

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of facilities and Certificate No. 149-W in Pasco County from Virginia City Utilities, Inc. to Virginia City Utility Company a Division of Community Utilities of Florida, Inc.

DOCKET NO. 030655-WU
ORDER NO. PSC-04-0342-PAA-WU
ISSUED: April 2, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER APPROVING TRANSFER OF FACILITIES AND CERTIFICATE NO. 149-W FROM VIRGINIA CITY UTILITIES, INC. TO VIRGINIA CITY UTILITY COMPANY, A DIVISION OF COMMUNITY UTILITIES OF FLORIDA, INC.

AND

NOTICE OF PROPOSED AGENCY ACTION ESTABLISHING RATE BASE AT TIME OF TRANSFER AND ADDRESSING INCLUSION OF A POSITIVE ACQUISITION ADJUSTMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein to establish rate base at the time of transfer and to address inclusion of a positive acquisition adjustment 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.

CASE BACKGROUND

Virginia City Utilities, Inc. (Virginia City or utility) is a Class C water utility which provides service in Pasco County. The utility has 299 residential and 15 general service customers. The utility began operating in 1970. It is located in the Southwest Florida Water Management District (SWFWMD). This particular area of the SWFWMD is in the Tampa Bay Water Use Caution Area. Wastewater service is provide by Pasco County Utilities. The utility's 2002 annual report reflects operating revenues of \$92,137 and an operating loss of (\$29,489).

DOCUMENT NUMBER-DATE

04213 APR -2 3

FPSC-COMMISSION CLERK

The utility was issued Water Certificate No. 149-W, pursuant to Order No. 5809, issued July 26, 1973, in Docket No. C-73215-W, In Re: Application of Virginia City, Inc. for a Certificate to Operate an Existing Water System In Pasco County. By Order No. PSC-94-0084-FOF-WU, issued January 24, 1994, in Docket No. 931028-WU, In Re: Application for Transfer of Certificate No. 149-W From Virginia City, Inc. to Virginia City Utilities, Inc. in Pasco County, the utility was transferred from Mr. Judson F. Potter to Mr. Matthew Potter, his son. Rate base for this utility was last established in Order No. PSC-97-0037-FOF-WU, issued January 8, 1997, in Docket No. 960625-WU, In Re: Application for Staff Assisted Rate Case in Pasco County by Virginia City Utilities, Inc.

On July 21, 2003, Virginia City Utility Company, a Division of Community Utilities of Florida, Inc. (VCUC or Buyer), filed an application for transfer of the utility's facilities and Certificate No. 149-W from Virginia City to VCUC. According to the application, on December 30, 2002, Virginia City entered into an agreement for the purchase and sale of the utility for a purchase price of \$140,000. The application was found to be deficient. The deficiencies were corrected on November 18, 2003.

This Order addresses the transfer of Virginia City to VCUC: We have jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes.

TRANSFER OF FACILITIES AND CERTIFICATE NO. 149-W

On July 21, 2003, VCUC filed an application for transfer of Certificate No. 149-W from Virginia City to VCUC. The application as filed was deficient; VCUC submitted the corrected information on November 18, 2003. The application as filed and amended is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and rules concerning an application for transfer. The application contained a check in the amount of \$750, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Section 367.071, Florida Statutes, requires that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without prior approval of the Commission unless such sale, assignment, or transfer is made contingent upon Commission approval. The closing took place on December 30, 2002, contingent upon the Commission's approval of the transfer.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the required proof of noticing. No objections to the notice of application have been received and the time for filing such has expired.

The application contained documentation to comply with Rules 25-30.037(2)(g), (h), (i), and (k), Florida Administrative Code, regarding terms of the sale and financing of the purchase.

The application contained a copy of the purchase agreement which includes the purchase price, terms of payment, and a list of the assets purchased. The purchase price for the utility is \$140,000. The purchase was a cash transaction. The customer deposits were also transferred to the buyer.

Rule 25-30.037(2)(q), Florida Administrative Code, requires proof that the utility owns or has provided for the continued use of the land upon which the utility facilities are located. The utility has provided a 99 year lease agreement which was executed in April 2003 for an onsite well.

