

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of)	DOCKET NO. 910672-WS
Certificates Nos. 426-W and 362-S from)	ORDER NO. 25584
Hideaway Service, Inc. to FIMC Hideaway,)	ISSUED: 1/8/92
Inc. in Levy County.)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTIONORDER ESTABLISHING RATE BASE FOR PURPOSES OF THE TRANSFER

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action taken herein is final except for the establishment of rate base, which 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 25-22.019, Florida Administrative Code.

Background

Hideaway Service, Inc. (Hideaway or utility) is a water and wastewater utility, which serves approximately 143 homesites in the Hideaway Mobile Home Subdivision. The subdivision is located west of Chiefland in Levy County, Florida. The utility has been in operation since 1984 and holds Certificates Nos. 426-W and 362-S.

On April 26, 1989, Hideaway applied for a staff-assisted rate case (SARC). However, in June of 1989, Florida Investors Mortgage Corporation (FIMC) informed the Commission that it was in the process of foreclosing on Hideaway and anticipated having title to the utility within a few months. Because of the impending foreclosure, Hideaway did not pay the filing fee for the SARC. The SARC docket was closed on July 27, 1989.

DOCUMENT NUMBER-DATE

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On December 13, 1990, the Commission received notice of FIMC's foreclosure on Hideaway. Immediately upon receipt of the notice, FIMC was sent information regarding transfer applications, and instructed to keep the Commission advised of its progress in finding a permanent buyer for the utility. On February 11, 1991, FIMC informed the Commission that it had found a buyer and that the transaction was expected to be completed by May, 1991. The sale did not take place.

FIMC does not want to be in the utility business; in order to keep the utility activities separated from the banking activities, FIMC formed FIMC Hideaway, Inc. (FIMC Hideaway) to operate the utility. On June 11, 1991, FIMC Hideaway filed an application with this Commission for approval of the transfer of Certificates Nos. 426-W and 362-S from Hideaway Service, Inc. to FIMC Hideaway. Also, On October 25, 1991, FIMC Hideaway applied for a SARC (Docket No. 911091-WS).

Section 367.071, Florida Statutes, requires a utility to get Commission approval prior to the transfer of its certificates or facilities. We will not initiate show cause proceedings since the transfer, in the instant docket, took place as a result of foreclosure.

Application

Except as previously discussed, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains a filing fee in the amount of \$300.00, as required by Rule 25-30.020, Florida Administrative Code.

In addition, FIMC provided evidence that the utility owns the land upon which its facilities are located, as required by Rule 25-30.037(1)(o), Florida Administrative Code. FIMC also provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to Hideaway's customers. No objections to the application have been received and the time for filing such has expired.

A certified plant operator, with over 10 years experience in water and wastewater utility operations has been hired to operate the Hideaway system. Also, FIMC has loaned FIMC Hideaway \$3,000 and has assured the Commission that it will continue to provide

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FIMC Hideaway with the funds necessary to provide quality service to the utility's customers.

The Department of Environmental Regulation (DER) has been contacted regarding any outstanding notices of violation against the utility. According to DER, the plant equipment has not been properly maintained, one of the wells has dried up, a second well is going dry, and the water is heavily contaminated with sulfate and corrosion. Although the level of sulfate and corrosion is high, DER has indicated that these problems are not life-threatening. FIMC Hideaway is redrilling one of the wells and making other improvements necessary to bring the water into compliance with DER requirements.

With regard to the wastewater system, the meter on one of the lift stations is not working, the percolation ponds are overgrown with weeds, the percolation ponds need recharging, the utility is not properly fenced, and the DER permit for the wastewater system has expired. FIMC Hideaway has submitted an application for renewal of the permit. Further, FIMC Hideaway is in the process of obtaining bids for the work necessary to bring the system into compliance. These problems will be addressed further in the SARC docket (Docket No. 911091-WS).

Based on the foregoing, we find that the transfer of Certificates 426-W and 362-S from Hideaway to FIMC Hideaway is in the public interest, and it is approved. The Certificates have been returned to the Commission for entry reflecting the change in ownership. The territory served by Hideaway is shown on Attachment A of this Order, which by reference is incorporated herein.

Rate Base

According to FIMC Hideaway, the net book value of the system being transferred, as of the date of transfer, is \$89,986. Since the Commission has never established rate base for this utility, an audit of the books and records has been conducted to determine rate base at the time of transfer.

The utility recorded \$61,392 and \$61,392 on its books as utility plant-in-service (UPIS) for water and wastewater, respectively. As stated previously, Hideaway applied for a SARC in 1989. The original cost study, done at that time, has been used in this docket because the utility failed to separate the utility transactions from the non-utility transactions. The utility also

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failed to record the water and wastewater plant assets separately or record plant additions or retirements on the books. The cost study has been updated to reflect plant additions and retirements since 1989. UPIS is, therefore, \$96,341 for water and \$110,094 for wastewater.

According to the utility, the value of the land for the water and wastewater systems is \$10,000. The original cost study indicates that the value of the land is \$3,858 for water and \$4,961 for wastewater. The value of the land has been adjusted accordingly.

The utility used an accelerated tax depreciation method for calculating depreciation. We have recalculated accumulated depreciation at a 2.5 percent composite depreciation rate. As a result, accumulated depreciation is \$23,996 and \$40,636 for water and wastewater, respectively.

Customers are responsible for tap-ins to the utility's water and wastewater systems. A review of the accounting and tax return records of the utility and the related developer do not indicate that contributions-in-aid-of-construction (CIAC) were collected; therefore, CIAC is \$0 for the water system.

The utility expensed a \$172 plant addition (Chemtech Pump) associated with the wastewater plant on its 1989 Income Tax Return. Therefore, CIAC is \$172 for the wastewater system. This is in accordance with Rule 25-30.570, Florida Administrative Code, which provides that CIAC will be imputed for assets expensed for tax purposes.

CIAC amortization for the wastewater system has been adjusted to reflect the amortization associated with the CIAC adjustment. CIAC amortization, calculated using a 2.5 percent composite rate, is \$7 for the wastewater system.

Based on the adjustments, we find the appropriate rate base to be \$76,203 for the water system and \$74,254 for the wastewater system. Our calculation of rate base is shown on Schedules Nos. 1 and 2, with adjustments shown on Schedule No. 3.

The rate base calculation is used purely to establish the net book value of the property being transferred, and does not include the normal ratemaking adjustments to working capital and used and useful calculations.

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Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the original cost calculation. As mentioned previously, Hideaway was acquired through foreclosure. At the time of foreclosure, there was an outstanding mortgage in the amount of \$85,794, which includes the utility and a recreation building. Approximately \$60,794 relates to the utility, based on the utility's calculation.

According to our calculation, rate base for Hideaway is \$150,457. Since the purchase price (outstanding mortgage) is \$60,794, there is a negative acquisition adjustment of \$89,663.

The previous owner did not maintain the books and records of the utility in accordance with the 1984 NARUC Uniform Systems of Accounts. Also, as stated previously, the utility did not separate the utility related activities from the developer related activities, record the water and wastewater plant assets separately, or record plant additions and retirements. Therefore, it appears that the purchase price is deflated and does not reflect the value of rate base.

Further, since the previous owner did not properly maintain the utility, FIMC Hideaway has already spent and will have to spend a considerable amount of money to bring the water and wastewater systems into compliance with DER requirements.

In the absence of extraordinary circumstances, it is Commission policy that the purchase of a utility at a premium or discount shall not affect the rate base calculation. The circumstances in this transfer do not appear to be extraordinary; therefore, a negative acquisition adjustment has not been included in the calculation of rate base.

Rates and Charges

Rule 25-9.044(1), Florida Administrative Code, states that the new owner of a utility must adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission. FIMC Hideaway has not requested to change the rates and charges approved in Hideaway's tariffs and we see no reason to change this at this time. It should be noted that Hideaway has no miscellaneous or service availability charges approved in its tariff and none are approved herein.

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FIMC Hideaway shall continue to charge the rates and charges approved for Hideaway until authorized to change by this Commission. FIMC Hideaway has filed revised tariff sheets reflecting the change in ownership.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificates Nos. 426-W and 362-S from Hideaway Services, Inc., Post Office Box 455, Chiefland, Florida 32626, to FIMC Hideaway, