

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer
of Certificate Nos. 544-W and
474-S in Highlands County from
Highlands Ridge Associates, Inc.
to Highlands Ridge Utilities,
LLC.

DOCKET NO. 001551-WS
ORDER NO. PSC-01-1917-PAA-WS
ISSUED: September 24, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER DECLINING TO INCLUDE AN ACQUISITION
ADJUSTMENT IN THE CALCULATION OF RATE BASE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action declining to include an acquisition
adjustment in the calculation of rate base, 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 October 12, 2000, Highlands Ridge Associates, Inc. (HRA,
utility or seller) and Highlands Ridge Utilities, LLC (HRU or

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buyer) filed a joint application for approval of the transfer of Certificates Nos. 544-W and 474-S, held by HRA, to HRU. HRA is a Class C utility which has been in existence in Highlands County since 1990. HRA was granted Certificates Nos. 544-W and 474-S by Order No. PSC-92-0954-FOF-WS, issued September 9, 1992, in Docket No. 920306-WS.

HRA provides water and wastewater service to 394 and 378 customers, respectively, in a development that consists of site-built manufactured homes, single-family detached homes, several golf courses, a pro shop, and a clubhouse. The utility is located in the Highlands Ridge Water Use and Southern Water Use Caution Areas in the Southwest Florida Water Management District.

On January 26, 2000, 27/SHH Corporation (27/SHH) purchased all the assets of the development served by the utility (Villages of Highlands Ridge), including the utility. Sebring Land Limited Partnership is a subsidiary of 27/SHH and the parent corporation of HRU. HRU was created to own and manage the utility.

Pursuant to Section 367.071(5), Florida Statutes, this Commission, by order, may establish rate base for a utility or its facilities or property when approving the sale, assignment or transfer thereof, except for a sale, assignment, or transfer to a governmental authority. Because rate base was recently established for HRA by Order No. PSC-01-1488-PAA-WS, issued July 18, 2001, in Docket No. 981147-WS, we do not establish rate base in this proceeding.

We have jurisdiction pursuant to Section 367.071, Florida Statutes.

Application

The joint application was deficient as filed. All deficiencies were corrected on December 20, 2000. The application is now in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. The application contains a filing fee in the amount of \$1,500, as required by Rule 25-30.020, Florida Administrative Code.

The application also contains proof of compliance with the noticing provisions of 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.

Rule 25-30.037(2)(g), Florida Administrative Code, requires a utility to provide proof that it owns or has continued use of the land upon which its facilities are located. According to the application, a warranty deed transferring the land upon which the utility facilities are located will be executed by HRA at the closing and a copy will be provided to the Commission. HRU shall provide such proof by October 29, 2001.

With regard to HRU's technical ability, the application indicates that HRU intends to retain the same employees and supporting contractors that have operated the utility for the past six years. The utility currently provides safe and reliable water and wastewater service to its customers.

The application indicates that a reasonable investigation of the utility system and the facilities shows that they appear to be in satisfactory condition and in compliance with all applicable standards set by the Florida Department of Environmental Protection (DEP). We have verified this to be so. HRU has the financial resources to continue to maintain consistent compliance with environmental regulations.

According to the application, the buyer's financial ability will not be affected by the transfer. Because HRU is a newly formed entity, created to own and manage the utility, it does not have financial statements. Instead, HRU provided financial statements of the parent company, which reveal sufficient assets to insure continued satisfactory service to the customers. Further, HRU has indicated that it will provide the company with the financial stability required to maintain the systems in accordance with Commission standards.

The application contains a copy of the Agreement for Purchase which includes the purchase price, terms of payment and a list of the assets purchased. The Agreement indicates that the purchase price for the utility facilities (including land and equipment) is

\$750,000. The utility was purchased with a \$600,000 loan from the First Union National Bank. The balance of \$150,000 is to be paid in cash. Based on information provided with the application, there are no guaranteed revenue contracts, developer agreements, utility debt, customer advances or customer deposits.

HRA is current on its regulatory assessment fees (RAFs) and has filed an annual report for 2000 and all prior years. HRA shall be responsible for remitting its pro rata share of the 2001 RAFs accruing up to the date of closing to this Commission. HRU will be responsible for future annual reports and payment of RAFs from the date of closing.

