

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of facilities of Hacienda Treatment Plant, Inc. to Bonita Springs Utilities, Inc., an exempt utility in Lee County, and cancellation of Certificate No. 370-S.

DOCKET NO. 990323-SU
ORDER NO. PSC-99-1383-FOF-SU
ISSUED: July 19, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING TRANSFER OF FACILITIES OF
HACIENDA TREATMENT PLANT, INC. TO BONITA SPRINGS
UTILITIES, INC., CANCELING CERTIFICATE NO. 370-S AND CLOSING
DOCKET

BY THE COMMISSION:

BACKGROUND

Hacienda Treatment Plant, Inc. (Hacienda or utility) is a Class C utility providing service to approximately 351 wastewater customers in Lee County. The utility's last annual report on file with the Commission for 1997 lists annual revenues of \$42,998 and a net operating loss of \$2,877.

The utility was issued Certificate No. 370-S by Order No. 15844, issued March 14, 1986, in Docket No. 840451-SU. As a result of a series of violations, Hacienda entered into a consent order with the Florida Department of Environmental Protection (DEP) on

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May 12, 1995, in which it chose to abandon its 85,000 gallons per day treatment plant and drainfield and to connect with Bonita Springs Utilities, Inc.'s (BSU) regional treatment plant. After the connection occurred in May and June, 1995, the remaining system consisted of Hacienda's collection and transmission lines and a pump station. By Order No. PSC-96-0167-FOF-SU, issued February 6, 1996, in Docket No. 951038-SU, the Commission recognized BSU as receiver for the system based on an October 5, 1995 order from Circuit Judge R. Wallace Pack, Twentieth Judicial Circuit, Lee County.

On November 4, 1998, the Circuit Court of Lee County entered its Order Approving Recommendation for Disposition of Assets of Hacienda Treatment Plant, Inc., Case No. 95-6433, CA-RWP. On March 12, 1999, BSU filed its Application for Transfer of Facilities Due to Abandonment and Cancellation of Certificates.

TRANSFER AND CLOSURE OF DOCKET

The November 4, 1998 Circuit Court Order Approving Recommendation for Disposition of Assets of Hacienda Treatment Plant, Inc. is conditioned upon Commission approval as well as the Lee County Board of County Commissioners' approval of such rates and charges as are required by BSU to own and operate Hacienda's water and wastewater system.

On March 12, 1999, BSU filed its Application for Transfer of Facilities Due to Abandonment and Cancellation of Certificate. The application is in compliance with Section 367.071, Florida Statutes, and other applicable statutes and administrative rules concerning an application for transfer of utility assets. The application includes a check in the amount of \$750, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. Additionally, the application contains proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code. No objections to the notice of the application have been received and the time for filing such has expired. In compliance with Rule 25-30.037, Florida Administrative Code, BSU stated that Hacienda has no customer deposits nor interest thereon; guaranteed revenue contracts; developer

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agreements; or customer advances. BSU also stated that the transfer of assets out of receivership does not include any leases, debt or other obligations of Hacienda. Further, there is no financing associated with the conveyance of Hacienda's assets to BSU, nor is BSU otherwise paying any monies to acquire Hacienda's assets. BSU is not requesting any acquisition adjustment. Service will be provided from the treatment facilities owned by BSU. BSU was granted an extension to file its 1998 Annual Report, but regulatory assessment fees have been paid for 1998.

The Circuit Court Order approving the transfer of assets to BSU was specifically conditioned upon our approval of the transfer. Hacienda is jurisdictional until we have approved the transfer. Accordingly, regulatory assessment fees will be due for a portion of 1999. Since Hacienda is being transferred to an exempt entity, we find that the requirement for filing a full Annual Report is unnecessary. Alternatively, BSU shall file information that allows for the verification of revenues for the period up until June 29, 1999. We have found this to be a reasonable option in a recent grandfather certificate case involving CHC, VII, LTD. in Polk County, by Order NO. PSC-99-0639-FOF-WS, issued April 5, 1999, in Docket No. 981913-WS. Specifically, we required the filing of an affidavit certifying revenues for the time period at issue, rather than a full Annual Report.