According to our records, Virginia City is current with its regulatory assessment fees (RAFs) and has filed an annual report for 2002 and all prior years. No interest, penalties, or refunds are due or outstanding. Rule 25-30.037(2)(r), Florida Administrative Code, requires the application to contain a statement regarding the disposition of any outstanding RAFs, fines, or refunds owed. VCUC is responsible for remitting the 2003 and all future RAFs and annual reports.

The application also contained a statement, pursuant to Rule 25-30.037(2)(j), Florida Administrative Code, regarding how the transfer is in the public interest. According to the application, the transfer is in the public interest because the buyer has the expertise and finances to operate the utility to better serve the customers. In addition, VCUC is wholly-owned by Community Utilities of Florida, Inc., which is a corporation established for the purpose of uniting small utility systems under an organization that would increase the quality of customer service and efficiencies of the utility.

With regard to the buyer's technical ability, Mr. Deremer has approximately nineteen years of experience in the utility industry. He owned a utility service company that provided operation and maintenance services as well as engineering services to private and municipal utility systems in Florida. Mr. Deremer's service company was purchased in 1999 by American Water Services, Inc.

With regard to the buyer's financial ability, a statement was provided that demonstrates Mr. Deremer has both the regulatory experience and the financial ability to ensure consistent compliance with the Florida Department of Environmental Protection (FDEP) regulations. In support of this statement, the application contained Mr. Deremer's financial statement which indicates sufficient net worth. While most of the assets are in real estate, the statement also reflects liquid assets, as well as the ability to attract financing. According to the application, the utility's investment capital will be provided by Mr. Deremer. VCUC will receive the benefit of centralized management, accounting, billing, and data processing functions, resulting in economies of scale that would be unattainable on a stand-alone basis. Additionally, the application contained a statement that the buyer will fulfill the commitments, obligations, and representations of the sellers with regard to utility matters.

The application states that the buyer has performed a reasonable investigation of the utility system as required by Rule 25-30.037(2)(p), Florida Administrative Code. The buyer included a statement that the system appears to be in satisfactory condition and is in compliance with all applicable standards set by the FDEP. Staff has contacted the FDEP and verified that there are no outstanding notices of violation.

The utility has recently refurbished and reactivated an existing well and well house that had been out of service. In addition to the well water now used by the utility, supplemental water is also purchased from Pasco County. According to the utility's annual report, the water purchased from Pasco County for the year 2002, which was prior to the reactivation of the well, totaled 23,194,000 gallons. The utility reported in its application that the system is in compliance with all applicable standards set forth by the FDEP. There are lead and copper issues resulting from corrosive water, but the utility is addressing this problem by working on a treatment and public education plan.

Based on the above, we find that the transfer of the facilities and Certificate No. 149-W from Virginia City to VCUC is in the public interest and shall be approved. The effective date of the transfer shall be March 16, 2004. VCUC is responsible for remitting the 2003 RAFs and annual report as well as all future RAFs and annual reports. A description of the territory being transferred is appended to this Order as Attachment A.

RATE BASE AT TIME OF TRANSFER

Rate base for this utility was previously established by Order No. PSC-97-0037-FOF-WU, issued January 8, 1997, in Docket No. 960625-WU, In Re: Application for Staff Assisted Rate Case in Pasco County by Virginia City Utilities, Inc., as \$23,846, as of December 31, 1995.

Virginia City entered into a contract on December 30, 2002, to sell its water facilities to VCUC. It is our practice to establish rate base as of the date of transfer, which is December 30, 2002. Accordingly, we conducted an audit of the books and records of the utility to determine the rate base as of December 30, 2002. The rate base was determined from company provided historical records and supporting source documentation. The audit report contained several audit disclosures. The utility did not file a response to the audit report. The following adjustments were made as a result of the rate base audit.

UTILITY PLANT-IN-SERVICE (UPIS)

The utility's UPIS, as of December 30, 2002 is \$80,853. Organizational costs of \$2,166, which were disallowed in the prior case, shall be removed from Account 301. The utility recorded a net \$1,000 addition to its UPIS balance to reflect pro forma plant included in the staff-

assisted rate case for meter replacement. The pro forma adjustments are removed now that the actual cost of the meters has been recorded.