The application indicates that the transfer is in the public interest because the customers will continue to receive the same quality water and wastewater service as they have become accustomed to for the past several years without disruption. Moreover, because an affiliate company is developing the Highlands Village Community that will be served by the utility, HRU has a vested interest in continuing to provide satisfactory service. HRU has provided a statement that it will fulfill the commitments, obligations and representations of HRA regarding utility matters.

Based on the foregoing, we find that the transfer of Certificates Nos. 544-W and 474-S from HRA to HRU is in the public interest and it is approved. The territory the utility is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein.

Books and Records

During the audit of HRA's books and records in January, 2001, we learned that HRA keeps one set of books for all of its operations. The accounts for the builder, developer, restaurant, golf club and membership fees are commingled with those of the utility. Rule 25-30.115(1), Florida Administrative Code, states "Water and wastewater utilities shall, effective January 1, 1998, maintain their accounts and records in conformity with the 1996 NARUC USOA adopted by the National Association of Regulatory Utility Commissioners." Accounting Instruction 2 of the NARUC USOA for Class C utilities states as follows:

Each utility shall keep its books of account, and all other books, records, and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit a ready identification, analysis, and verification of all facts relevant thereto. (emphasis added)

Further, Accounting Instruction 4 of the NARUC USOA for Class C Utilities states:

Each utility shall keep its books on a monthly basis so that for each month all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Amounts applicable or assignable to specific utility departments shall be segregated monthly. Each utility shall close its books at the end of each calendar year unless otherwise authorized by the Commission. (emphasis added)

In addition, Rule 25-30.450, Florida Administrative Code, states:

In each instance, the utility must be able to support any schedule submitted, as well as any adjustments or allocations relied on by the utility. The work sheets, etc., supporting the schedules and data submitted must be organized in a systematic and rational manner so as to enable Commission personnel to verify the schedules in an expedient manner and minimum amount of time. The supporting work sheets, etc., shall list all reference sources necessary to enable Commission personnel to track to original source of entry into the financial and accounting system and, in addition, verify amounts to the appropriate schedules. (emphasis added)

HRA's failure to maintain its books and records in accordance with NARUC USOA is an apparent violation of Rules 25-30.115 and 25-30.450, Florida Administrative Code. However, HRA will not be operating the utility. HRU will be operating the utility upon our approval of the transfer. Therefore, HRU is hereby put on notice

that it is required to maintain the utility's books and records in conformance with NARUC USOA, as prescribed by Rule 25-30.115, Florida Administrative Code. Further HRU shall submit a statement from its accountant with its 2001 annual report indicating that it has done so.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the rate base. Rate base for the utility was set by Order No. PSC-01-1488-PAA-WS. That Order established rate base at \$136,184 as of December 31, 2000. The purchase price, \$750,000, less rate base, \$136,184, results in a positive acquisition adjustment of \$613,816.

In the absence of extraordinary circumstances, it has been Commission practice that the purchase of a utility system at a premium or discount shall not affect the rate base calculation. HRU has not requested an acquisition adjustment and there do not appear to be any extraordinary circumstances that would justify the inclusion of an acquisition adjustment in the calculation of rate base. Therefore, we decline to include an acquisition adjustment in the calculation of rate base. This is consistent with previous Commission decisions in this regard. See Orders Nos. PSC-00-0758-PAA-SU, issued April 17, 2000, in Docket No. 991056-SU; PSC-00-1659-PAA-WU, issued on September 18, 1998, in Docket No. 000334-WU; and PSC-00-1515-PAA-WU, issued on August 21, 2000, in Docket No. 000333-WU.

Rates and Charges

HRA's current rates became effective on April 18, 1998, pursuant to an administrative price index rate adjustment. The utility's original service availability charges became effective September 30, 1992, pursuant to Order No. PSC-92-0954-FOF-WS.

Pursuant to Order No. PSC-01-1488-PAA-WS, the utility was ordered to discontinue the collection of the utility's service availability charges, but was allowed to continue to collect the water meter installation charges. In addition, the utility was ordered to file a rate restructuring case with this Commission no earlier than one year but no later than two years after the

implementation of the utility's conservation program. This action became final and effective upon the issuance of Order No. PSC-01-1658-CO-WS on August 14, 2001. The utility's current rates and charges are set forth below.

