Administrative Code. RHV also provided evidence that it owns the land upon which its facilities are located, in accordance with Rule 25-30.037(1)(o), Florida Administrative Code.

RHV provided 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 being transferred. No objections to the application have been received and the time for filing such has expired.

Since RHV does not have experience in operating utilities, it has retained a certified plant operator to oversee the daily operations of the Utility. Further, according to the information provided, it appears that RHV has the financial ability to operate the system. In addition, since the new owners will be serving themselves, they have a vested interest in upgrading and properly operating the Utility.

Therefore, we find that the transfer of Certificate No. 429-S and the assets of the utility from HUI to RHV is in the public interest and it is approved. The territory RHV is authorized to serve is described in Attachment A of this Order which by reference is incorporated herein. RHV shall return Certificate No. 429-S to this Commission within 30 days of the date of this Order for entry reflecting the change in ownership.

#### Rate Base

Rate base was previously established for HUI by Order No. 24937, issued August 20, 1991, in Docket No. 900967-SU. An audit of the Utility's books and records has been conducted to determine rate base (net book value) at the time of the transfer, December 7, 1992.

As a result of the audit, utility plant-in-service has been decreased by \$67,613 to remove \$6,928 for maintenance items incorrectly included in plant, and \$60,685 for plant improvements which were made but never paid for due to the bankruptcy of the prior owner. Since rate base represents the Utility's investment, the \$60,685 represents cost free assets and is excluded from rate base. However, RHV shall reflect the \$60,685 on its books as \$0, with a notation or footnote reflecting the actual cost of the improvements. The footnote shall also explain that the improvements were made but not paid for due to the bankruptcy of the prior owner.

Accumulated depreciation has been decreased based on the adjustment to plant. In addition, the Utility's contributions-in-aid-of-construction (CIAC) have been recalculated and the Utility's balance has been adjusted by decreasing the account by \$6,127. Amortization has also been recalculated and increased by \$4,140.

An acquisition adjustment results when the purchase price of a utility differs from the original cost calculation. In the absence of extraordinary circumstances, it is this Commission's policy that the purchase of a utility at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary; therefore, a

negative acquisition has not been included in the calculation of rate base.

Based on the adjustments, we find that rate base for HUI is \$115,192 as of December 7, 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 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.

#### Rates and Charges

HUI's rates and charges became effective on January 1, 1993, pursuant to a price index rate increase. 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.

RHV has not requested to change the rates and charges and we see no reason to change them at this time. RHV shall continue to charge the rates and charges approved in the Utility's tariff until authorized to change by this Commission in a subsequent proceeding. RHV 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. 429-S and utility assets from Homosassa Utilities, Inc., 710 Old Compass Road, Long Boat Key, Florida 34228, to RHV Utility, Inc., 1 Northwest U.S. Highway 19, Post Office Box 2770, Crystal River, Florida 34423, is hereby approved. It is further

ORDERED that RHV Utility, Inc. shall return Certificate No. 429-S to this Commission within 30 days of the effective date of this Order for entry reflecting the change in ownership. It is further

ORDERED that rate base, for purposes of the transfer which reflects the net book value, is \$115,192 as of December 7, 1992, the date of transfer. It is further

ORDERED that, as set forth in the body of this order, RHV Utility, Inc. shall reflect the \$60,685 (cost of improvements) on its books as \$0, with a notation or footnote reflecting the actual

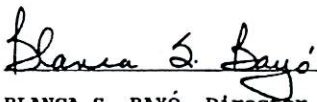
cost of the improvements. The footnote shall also explain that the improvements were made but not paid for due to the bankruptcy of the prior owner. It is further

ORDERED that RHV Utility, Inc. shall continue to charge the rates and charges approved in Homosassa Utilities, Inc.'s tariff until authorized to change by this Commission in a subsequent proceeding. The tariff 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, 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 that this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of September, 1994.

  
\_\_\_\_\_  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

ALC

Commissioner J. Terry Deason dissented on the exclusion of a negative acquisition adjustment from the calculation of rate base.

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 her office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 13, 1994. 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 Records and Reporting within fifteen (15) days of the issuance of

ORDER NO. PSC-94-1163-FOF-SU  
DOCKET NO. 930763-SU  
PAGE 7

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

RHV UTILITIES, INC.

Riverhaven Subdivision

Territory Description

Located within Citrus County:

Township 19 South, Range 17 East

Section 29:

South 1/2 of Section 29;

Section 30:

All of said Section 30;

Section 31:

North 1/2 of Section 31;

Section 32:

Northeast 1/4 of Section 32.

Township 19 South, Range 16 East

Section 25:

East 1/2 of Section 25;

Section 36:

Northeast 1/4 of Section 36.



SCHEDULE NO. 1

Homosassa Utilities, Inc.

SCHEDULE OF WASTEWATER RATE BASE

As of December 7, 1992

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$ 890,247	\$ (67,613) (1)	\$ 822,634
land	85,967	0	85,967
Accumulated Dep.	(346,966)	6281 (2)	(340685)
CIAC	(711964)	6127 (3)	(705,837)
CIAC Amort.	248,973	4140 (4)	253,113
TOTAL	<u>\$ 166,257</u>	<u>\$ (51,065)</u>	<u>\$ 115,192</u>

Footnotes tie to summary number on Schedule 2

SCHEDULE NO. 2

Homosassa Utilities, Inc.

SCHEDULE OF RATE BASE ADJUSTMENT  
(as of December 7, 1992)

<u>DESCRIPTION</u>	<u>ADJUSTMENT</u>
<u>Utility Plant in Service</u>	
(1) To remove maintenance expenses recorded as plant.	\$ (6,928)
To remove additions which were not paid for due to bankruptcy.	\$ (60,685)
Total Plant-in-Service	\$ (67,613)
<u>Accumulated Depreciation</u>	
(2) Recalculate to transfer date based upon adjusted plant	\$ 6,281
<u>Contributions-in-Aid-of-Construction</u>	
(3) Reflect Staff calculation	\$ 6,127
<u>CIAC Amortization</u>	
(4) Recalculate to transfer date	\$ 4,140
<u>TOTAL</u>	\$ 51,065