

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. to Sunrise Utilities, LLC, in Polk County.

DOCKET NO. 040159-WU
ORDER NO. PSC-05-0308-PAA-WU
ISSUED: March 21, 2005

The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING TRANSFER, AMENDING CERTIFICATE
NO. 582-W, ISSUING CERTIFICATE NO. 627-W, AND
CONTINUING RATES AND CHARGES,
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING RATE BASE AND
NOT INCLUDING AN ACQUISITION ADJUSTMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein establishing rate base and to not include an 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.

BACKGROUND

Keen Sales, Rentals and Utilities, Inc. (Keen or utility) is a Class C water utility serving approximately 541 equivalent residential connections (ERCs) in Polk County. The utility is in the Southwest Florida Water Management District and is in the Southern water use caution area. Wastewater service is provided by septic tanks. The utility's 2003 annual report shows total operating revenue of \$149,512 and a net operating loss of \$33,518.

Keen was granted grandfather Certificate No. 582-W for the Ray Keen, Earlene Keen, and Ellison Park Subdivisions systems in 1997.¹ The utility was granted a name change in

¹ Certificate issued pursuant to Order No. PSC-97-0152-FOF-WU, issued February 11, 1997, in Docket No. 961007-WU, In re: Application of Keen Sales & Rentals, Inc. for Certificate Under Grandfather Rights to Provide Water Service in Polk County.

DOCUMENT NUMBER-DATE

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PSC-COMMISSION CLERK

1998². Keen was granted the transfer of water facilities from Alturas Water Works in 1999.³ The Lake Region Paradise Island and Sunrise Water Company, Inc., facilities were transferred to Keen in 2000.⁴

On February 23, 2004, Keen submitted an application for transfer of the Sunrise water system from Keen to Sunrise Utilities, LLC (Sunrise or buyer). The Sunrise system serves approximately 267 residential and one general service customers. Keen's 2003 annual report for this system shows total operating revenue of \$65,140 and net operating loss of \$12,091. Many deficiencies were found in this application. The final corrections were received on November 12, 2004. Mr. Stuart Sheldon, managing member of Sunrise, is also buying the Alturas system from Keen in Docket No. 040160-WU. We have jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes.

APPROVING TRANSFER, AMENDING CERTIFICATE NO. 582-W,
AND ISSUING CERTIFICATE NO. 627-W

Keen applied for a transfer of the Sunrise facilities in Polk County from Keen to Sunrise on February 23, 2004. The closing on the transfer of the utility facilities took place on February 10, 2004, subject to approval by this Commission. The purchase price was \$90,000.

All of the filing requirements for the application were completed on November 12, 2004. The application as filed and amended is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment or transfer of certificates of authorization. The territory being transferred is described in Attachment A, attached hereto and incorporated herein by reference.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. No objections to the application were received and the time for filing such has expired. The application contains a copy of a recorded warranty deed transferring the

² Name change was approved pursuant to Order No. PSC-98-1294-FOF-WU, issued October 5, 1998, in Docket No. 980751-WU, In re: Application for name change on Certificate No. 582-W in Polk County from Keen Sales & Rentals, Inc. to Keen Sales, Rentals and Utilities, Inc.

³ Alturas Water Works facilities transfer was approved pursuant to Order No. PSC-99-0431-FOF-WU, issued March 3, 1999, in Docket No. 980536-WU, In re: Application for transfer of water facilities from Alturas Water Works to Keen Sales, Rentals, and Utilities, Inc. in Polk County, cancellation of Alturas' Certificate No. 591-W, and amendment of Keen's Certificate No. 582-W to include additional territory.

⁴ Lake Region Paradise Island facilities transfer was approved pursuant to Order No. PSC-00-0913-PAA-WU, issued May 8, 2000, in Docket No. 970201-WU, In re: Application for transfer of facilities of Lake Region Paradise Island and amendment of Certificate No 582-W held by Keen Sales, Rentals and Utilities, Inc. in Polk County. Sunrise Water Company, Inc. facilities transfer was approved pursuant to Order No. PSC-00-1388-PAA-WU, issued July 31, 2000, in Docket No. 990731-WU, In re: Application for transfer of water facilities from Sunrise Water Company, Inc., holder of Certificate No. 584-W to Keen Sales, Rentals and Utilities, Inc., holder of Certificate No. 582-W, in Polk County, for cancellation of Certificate No. 584-W, and for and amendment of Certificate No 582-W to include additional territory

property upon which the utility facilities are located to Sunrise. Customer deposits were transferred to the buyer at the closing.

