

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer ) DOCKET NO. 950015-WU  
of Certificate No. 388-W in Lee ) ORDER NO. PSC-95-0466-FOF-WU  
County from Tamiami Village ) ISSUED: April 12, 1995  
Utility, Inc.; and for a limited )  
proceeding to increase rates to )  
recover increased operation and )  
maintenance expenses as a result )  
of pending transfer by Tamiami )  
Village Water Company, Inc. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER ACKNOWLEDGING WITHDRAWAL OF REQUEST FOR LIMITED  
PROCEEDING AND GRANTING REQUEST FOR RETURN OF CORRESPONDING  
FILING FEE

BY THE COMMISSION:

BACKGROUND

On January 3, 1995, Tamiami Village Water Company, Inc. (TVWC or utility), filed an application for transfer of Certificate No. 388-W from Tamiami Village Utility, Inc. (TVU), to TVWC. TVWC has provided notice of the transfer application pursuant to Sections 367.071 and 367.045, Florida Statutes, and Rule 25-30.030, Florida Administrative Code. Because several customers of TVU have protested the transfer application, this matter has been set for a formal hearing on November 3, 1995, in Ft. Myers, pursuant to Chapter 120.57(1), Florida Statutes.

Also on January 3, 1995, along with the transfer application, TVWC filed a Petition for Approval of Increased Rates, requesting commencement of a limited proceeding pursuant to Section 367.0822, Florida Statutes. By this Petition, the utility sought to recover certain increased operation and maintenance expenses which it claims will accrue as a result of the transfer. TVWC has not provided notice of its Petition for Approval of Increased Rates.

TVWC filed two separate filing fees in the amount of \$750 each; one pursuant to Section 367.071(3), Florida Statutes, and

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Rule 25-30.020, Florida Administrative Code, for the transfer application, and the other pursuant to Section 367.0822(2), Florida Statutes, and Rule 25-30.020, Florida Administrative Code, for the Petition for Approval of Increased Rates by way of a limited proceeding.

On February 15, 1995, TVWC filed a request for withdrawal of its Petition for Approval of Increased Rates, and for a return of the corresponding filing fee, in the amount of \$750. TVWC further requests that the docket remain open in order to process the transfer application.

#### REQUEST FOR LIMITED PROCEEDING

TVWC is a newly formed corporation. The corporation was formed on November 29, 1994, for the purpose of providing water service to the customers of TVU in the event that the Commission approves the transfer of Certificate No. 388-W in this docket. On December 8, 1994, TVWC entered into an agreement with TVU for the purchase of TVU's water distribution facilities for \$24,000, \$4,800 of which was payable upon execution of the agreement, and the remainder of which will become payable following the Commission's approval of the transfer application. TVWC currently serves no customers.

As noted above, by way of its Petition for Increased Rates, TVWC sought to recover certain increased operation and maintenance expenses which it claims will accrue as a result of the transfer of TVU's certificate to TVWC. TVWC has not provided notice of this request. On February 15, 1995, TVWC informed us that it wishes to withdraw its Petition for Approval of Increased Rates. Because it is premature for us to calculate or approve new or revised rates for TVWC prior to our ruling on the transfer application, we find that the request for a limited proceeding was not appropriate. We therefore acknowledge TVWC's request for withdrawal of its Petition for Increased Rates. Should we later approve the transfer application filed in this docket, TVWC will be free to reapply for a rate increase.

#### FILING FEE

TVWC submitted a \$750 filing fee to cover the processing of its transfer application, and a second \$750 filing fee to cover the processing of its Petition for Increased Rates. In its request for withdrawal of this Petition, TVWC also requests a return of the corresponding \$750 filing fee. We typically analyze utility requests for filing fee refunds in terms of the amount of time and work that our staff has devoted to processing the utility's

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application. In those cases in which the application process has been relatively simple, such as when it only involves the filing of a Case Assignment and Scheduling Record, the Commission has generally refunded the corresponding filing fee. Order No. PSC-94-0776-FOF-WS, issued June 22, 1994, in Docket No. 931198-WS. See also, Order No. 20717, issued February 9, 1989, in Docket No. 880830-WS (finding that Commission practice is to refund a filing fee if no significant time and effort have been spent on a case); Order No. 19133, issued April 12, 1988, in Docket No. 871326-SU (directing that the filing fee be refunded, as virtually no Commission staff time or resources had been expended). We find that our staff has spent little time or resources on the processing of TVWC's Petition for Increased Rates. Accordingly, we hereby approve TVWC's request for return of the corresponding filing fee in the amount of \$750.

In its request for withdrawal of its Petition for Increased Rates, TVWC also requests that this docket remain open in order to process its transfer application. We again note that TVWC has submitted a separate filing fee for, and has provided notice of, the transfer application. The matter has been set for a formal hearing on November 3, 1995. We therefore find it appropriate to grant the utility's request that this docket remain open in order to process the transfer application.

Based on the foregoing, it is, therefore,

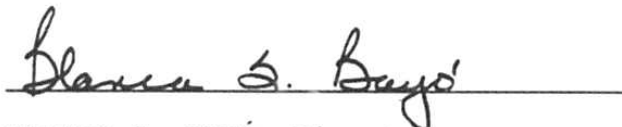
ORDERED by the Florida Public Service Commission that Tamiami Village Water Company, Inc.'s, withdrawal of its request for a limited proceeding is hereby acknowledged. It is further

ORDERED that Tamiami Village Water Company, Inc.'s, request for return of the corresponding filing fee in the amount of \$750 is hereby granted. It is further

ORDERED that this docket shall remain open in order to process Tamiami Village Water Company, Inc.'s, transfer application.

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By ORDER of the Florida Public Service Commission, this 12th  
day of April, 1995.



BLANCA S. BAYO, Director  
Division of Records and Reporting

( S E A L )

RGC

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.