

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer) DOCKET NO. 950193-WS
of facilities and Certificates) ORDER NO. PSC-95-1444-FOF-WS
Nos. 353-W and 309-S in Lee) ISSUED: November 28, 1995
County from FFEC-Six, Ltd. to)
MHC Systems, 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

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 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

FFEC-Six, Ltd. (FFEC-Six or utility) submitted an application to this Commission for transfer of the utility to MHC Systems, Inc. (MHC), for all assets and water Certificate No. 535-W and wastewater Certificate No. 309-S on February 20, 1995. In the most recent data available, the 1994 annual report, the utility reports total utility operating revenue of \$176,122 and a net loss of \$63,290. The utility services 1,665 residential and 32 commercial water customers as well as 1,655 residential and 15 commercial wastewater customers.

Because FFEC-Six's contract for sale to MHC, had an October 1, 1995 deadline, we approved the transfer of the utility by Order No. PSC-95-1271-FOF-WS, issued October 17, 1995, in this Docket.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

RATE BASE

According to the application, the net book value of the system being transferred as of the date of the proposed transfer is \$1,072,714 for the water system and \$1,866,972 for the wastewater system. Rate base was previously established by this Commission in Docket No. 900521-WS, which was an application for a rate increase. By Order No. 24733 issued on July 1, 1991, we set rate base at \$1,056,929 for water and \$1,606,752 for wastewater as of December 31, 1990. The applicant has not requested an acquisition adjustment as of the date of this transfer.

We conducted an audit in June of 1995 of the books and records of the utility to determine the rate base (net book value) at the time of transfer. Our auditors reported that the books and records of FFEC-Six were generally in compliance with Commission rules and regulations. The audit exit conference was held on July 3, 1995. The schedule of rate base covers the period ended December 31, 1994.

The audit revealed several items of concern. These items involved the transfer of the deed, classification and depreciation of asset accounts, regulatory approval of allowance for funds used during construction (AFUDC), proposed adjustments and depreciation for contributions-in-aid-of-construction (CIAC) and a required audit adjustment by Order No. 14141 in Docket No. 840067-WS referring to an increase in wastewater plant. These items are discussed in greater detail below.

Transfer of Deed

The deed was discussed in Order No. PSC-95-1271-FOF-WS, in which we approved the transfer of FFEC-Six to MHC. As stated in the Order, the parties agree that the deed will be appropriately transferred to MHC. Therefore, this item requires no further discussion.

Classification and Depreciation of Assets

Our audit identified that invoices for new plant construction were being booked to lines, rather than to specific subaccounts of services, gate valves, manholes and hydrants. Although the reclassification has no effect on net plant in service, all of these items have different depreciation rates.

We reallocated assets in several accounts. We increased the hydrant water account by \$4,167 and decreased water mains by the same amount. We increased the gate valve water account by \$8,191

and decreased water mains by \$8,191. We increased the water services account by \$18,603 and decreased water mains by the same amount. We increased the wastewater manholes account by \$42,347 and decreased wastewater lines by the same amount. We increased the wastewater services account by \$16,110 and decreased wastewater lines by \$16,110. While the utility agrees to reclassify hydrants and water and wastewater services, it does not agree that a separate depreciable classification for manholes or gate valves is necessary or required, pursuant to Rules 25-30.140(2)(a)1 and 25-30.140(2)(b)1, Florida Administrative Code. We find that although the depreciation rule allows a more specific classification of manholes and gate valves, it does not require it. Therefore, we find it appropriate to make depreciation adjustments, reclassifying hydrants and water and wastewater services to increase accumulated depreciation by \$414 for water and \$1,436 for wastewater.

Allowance for Funds Used During Construction

Audit Exception No. 3 of our audit report stated that FFEC-Six had charged AFUDC without prior Commission approval as required in Rule 25-30.116(5), Florida Administrative Code. What the company actually capitalized was interest, not AFUDC. Regardless, according to Rule 25-30.116 (5), Florida Administrative Code, "No utility may charge or change its AFUDC rate without prior Commission approval. The new AFUDC rate shall be effective the month following the end of the 12-month period used to establish that rate and may not be retroactively applied to a previous year unless authorized by the Commission." The effective date of the rule is August 11, 1986.

Additionally, Staff Advisory Bulletin No. 31, issued January 27, 1989, states:

If a utility has not received an approved AFUDC rate from this Commission, the utility may petition the Commission to establish a rate and for authority to apply the rate retroactively to previous years. If the Commission declines to grant the petition for retroactive application, any AFUDC charged between August 11, 1986, and the effective date of a utility's approved AFUDC rate established by order of this Commission would not be allowed in determining the appropriate rates and charges of the utility.