WATER SERVICE
(Monthly Rates)
Residential and General Service

Base Facility Charge:

Meter Size

| | | |
|-------------|----|--------|
| 5/8" x 3/4" | \$ | 10.42 |
| 1" | \$ | 15.64 |
| 1 1/2" | \$ | 26.05 |
| 2" | \$ | 52.10 |
| 3" | \$ | 83.36 |
| 4" | \$ | 166.72 |
| 6" | \$ | 260.51 |
| 8" | \$ | 833.63 |

Gallorage Charge:

| | | |
|-------------------|----|------|
| Per 1,000 Gallons | \$ | 1.23 |
|-------------------|----|------|

WASTEWATER SERVICE
(Monthly Rates)
General Service

Meter Size

| | | |
|-----------|----|--------|
| 5/8" | \$ | 12.45 |
| Full 3/4" | \$ | 18.69 |
| 1 | \$ | 31.14 |
| 1 1/2" | \$ | 62.28 |
| 2" | \$ | 99.64 |
| 3" | \$ | 199.26 |
| 4" | \$ | 311.35 |
| 6" | \$ | 622.72 |
| 8" | \$ | 996.33 |

Gallorage Charge

| | | |
|-------------------|----|------|
| Per 1,000 Gallons | \$ | 1.76 |
|-------------------|----|------|

Residential

Base Facility Charge

Meter Sizes

All Meter Sizes \$ 12.45

Gallonage Charge

Per 1,000 Gallons (Maximum of
 10,000 Gallons) \$ 1.47

Miscellaneous Service Charges

| | <u>Water</u> | <u>Wastewater</u> |
|--|--------------|-------------------|
| Initial Connection Fee | \$ 15.00 | \$ 15.00 |
| Normal Reconnection Fee | \$ 15.00 | \$ 15.00 |
| Violation Reconnection Fee | \$ 15.00 | Actual Cost |
| Premises Visit Fee (in lieu of disconnection) | \$ 10.00 | \$ 10.00 |

Water Meter Installation Fee

| <u>Meter Size</u> | <u>Fee</u> |
|-------------------|-------------|
| 5/8" x 3/4" | \$ 125.00 |
| 1" | \$ 150.00 |
| 1 1/2" | \$ 175.00 |
| 2" | Actual Cost |
| Over 2" | Actual Cost |

Rule 25-9.044, Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classifications and regulations of the former operating company unless authorized to change by this Commission. HRU has not requested to change the rates and charges and we see no reason to change them at this time. HRU 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. The tariff reflecting the change in ownership shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

If no timely protest is received to the proposed agency action, this docket shall be closed administratively upon our Staff's verification that the utility has provided proof that it

owns or has continued use of the land upon which its facilities are located.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Certificates Nos. 544-W and 474-S from Highlands Ridge Associates, Inc., 3003 East Fairway Vista Drive, Avon Park, Florida 33825-6001, to Highlands Ridge Utilities, LLC, 1275 Lake Heathrow Lane, Heathrow, Florida 32746, is hereby approved. The territory the utility is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that Highlands Ridge Utilities, LLC, shall provide proof that it owns or has continued use of the land upon which the utility's facilities are located. Such proof shall be provided by October 29, 2001. It is further

ORDERED that Highlands Ridge Utilities, LLC, is hereby put on notice that it shall maintain the utility's books and records in conformance with the National Association of Regulatory Utility Commissioners Uniform Systems of Accounts. The utility shall file a statement from its accountant with its 2001 annual report indicating that it has done so. It is further

ORDERED that Highlands Ridge Associates, Inc. shall be responsible for remitting its pro rata share of the 2001 regulatory assessment fees accruing prior to the closing. Highlands Ridge Utilities, LLC, shall be responsible for remitting its pro rata share of the 2001 regulatory assessment fees accruing after the date of closing and for all future regulatory assessment fees. Highlands Ridge Utilities, LLC, shall also be responsible for filing the 2001 annual report and for all future annual reports. It is further

ORDERED that an acquisition adjustment shall not be included in the calculation of rate base. It is further

ORDERED that Highlands Ridge Utilities, LLC shall continue to charge the rates and charges approved in Highlands Ridge Associates, Inc.'s tariff until authorized to change by this Commission in a subsequent proceeding. The tariff reflecting the


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change in ownership shall be effective for serve 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 upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no timely protest is received to the proposed agency action, this docket shall be closed administratively upon our Staff's verification that the utility has provided proof that it owns or has continued use of the land upon which its facilities are located.

