

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer)	DOCKET NO. 900832-SU
of VIVA VILLAS SEWER SYSTEM to)	
HUDSON UTILITIES, INC.; cancellation))	ORDER NO. 24739
of Certificate No. 220-S; and)	
amendment of Certificate No. 104-S)	ISSUED: 7-1-91
in Pasco County)	
_____)	

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
GERALD L. GUNTER

APPEARANCES:

SCOTT KNOX, Esquire, 28870 U.S. Highway 19 North, Suite 230, Clearwater, Florida 34632
On behalf on Hudson Utilities, Inc.

NANCY BRENNAN, President, and ROBERT B. PIERCE, Vice President, Viva Villas Civic Association, Inc., 8535 Bella Via, Hudson, Florida 34667
On behalf of Viva Villas Civic Association

CATHERINE BEDELL, Esquire, Florida Public Service Commission, Division of Legal Services, 101 East Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff

MARTHA CARTER BROWN, Esquire, Florida Public Service Commission, Division of Appeals, 101 East Gaines Street, Tallahassee, Florida 32399-0863
Counsel to the Commissioners

ORDER DENYING TRANSFER
SUBJECT TO CERTAIN CONDITIONS

BY THE COMMISSION:

On October 15, 1990, Hudson Utilities, Inc. (Hudson or utility) filed its application to transfer the Viva Villas Sewer

DOCUMENT NUMBER-DATE

06559 JUL -1 1991

FSC-RECORDS/REPORTING

System (Viva Villas) from receivership to Hudson. At the Agenda Conference on February 19, 1991, the Commission, on its own motion, set this matter for hearing. An administrative hearing on the transfer application was held on April 22, 1991, in the service area. At the hearing, a majority of customers testifying favored transfer of Viva Villas to Pasco County. Although Pasco County has neither intervened in this proceeding nor objected to this transfer, it has expressed willingness to take over Viva Villas in the event this Commission denied the transfer application of Hudson.

We find it would be in the public interest to be guided by the expressed preference of the customers of Viva Villas to be served by Pasco County. However, we also find that Hudson should be compensated for the prudently incurred capital costs associated with the emergency interconnection and provision of service to Viva Villas. Therefore, we deny the transfer of Viva Villas to Hudson, subject to the following conditions: 1) that Pasco County agrees to accept the responsibility of operating the Viva Villas Sewer System; 2) that Viva Villas Sewer System is conveyed to Pasco County; 3) that Pasco County reimburses Hudson \$68,098.25 for capital costs, plus interest calculated as described below; and 4) that all of the conditions set forth above are finalized within 120 days from the date of this Order. It is to be noted that our decision herein does not reach the issue of Hudson's ability to operate Viva Villas.

During the pendency of this docket, by Order No. 23685, issued October 25, 1990, and as amended in Order 23685-A, issued November 13, 1990, Hudson was granted the authority to interconnect Viva Villas with the Pasco County Wastewater Treatment System and to collect interim rates and charges. Further, Hudson was required to escrow funds collected which were in excess of the gallonage fees charged by Pasco County. We recognize that Hudson has incurred capital and operating costs in interconnecting and operating Viva Villas, and that Hudson continues to incur operating expenses. The record supports a finding that Hudson has incurred capital costs in the amount of \$68,098.25 related to the interconnection of Viva Villas to Pasco County. The compounded interest for seven months on that amount, calculated pursuant to Rule 25-30.360(4)(a-c), Florida Administrative Code, is \$2,822.32. We will perform an audit to verify the figures.

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Therefore, we find that the appropriate amount of capital costs prudently expended, including interest as of May 31, 1991, is \$70,920.57. However, the total amount to be recovered by Hudson will be dictated by the actual date on which Pasco County assumes control of Viva Villas. Assuming 120 days elapse between the date of this Order and final takeover of Viva Villas by the County, the final amount could reach approximately \$72,700.

During the pendency of the transfer to Pasco County, Hudson shall continue to be authorized to serve Viva Villas and to collect rates and charges as provided in Order No. 23685, and Order No. 23685-A. At such time as the transfer to Pasco County is finalized, Hudson's operating expenses shall be reimbursed out of the escrow account to the extent that the escrowed amounts of rates and charges cover those expenses. The limited proceeding pending in this docket shall remain open pending final disposition of the transfer in order to address Hudson's reimbursement for operating expenses and the distribution of escrow funds.

Based on the foregoing, it is

ORDERED by Florida Public Service Commission that the application for transfer of Hudson Utilities, Inc. is denied subject to the following conditions: 1) that Pasco County agrees to accept the responsibility of operating the Viva Villas Sewer System; 2) that the Viva Villas Sewer System is conveyed to Pasco County; 3) that Pasco County reimburses Hudson Utilities, Inc. \$68,098.25 for capital costs, plus interest calculated as described herein; and 4) that all of the conditions set forth in the body of this Order are finalized within 120 days from the date of this Order.

It is further

ORDERED that the limited proceeding in this docket shall remain open pending final disposition of the transfer in order to address Hudson's reimbursement for operating expenses and the distribution of escrow funds. It is further

ORDERED that Hudson Utilities, Inc. shall be authorized to continue to serve Viva Villas Sewer System as provided in Orders Nos. 23685 and 23685-A until disposition of the system is complete.

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By ORDER of the Florida Public Service Commission, this 1st
day of July, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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.

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 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 sewer 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.