The application contains a statement that the buyer has performed a reasonable investigation of the utility system and found the overall condition of the water facilities to be in satisfactory condition and in general compliance with the requirements of the Polk County Health Department. Our staff contacted the Polk County Health Department and verified that there are no outstanding notices of violation.

The owner of the Keen systems indicated that they are in the process of downsizing their utility business. The buyer appears to have the financial ability and interest in owning and running a utility. Sunrise has contracted with Keen for two years of transitional management and operations assistance. During this time, staff in the Keen office will provide the bookkeeping services for the utility and the contract operator for the Keen systems will perform the system repairs, maintenance, and testing.

In the utility's last rate case, it was determined that the utility was not using the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) as required by Rule 25-30.115, Florida Administrative Code. The utility was ordered to set up its books using the NARUC USOA and an allocation for professional services was included in its rates based on the estimated cost to set up the utility's books and records in conformance with the NARUC USOA. During the staff audit for this transfer, the auditor determined that the utility has used the NARUC USOA; however, the records for Sunrise were commingled with the records for the other Keen systems, and the adjustments to rate base required in the utility's last rate case had not been recorded.

These issues were discussed with the buyer and seller. According to the Keen staff, a general ledger has been set up for the Sunrise and Alturas systems and capital additions and expenses for each system are identified. However, it is not clear whether separate general ledger balances can be determined for each of the systems. We find that it is appropriate to require the buyer to provide a statement and supporting documentation within 30 days of the issuance of this Order that the utility has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer.

The 2003 and all previous annual reports were timely filed and regulatory assessment fees (RAFs) have been paid timely through December 31, 2003. No penalties, late fees, interest, or refunds are due or outstanding. Keen will be responsible for RAFs for January 1 to February 10, 2004. The buyer will be responsible for the remainder of the 2004 and future RAFs and the 2004 and future annual reports.

Based on the above, we find that the transfer of the Sunrise water system from Keen to Sunrise is in the public interest and it is therefore approved. The territory being transferred is described in Attachment A. Certificate No. 582-W shall be amended to delete the Sunrise system from the Keen service area, and Certificate No. 627-W shall be issued effective the date of our vote. The buyer shall provide a statement and supporting documentation within 30 days

of the issuance of this Order that the utility has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer.

ESTABLISHING RATE BASE AT THE TIME OF TRANSFER

Rate base was last set for the utility as of March 31, 2000.⁵ The transfer of the Sunrise system occurred on February 10, 2004. As discussed previously, Keen does not keep its books on a monthly basis, did not reconcile to the prior rate case order, and commingled Sunrise records with all other systems owned by Keen. Therefore, we began with the prior rate case order balances and verified plant additions and retirements in order to establish rate base, as of the transfer date, February 10, 2004.

Utility-Plant-in-Service (UPIS). The Sunrise rate base balance as of March 31, 2000, included total depreciable UPIS of \$112,782. We find that UPIS shall be adjusted to remove \$17,500 in pro forma plant and the \$1,432 averaging adjustment included in the prior rate case, to include plant additions of \$24,289 since the last rate case, and to remove \$11,331 for plant retirements. In addition, \$10,989 shall be removed to reflect assets not transferred to the buyer. As a result, the UPIS balance as of February 10, 2004, is \$98,683.

Land. The utility's rate base balance as of March 31, 2000, included land of \$553. No additions or deletions to the land account were noted. Therefore, the land balance for the Sunrise system as of February 10, 2004, is \$553.

Accumulated Depreciation. The utility's rate base balance as of March 31, 2000, included total accumulated depreciation of \$28,679. We find that accumulated depreciation shall be adjusted to remove \$515 in pro forma depreciation and the \$2,545 averaging adjustment included in the prior rate case, and to reflect \$17,208 in additional depreciation since the prior rate case. In addition, \$7,469 in accumulated depreciation associated with assets not transferred to the buyer shall be removed. As a result, the accumulated depreciation balance as of February 10, 2004, is \$40,448.