By ORDER of the Florida Public Service Commission this 24th day of September, 2001.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

ALC

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.

As identified in the body of this order, our action declining to include an acquisition adjustment in the calculation of rate base is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 15, 2001. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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.

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 the Commission Clerk and Administrative Services 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 or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative

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Services 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

Highlands Ridge Utilities, LLC
Water and Wastewater Service Area
Highlands County

That part of the South 1/2 of the Northwest 1/4 lying North and East of the present right-of-way line of the Seaboard Airline Railroad: the West 1100.00 feet of the Northeast 1/4: the East 220.00 feet of the West 1/2 of the Northeast 1/4 and the East 1/2 of the Northeast 1/4, all being in Section 8, Township 34 South, Range 29 East, Highlands County, Florida AND

The West 1/2 of the Northeast 1/4: the East 1/2 of the Northwest 1/4: the Northwest 1/4 of the Northwest 1/4: the North 1/2 of the Southwest 1/4 of the Northwest 1/4: the Northwest 1/4 of the Southeast 1/4: and the Northeast 1/4 of the Southwest 1/4 all being in Section 9, Township 34 South, Range 29 East, Highlands County, Florida. The above described property includes the subdivision known as Bonnet Lake Village, according to the plat thereof as recorded in Plat Book 10, Page 8, of the Public Records of Highlands County, Florida. Less and Except that portion of the following described property that lies in the Northwest 1/4 of the Southeast 1/4 of said Section 9, described as follows: Commence at the Southeast corner of the Southwest 1/4 of the Southeast 1/4 of said Section 9: thence North 00°25'00" East along the East line of said Southwest 1/4 of the Southeast 1/4 a distance of 1449 feet to the point of beginning: thence North 89°35'00" West 660 feet to the West line of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 9: thence South 00°25'00": East 129.42 feet to the South line of said Northwest 1/4 of the Southeast 1/4: thence South 89°35'00" East along said South line 660 feet to the Southeast corner of said Northwest 1/4 of the Southeast 1/4: thence North 00°25'00" East along the East line of said Northwest 1/4 of the Southeast 1/4 of said Section 9 a distance of 129.42 feet to the point of beginning. AND

Tracts A and B and Lot 52 of BASKET LAKE GROVES according to plat thereof recorded in Plat Book 3, Page 25 of the Public Records of DeSoto (now Highlands) County, Florida, and that portion of a 40 foot platted road right-of-way lying north of said Tracts A and B

and Lot 52 of said BASKET LAKE GROVES, closed by Resolution recorded in Official Records Book 1053, Pages 472-474, of the public records of Highlands County, Florida, all being more particularly described as follows: Commence at the Southeast corner of the Northeast 1/4 of Section 8, Township 34 South, Range 29 East, Highlands County, Florida: thence North 00°31'31" East 84.00 feet to the North line of a 40 foot platted right-of-way as shown on said plat of BASKET LAKE GROVES: thence North 89°29'30" West along said North right-of-way line 638.02 feet to the Point of Beginning: thence continue North 89°29'30" West along said right-of-way line 1142.07 feet: thence South 00°31'30" West along the West line of said Tract "B" a distance of 326.00 feet to the Southwest corner of said Tract "B": thence South 89°29'30" East along the South line of said Tracts "B" and "A" a distance of 823.06 feet to the Southeast corner of said Tract "A": thence South 00°31'30" West along the West line of said Lot 52 a distance of 1058.00 feet to the Southwest corner of said Lot 52: thence South 89°28'30" East along the South line of said Lot 52 a distance of 319.01 feet to the Southeast corner of said Lot 52: thence North 00°31'30" East along the East line of said Lot 52 and its extension 1384.00 feet to the Point of Beginning.