In 1997, the utility expensed \$14,248 for meters and meter installation which should have been capitalized. Accounts 331 and 334 are increased by \$8,729 and \$5,519, respectively, to record the cost of the meters and installation. Accounts 331 and 334 are decreased by \$1,810 and \$5,795, respectively, to remove the costs associated with the meters that were retired. Account 309 is decreased by \$774 to remove operations and maintenance expenses that were improperly capitalized, and Account 334 is increased by \$520 to correct an invoice that was recorded in the wrong amount. In addition, Account 340 is reduced by \$2,637 to remove the cost of a computer that is not being transferred to the new utility.

Based on the above adjustments, we find that the utility's UPIS balance, as of December 30, 2002, is \$81,440.

ACCUMULATED DEPRECIATION

The utility's books reflected a balance of \$54,277 in accumulated depreciation as of December 30, 2002. However, the utility did not remove \$2,729 of accumulated depreciation associated with organizational cost that was disallowed in the previous case. Accumulated depreciation is decreased by \$7,602 for meters that were retired in 1997 through 2002. Accumulated depreciation shall be increased by \$2,089 to correct the depreciation pursuant to Rule 25-30.140, Florida Administrative Code, and reduced by \$2,637 to remove the depreciation associated with the computer that was not included in the transfer.

Based on the above adjustments, we find that the utility's accumulated depreciation balance, as of December 30, 2002, is \$43,398.

CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC)

We find that the utility books reflect the appropriate CIAC balance of \$17,159, as of December 30, 2002.

ACCUMULATED AMORTIZATION OF CIAC

The utility books reflect an amortization of CIAC balance of \$9,161 as of December 30, 2002.

We recalculated amortization using an annual composite depreciation rate pursuant to Rule 25-30.140,(8)(a), Florida Administrative Code, and determined a balance of \$10,393, as of December 30, 2002. Therefore, the balance for accumulated amortization of CIAC shall be increased by \$1,232 to reflect amortization of CIAC of \$10,343, as of December 30, 2002.

RATE BASE

The calculation of rate base for water is shown on Schedule No. 1. The adjustments to rate base are itemized on Schedule No. 2. Both schedules are appended to this Order. Based on these schedules, we find that the rate base for Virginia City is \$31,276, as of December 30, 2002. This rate base calculation is used solely to establish the net book value of the property being transferred and does not include the normal ratemaking adjustments for working capital and used and useful.

ACQUISITION ADJUSTMENT

An acquisition adjustment results when the purchase price differs from the rate base at the time of the acquisition. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. The buyer initially requested an acquisition adjustment, but did not provide proof of any extraordinary circumstances. The buyer later withdrew its request for an acquisition adjustment. Accordingly, we find that a positive acquisition adjustment shall not be included in the calculation of rate base for transfer purposes.

RATES AND CHARGES

The utility's current rates for residential and general service customers were approved administratively in a price index and pass through application, which became effective on May 31, 2003. The utility's service availability charges were adopted in the original certificate case. The utility's customer deposit charges and miscellaneous service charges were established by Order No. PSC-94-0084-FOF-WU, issued January 24, 1994, in Docket No. 931028-WU, In Re: Application For Transfer of Certificate No 149-W From Virginia City, Inc. to Virginia City Utilities, in Pasco County. The utility's approved rates and charges are as follows:

**MONTHLY RATES - WATER
RESIDENTIAL & GENERAL SERVICE**

<u>Meter Sizes</u>	<u>Base Facility Charge</u>
5/8" x 3/4"	\$ 7.16
3/4"	\$ 10.75
1"	\$ 17.91
1 1/2"	\$ 35.83
2"	\$ 57.32

Gallonage Charge
Per 1,000 gallons \$ 3.60

Miscellaneous Service Charges

	Water
Initial Connection Fee	\$ 15.00
Normal Reconnection Fee	\$ 15.00
Violation Reconnection Fee	\$ 15.00
Premises Visit Fee	
(in Lieu of disconnection)	\$ 10.00

SERVICE AVAILABILITY CHARGES

<u>Water</u>	
Tap Fee	
3/4" or 5/8"	\$60.00

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case[s] of change of ownership or control of a utility which places the operation under a different or new utility . . . the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission)

VCUC has not requested a change in the rates and charges. Based on the above, we find that the utility shall continue operations under the existing tariff and apply the approved rates and charges until authorized to change by this Commission in a subsequent proceeding. The utility has filed a revised tariff reflecting the transfer to VCUC. This tariff filing shall be effective for services rendered or connections made on or after the stamped approval date.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of facilities and Certificate No. 149-W from Virginia City Utilities, Inc. to Virginia City Utility Company, a Division of Community Utilities of Florida, Inc. is in the public interest and is hereby approved. The effective date of the transfer shall be March 16, 2004. It is further

ORDERED that Attachment A and all schedules attached hereto are incorporated herein by reference. It is further

ORDERED that VCUC is responsible for remitting the 2003 regulatory assessment fees (RAFs) and annual report as well as all future RAFs and annual reports. It is further

ORDERED that the rate base at the time of transfer is \$31,276, as of December 30, 2002. It is further

ORDERED that no positive acquisition adjustment shall be included in the calculation of rate base for transfer purposes. It is further

ORDERED that VCUC shall continue operations under the existing tariff and apply the approved rates and charges until authorized to change by this Commission in a subsequent proceeding. It is further

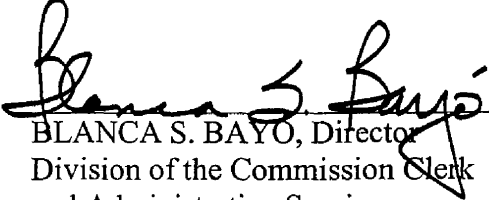
ORDERED that tariff filing reflecting the transfer to VCUC shall be effective for services rendered or connections made on or after the stamped approval date. It is further

ORDERED that the provisions of this Order to establish rate base at the time of transfer and to address inclusion of a positive acquisition adjustment, 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 issues, a Consummating Order shall be issued upon the expiration of the protest period and this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 2nd day of April, 2004.


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

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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.

As identified in the body of this order, our action to establish rate base at the time of transfer and to address inclusion of a positive acquisition adjustment 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 April 23, 2004. 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 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

VIRGINIA CITY UTILITIES, INC.

PASCO COUNTY

WATER SERVICE AREA

In Section 16, Township 26 South, Range 16 East, Pasco County, Florida:

Commence at the Southeast corner of the Southwest 1/4 of said Section 16; thence run Westerly along the South boundary of the Southwest 1/4 of said Section 16; same also being the centerline of State Road Number 54, a distance of 25.21 feet for a Point of Beginning; thence continue Westerly along said boundary for a distance of 1,319.54 feet; thence Northerly, a distance of 1,987.81 feet; thence Easterly, a distance of 1,311.72 feet to the centerline of Thys Road; thence Southerly along said centerline, a distance of 1,990.68 feet to the Point of Beginning.

SCHEDULE NO. 1

**VIRGINIA CITY UTILITIES, INC.
SCHEDULE OF WATER RATE BASE
AS OF DECEMBER 30, 2002**

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>PSC APPROVED ADJUSTMENTS</u>	<u>BALANCE PER PSC</u>
Utility Plant in Service	\$80,853	587 (A)	\$81,440
Land	0	0	0
Contributions in Aid of Construction (CIAC)	(17,159)	0	(17,159)
Accumulated Depreciation	(54,277)	10,879 (B)	(43,398)
Amortization of CIAC	<u>9,161</u>	<u>1,232</u> (C)	<u>10,343</u>
WATER RATE BASE	<u>\$18,578</u>	<u>12,698</u>	<u>\$31,276</u>

VIRGINIA CITY UTILITY COMPANY
SCHEDULE OF ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
Utility Plant in Service	
1) To remove organization costs	(\$2,166)
2) To remove pro forma plant	(\$1,000)
3) To record meters	\$14,248
4) To retire meters	(\$7,604)
5) To remove capitalized O & M expense	(\$774)
6) To record meters	\$520
7) To remove computer equipment	(\$2,637)
(A) Total	<u>\$587</u>
Accumulated Depreciation	
1) To remove organization costs	\$2,729
2) To retire plant	\$7,602
3) To remove computer equipment	\$2,637
4) To correct depreciation	(\$2,089)
(B) Total	<u>\$10,879</u>
Amortization of Contributions In Aid of Construction	
1) (C) To reflect annual composite depr. rate	<u>\$1,232</u>