Contributions-In-Aid-of-Construction (CIAC) and Amortization of CIAC. The Sunrise rate base balance as of March 31, 2000, included CIAC of \$12,393 and accumulated amortization of \$3,068. The system has been built out and there were no CIAC additions since the last rate case. We find that accumulated amortization shall be increased \$2,953 to reflect additional accumulated amortization since the last rate case and increased by \$193 to remove the averaging adjustment included in the last rate case. Therefore, the CIAC balance of \$12,393 and accumulated amortization of \$6,214, shall be included in rate base as of February 10, 2004.

⁵ Rate base was last set for the Sunrise system pursuant to Order No. PSC-01-1162-PAA-WU, issued May 22, 2001, in Docket No. 001118-WU, In Re: Application for a staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.

Conclusion. As of February 10, 2004, rate base for the Sunrise system is \$52,609. Schedule No. 1 shows the calculation of the water rate base. Schedule No. 2 details the approved adjustments. Schedule No. 3 shows the approved account balances as of February 10, 2004. We note that rate base for transfer purposes does not include the normal ratemaking adjustments for working capital or used and useful.

DECLINING TO APPROVE AN ACQUISITION ADJUSTMENT

An acquisition adjustment results when the purchase price differs from the original cost of the assets adjusted to the time of the acquisition. The calculation of an acquisition adjustment is shown below.

Purchase Price	\$90,000
Commission Established Rate Base	<u>\$52,609</u>
Positive Acquisition Adjustment	\$37,391

Pursuant to Rule 25-30.0371, Florida Administrative Code, a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. The buyer has neither requested an acquisition adjustment nor identified any extraordinary circumstances. Therefore, an acquisition adjustment will not be included in the calculation of rate base for transfer purposes.

APPROVING CONTINUATION OF UTILITY'S RATES AND CHARGES

Rule 25-9.044(1), Florida Administrative Code, provides that in the case 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 this Commission.

We approved Sunrise's current rates for water service and customer deposits in the previous rate case. Service availability and other charges were approved pursuant to the Sunrise Water Company transfer Docket No. 990731-WU. The utility's approved rates and charges are shown on Schedule No. 4, attached hereto.

The buyer has not requested a change in the rates and charges of the utility. Accordingly, the existing rates and charges for the Sunrise system shall be continued, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by this Commission in a subsequent proceeding. Within 30 days of the date of this Order, Sunrise Utilities, LLC shall submit the tariff page reflecting a copy of the customer bill in the name of Sunrise. The tariff pages reflecting the transfer shall be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of the Sunrise water system from Keen Sales, Rentals and Utilities, Inc., to Sunrise Utilities, LLC, is in the public interest and is therefore approved. It is further

ORDERED that Certificate No. 582-W shall be amended to delete the Sunrise system from the Keen service area, and Certificate No. 627-W shall be issued effective the date of our vote in this matter, with respect to the territory described in Attachment A. It is further

ORDERED that all matters set forth in the attachments and schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the buyer shall provide a statement and supporting documentation within 30 days of the date of issuance of this Order that the utility has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the rate base balances approved herein as of the date of the transfer. It is further

ORDERED that Keen Sales, Rentals and Utilities, Inc., shall be responsible for the regulatory assessment fees for January 1 to February 10, 2004, and that Sunrise Utilities, LLC shall be responsible for the remainder of the 2004 and future regulatory assessment fees and the 2004 and future annual reports. It is further

ORDERED that the rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$52,609 for the Sunrise system as of February 10, 2004. It is further

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

ORDERED that the rates and charges approved for the Sunrise system shall be continued until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that within 30 days of the issuance of this Order, Sunrise Utilities, LLC, shall submit the tariff page reflecting a copy of the customer bill in the name of Sunrise. The tariff pages reflecting the transfer shall be effective for services provided 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 issues, this Order will become final upon the issuance of a Consummating Order. It is further

ORDERED that this docket shall remain open pending receipt of a statement and supporting documentation within 30 days of the issuance of this Order that the utility has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer and pending receipt of the customer bill tariff page. Upon receipt of the statement and the customer bill tariff page, the docket shall be administratively closed.

By ORDER of the Florida Public Service Commission this 21st day of March, 2005.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

JSB

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 establishing rate base at the time of transfer and to not include an 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 11, 2005. 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.