We note that current customers of Hacienda have been paying BSU's monthly service rates since the date of interconnection in 1995. These rates will continue to be charged to those customers. However, BSU is seeking a special service charge from the Lee County Commission to recover the expense incurred to connect the customers to BSU. The old system has required numerous repairs in order to upgrade the system to a service level consistent with BSU's standards as well as County and State requirements. These repairs include: extensive repair and rehabilitation of the collection system; construction of additional gravity lines; rebuilding three existing lift stations; abandoning a fourth lift station; repairing manholes; and miscellaneous other work. The estimated total for these repairs is \$317,000, based on work already performed and bids for the balance of the improvements. The charge for connecting these customers will be \$795, which can

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be amortized over 20 years at a monthly cost per customer of \$5.68. The standard connection fee for a new 5/8" x 3/4" BSU residential customer is \$2,183.

BSU also supplied copies of documents that provide the consent of several homeowners groups to the distribution of the assets of Hacienda in accordance with the Circuit Court's Order for Disposition of Assets. These groups include: the Villanova Colonnade Condominium Association, Inc., Sections I-IV; the Citadel Condominium Association, Inc.; Alcris Holdings, Inc.; and the Hacienda Village Homeowners Association, Inc. BSU represented that these groups encompassed the majority of Hacienda's customers.

BSU states that it is in the public interest to approve the transfer for a number of reasons. It has been operating the system as receiver since 1995. BSU has almost 30 years of experience in providing utility service to its members and possesses the financial ability to operate the system. Moreover, the Commission acknowledged BSU's exempt status as a non-profit corporation pursuant to Section 367.022(7), Florida Statutes, by Order No. PSC-98-0153-FOF-WS, issued January 27, 1998, in Docket No. 961343-WS. Therefore, we find that the transfer of assets of Hacienda Treatment Plant, Inc. to Bonita Springs Utilities, Inc. is in the public interest. Accordingly, since BSU is exempt pursuant to Section 367.022(7), Florida Statutes, Certificate No. 370-S is hereby canceled. Because no further action is necessary, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Hacienda Treatment Plant, Inc. to Bonita Springs Utilities, Inc., is approved. It is further

ORDERED that, because Bonita Springs Utilities, Inc. is exempt from Commission regulation, Certificate No. 370-S shall be canceled. It is further

ORDERED that Bonita Springs Utilities, Inc. shall be responsible for filing the portion of its 1999 Annual Report that

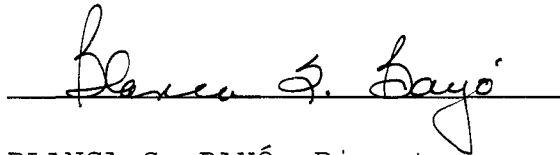
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contains the information necessary to verify the revenues for the period up until June 29, 1999, which represents the date of the Commission vote approving the transfer in this docket. It is further

ORDERED that BSU shall be responsible for paying a portion of regulatory assessment fees for 1999 up until June 29, 1999, which represents the date of the Commission vote approving the transfer in this docket. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 19th Day of July, 1999.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

SAC

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.

M E M O R A N D U M

July 19, 1999

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99 JUL 19 PM 12:10

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSSMAN) *see 18*

RE: • DOCKET NO. 990323-SU - APPLICATION FOR TRANSFER OF FACILITIES OF HACIENDA TREATMENT PLANT, INC. TO BONITA SPRINGS UTILITIES, INC., AN EXEMPT UTILITY IN LEE COUNTY, AND CANCELLATION OF CERTIFICATE NO. 370-S.

- FOF - 1383

Attached is an Order Approving Transfer of Facilities of Hacienda Treatment Plant, Inc. To Bonita Springs Utilities, Inc., Canceling Certificate No. 370-S and Closing Docket, to be issued in the above-referenced docket.

(Number of pages in order - 6)

SAC/lw

Attachment

cc: Division of Water and Wastewater (Messer, Redemann)

I:990323OR.SAC

*boxed - 0/3
wanted > 1/3*

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 7/20/99

Number of Originals 10

Copies Per Original 219

Requested By [Signature]

Item Presented

Agenda For (Date) _____

Order No. 99-1383

In Docket No. 990323

Notice of _____

For (Date) _____

In Docket No. _____

Other _____

Special Handling Instructions

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