

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Acknowledgement of) DOCKET NO. 941178-WS
abandonment of facilities in Lee) ORDER NO. PSC-95-0346-FOF-WS
County by HARBOR UTILITIES) ISSUED: March 13, 1995
COMPANY, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING BONITA SPRINGS UTILITIES, INC., AS RECEIVER
FOR HARBOR UTILITIES COMPANY, INC. AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

Harbor Utilities Company, Inc., (utility) is a class C utility serving 644 water customers and 439 wastewater customers in Lee County. The utility's 1993 annual report indicates that it had gross revenues of \$158,739 and a net operating loss of \$82,178. In compliance with Section 367.165, Florida Statutes, and Rule 25-30.090, Florida Administrative Code, on October 21, 1994, Mr. James J. Ryan, president of the utility, filed a notice of abandonment with the Florida Public Service Commission (Commission) and the Florida Department of Environmental Protection (DEP).

In the notice of abandonment, Mr. Ryan states that the utility lacks the required financial resources to comply with DEP standards, which are too great for the existing utility. Mr. Ryan states that the utility's efforts to obtain meaningful rate relief through the Commission have been unsuccessful, along with its efforts to secure funds from the Lee County Municipal Services Benefit Unit.

By Order No. PSC-94-1588-FOF-WS, issued December 22, 1994, we acknowledged the abandonment of the utility. On December 20, 1994, pursuant to a hearing held by the Twentieth Judicial Circuit Court, Lee County assumed temporary operational control of the abandoned utility. On January 23, 1995, Circuit Judge Lynn Gerald, Jr.,

DOCUMENT NUMBER-DATE

02725 MAR 13 95

FPSC-RECORDS/REPORTING

signed an Order appointing Bonita Springs Utilities, Inc., (BSU) as the receiver of the abandoned utility.

Among other provisions, the Circuit Court order requires the owner to surrender to the receiver all property, assets, documents and facilities pertaining to the utility. The court order also requires the receiver to operate and maintain continuous service to the customers as well as pay all operating expenses from the revenues received. Moreover, the court order states that, if such revenues are insufficient for the continued efficient operation of the utility, the receiver may expend "such reasonable amounts as prudent, necessary and advisable" using its best professional judgement. The court order further states that the utility's revenues and the receiver's revenues are to be separate and distinct.

The Circuit Court order recognizes that, pursuant to Section 367.165(3), Florida Statutes, the receiver operating the utility shall be considered to hold a temporary authorization from the Commission. Accordingly, pursuant to Rules 25-30.110 and 25-30.120, Florida Administrative Code, the receiver shall be responsible for filing the 1994 annual report and for paying the 1994 regulatory assessment fees. In addition, the receiver shall be required to fulfill all of the requirements of a regulated utility.

In Order No. PSC-94-1316-FOF-WS, issued October 26, 1994, we required the utility to refund the interim rates collected in that docket. The utility shall continue to make the refunds as required in Order No. PSC-94-1316-FOF-WS, issued October 26, 1994. Pursuant to the foregoing, we find it appropriate to acknowledge BSU as the receiver of the utility. No further action is required and this docket is hereby closed.

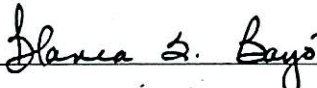
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the appointment of Bonita Springs Utilities, Inc., as receiver for Harbor Utilities Company, Inc., is hereby acknowledged. It is further

ORDERED that Bonita Springs Utilities, Inc., shall complete the refund requirement pursuant to Order No. PSC-94-1316-FOF-WS, issued October 26, 1994. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 13th day of March, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

ELS

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 and/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.