SUNRISE UTILITIES, LLC

POLK COUNTY

Water Service Area

Township 28 South, Range 25 East, Section 21

Serving an area generally known as Sunrise Acres Subdivision, an unrecorded subdivision known as Pinewood, and an unrecorded mobile home village. More particularly described as:

From the Northwest corner of Section 21, also the Point of Beginning, run due East (along the South line of Section 16 and the North line of Section 21) for a distance of 2618.23 feet, more or less; thence, due South a distance of 1313 feet, more or less; thence due West a distance of 1455.20 feet, more or less; thence due South a distance of 235 feet, more or less; thence due West a distance of 405 feet, more or less; thence due South a distance of 1063 feet, more or less; thence due West a distance of 420.71 feet, more or less; thence due North a distance of 695 feet, more or less; thence due West a distance of 340 feet, more or less, to the West line of Section 21; thence due North a distance of 1922.35 feet, more or less, to the Point of Beginning.

SUNRISE UTILITIES, LLC
SCHEDULE OF WATER RATE BASE
AS OF FEBRUARY 10, 2004

DESCRIPTION	PRIOR RATE CASE BALANCE	COMM. ADJUSTMENTS		BALANCE PER COMM.
Utility Plant in Service	\$112,782	(\$14,099)	A	\$98,683
Land	553	0		553
Contributions in Aid of Construction (CIAC)	(12,393)	0		(12,393)
Accumulated Depreciation	(28,679)	(11,769)	B	(40,448)
Amortization of CIAC	<u>3,068</u>	<u>3,146</u>	C	<u>6,214</u>
WATER RATE BASE	<u>\$75,331</u>	<u>(\$22,722)</u>		<u>\$52,609</u>

SUNRISE UTILITIES, LLC
SCHEDULE OF WATER RATE BASE ADJUSTMENTS

EXPLANATION	COMMISSION APPROVED ADJUSTMENT
A Plant In Service	
1. To remove pro forma plant	(\$17,500)
2. To remove averaging adjustment	1,432
3. To record UPIS additions	\$24,289
4. To record UPIS retirements	(11,331)
5. To remove plant not transferred to buyer	<u>(10,989)</u>
Total UPIS adjustments	(\$14,099)
B Accumulated Depreciation	
1. To remove depreciation for pro forma plant	\$515
2. To remove averaging adjustment	(2,545)
3. To record depreciation since previous rate case	(17,208)
4. To remove depreciation for plant not transferred to buyer	<u>7,469</u>
Total Accumulated Depreciation adjustments	(\$11,769)
C Accumulated Amortization of CIAC	
1. To increase amortization since previous rate case	\$2,953
2. To remove averaging adjustment	<u>193</u>
Total Accumulated Amortization of CIAC	\$3,146
Total Adjustments	<u>(\$22,722)</u>

SUNRISE UTILITIES, LLC		SCHEDULE NO. 3	
COMM. APPROVED - FEBRUARY 10, 2004 BALANCE			
WATER		ACCUMULATED	
ACCT NO.	ACCOUNT NAME	PLANT BALANCE	DEPRECIATION BALANCE
301	Organization	\$750	\$81
304	Structures and Improvements	5,169	2,030
307	Wells & Springs	16,972	7,837
310	Power Generation	11,074	6,963
311	Pumping Equipment	14,551	2,608
320	Water Treatment Equipment	4,055	2,497
330	Distribution and Reservoirs	21,485	8,815
331	Transmission and Distribution Mains	12,393	4,704
334	Meter and Meter Installations	9,846	3,573
348	Other Tangible Plant	2,388	1,340
Total Water Plant		\$98,683	\$40,448

Sunrise Utilities, LLC
Water Monthly Service Rates
Residential and General Service

Meter Sizes:	Base Facility Charge
5/8" x 3/4"	\$ 10.10
3/4"	15.15
1"	25.25
1 1/2"	50.50
2"	80.80
3"	161.60
4"	252.50
6"	505.00

Residential Service Gallonage Charges

For each 1,000 gallons in each block	
0 – 5,000	\$1.64
5,000 – 10,000	2.46
Over 10,000	4.92

General Service Gallonage Charge

Charge Per 1,000 gallons	\$2.51
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Service Availability Charges

System Capacity Charge	\$450
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Miscellaneous Service Charges

Initial Connection	\$15
Normal Reconnection	15
Violation Reconnection	15
Premises Visit (in lieu of disconnection)	10
Late Payment Fee	5