Thus, water and wastewater utilities were again advised that unauthorized AFUDC may be disallowed. Since that time, we have normally disallowed AFUDC when a utility did not have an approved rate.

The utility argues that the audit exception on this point is factually incorrect and ignores our allowance of capitalized interest on plant additions which were recognized in the company's last rate case. According to the utility's audit response, FFEC-Six has capitalized interest since inception on all construction projects using the applicable interest on debt incurred for such construction projects. In FFEC-Six's last rate case, Docket No. 900521-WS, capitalized interest was embedded in the plant balances and we made no adjustments to reduce the amounts. The utility further argues that the decision approving capitalized interest in the last rate case was rendered after both the adoption of the current rule on AFUDC on August 11, 1986, and the issuance of Staff Advisory Bulletin No. 31 on January 27, 1989.

We recognize that the issue of capitalized interest or AFUDC was not specifically addressed in the last rate case. As such, we did not specifically approve, but did not take exception to, the utility's accrual of capitalized interest. Since the test year for that rate case was the year ended December 31, 1990, we find that the utility's continued use of capitalized interest instead of an approved AFUDC rate was inappropriate. We find it appropriate to disallow capitalized interest for the period starting January 1, 1991 to December 31, 1994.

Circumstances in this case are very similar to those addressed in the transfer of Orange/Osceola Utilities to Southern States Utilities in Docket No. 941151-WS. In that docket, both utilities had prior rate cases with the test year ending after the effective date of the AFUDC rule, and no adjustments were made by us to remove the implicit approval of capitalized interest. However, neither was there specific, affirmative approval of a policy to allow capitalized interest instead of AFUDC on a going forward basis. By Order No. PSC-95-1325-FOF-WS, issued October 31, 1995, in the same docket, we disallowed unapproved AFUDC. Consistent with our decision in that Order, we find it appropriate to disallow unapproved AFUDC from the end of the test year forward.

Therefore, we have decreased water plant-in-service by \$42,601 and wastewater plant-in-service by \$63,249 to remove unapproved capitalized interest. In addition, we have decreased accumulated depreciation for water by \$1,776 and wastewater by \$2,509, to remove depreciation related to AFUDC.

Contributions-In-Aid-Of-Construction (CIAC)

While reviewing CIAC, we determined that the company did not post November and December collections in the water and wastewater accounts. Also, the company made an unnecessary adjustment in 1991 for Order No. 24733 by debiting water CIAC and crediting wastewater CIAC. We find that November and December CIAC shall be posted and the 1991 entry reversed. Therefore, we have increased water CIAC by \$2,700 and wastewater CIAC by \$6,232. Water CIAC accumulated amortization shall be increased by \$45 and wastewater CIAC accumulated amortization by \$103. Also, we find it appropriate to reverse a company posting error of \$50,240 that unnecessarily corrected the account. Therefore, water CIAC shall be increased by \$50,240 and wastewater CIAC reduced by that amount. The related accumulated amortization adjustments result in an increase to water CIAC accumulated amortization of \$6,039 and a decrease in wastewater CIAC accumulated amortization of \$5,893. The balance of \$146 is the result of a different amortization rate.

Depreciation Rates

The utility has used Class C rates for asset additions up to 1991. In the last rate case, FFEC-Six was a Class B utility and the depreciation expense included in the minimum filing requirements was calculated using Class B rates. Therefore, FFEC-Six shall depreciate their assets using Class B rates required in Rule 25-30.140, Florida Administrative Code. Our resulting adjustment reduces accumulated depreciation by \$29,038 for water and \$52,554 for wastewater.

Amortization of CIAC

The utility amortized CIAC using a 3.1% rate, which was calculated by the company, for both water and wastewater. The utility should have used actual composite rates. We provided composite rates for the revised calculation of CIAC amortization, which results in an increase to water accumulated amortization of \$4,825 and wastewater amortization of \$3,675.

Adjustment Correction

The last audit exception relates to a correction of an adjustment made in Order No. 14141, from Docket No. 840067-WS. This case was the second previous rate case of FFEC-Six. By Order No. 14141, we required an audit adjustment to increase wastewater plant by \$10,000. This was the result of an audit exception in that docket which recommended a retirement be rebooked according to NARUC guidelines. The utility's adjusting entry was classified

incorrectly. This adjustment was not corrected in the utility's rate case in Docket 900521-WS. To correct this error, we have reduced wastewater plant for transfer purposes by \$16,803 and reduced accumulated depreciation by \$21,528.

Our calculation of rate base is shown on Schedules Nos. 1 and 2, for the water and wastewater systems, respectively. Adjustments to rate base are listed on Schedule No. 3. Based on our adjustments set forth herein, we find rate base for FFEC-Six to be \$1,018,482 for the water system and \$1,903,971 for the wastewater system at the date of transfer of this system.

This rate base calculation is used purely to establish the net book value of the property being transferred and does not include the normal rate making adjustments of working capital calculations and used and useful adjustments. Also, any transactions which occurred subsequent to December 31, 1994 are not addressed and are subject to any future audit.

ACQUISITION ADJUSTMENT

An acquisition adjustment results when the purchase price differs from the original cost calculation. In the absence of extraordinary circumstances it is the policy of this Commission that a subsequent purchase of a utility system at a premium or discount shall not affect the rate base calculation. FFEC-Six has not requested an acquisition adjustment, and the circumstances in this transfer do not appear to be extraordinary. Therefore, no acquisition adjustment has been included in the calculation of rate base.

As, stated earlier, by Order No. PSC-95-1271-FOF-WS, issued October 17, 1995, in this docket, we approved the transfer of FFEC-Six to MHC. In approving the transfer, we required MHC to file an executed warranty deed as evidence that it owns the land and facilities acquired from FFEC-Six. MHC is required to provide the deed within sixty days following the effective date of the Order approving the transfer. Therefore, if there are no timely protests to the proposed agency action issues and MHC has filed an executed warranty deed as evidence that it owns the land and facilities acquired from FFEC-Six, no further action will be required and the docket shall be closed.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that rate base, for purposes of the transfer, which reflects the net book value of the system, is \$1,018,482 for the water system and \$1,903,971 for the wastewater system. 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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, and MHC, Systems, Inc. files, with the Commission, an executed warranty deed as evidence that it owns the land and facilities acquired from FFEC-Six, Ltd., within sixty days of the Commission order approving the transfer of water Certificate No. 535-W and wastewater Certificate No. 309-S, from FFEC-Six, Ltd. to MHC Systems, Inc., this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 28th day of November, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Jesper
Chief, Bureau of Records

(S E A L)

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Commissioner Kiesling dissented without opinion.

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.

The action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 19, 1995.

In the absence of such a petition, this order shall become effective on the day 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 this order becomes final and effective on the date described above, any party substantially 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.

SCHEDULE NO. 1

FFEC-Six, Ltd.

SCHEDULE OF WATER RATE BASE

As of December 31, 1994

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>COMMISSION APPROVED BALANCE</u>
Utility Plant in Service	\$2,054,686	\$ (42,602)	\$2,012,084
Accumulated Depreciation	(614,834)	30,400	(584,434)
Contributions-in- aid-of-Construction	(480,681)	(52,940)	(533,621)
CIAC Amortization	<u>113,543</u>	<u>10,910</u>	<u>124,453</u>
TOTAL	<u>1,072,714</u>	<u>(54,232)</u>	<u>1,018,482</u>

SCHEDULE NO. 2

FFEC-Six, Ltd.

SCHEDULE OF WASTEWATER RATE BASE

As of December 31, 1994

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>COMMISSION APPROVED BALANCE</u>
Utility Plant in Service	\$3,557,305	\$(80,051)	\$3,477,254
Accumulated Depreciation	(948,503)	75,155	(873,347)
Contributions-in- aid-of-Construction	(966,660)	44,008	(922,652)
CIAC Amortization	<u>224,830</u>	<u>(2,114)</u>	<u>222,716</u>
TOTAL	<u>\$1,866,972</u>	<u>\$36,999</u>	<u>\$1,903,971</u>

SCHEDULE NO. 3

FFEC-Six, Ltd.

SCHEDULE OF WATER AND WASTEWATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>WATER</u>	<u>WASTEWATER</u>
Utility Plant in Service		
1) remove unapproved Capital Interest	\$ (42,602)	\$ (63,249)
2) correct per Order 14141	<u>0</u>	<u>(16,802)</u>
TOTAL	\$ (42,602)	\$ (80,051)
Accumulated Depreciation		
3) reclassify plant accounts	\$ (414)	\$ (1,436)
4) AFUDC	1,776	2,509
5) guideline rates	29,038	52,554
6) prior Order correction	<u>0</u>	<u>21,528</u>
TOTAL	\$30,400	\$75,155
Contributions-in-aid-of-Construction		
7) to record unposted CIAC	\$ (2,700)	\$ (6,232)
8) correct posting error	<u>(50,240)</u>	<u>50,240</u>
TOTAL	\$ (52,940)	\$44,008
CIAC Amortization		
9) to reflect unposted amort CIAC	\$46	\$103
10) correct posting error to amort CIAC	6,039	(5,893)
11) to adjust composite amort CIAC	<u>4,825</u>	<u>3,676</u>
TOTAL	\$ (10,910)	\$2,114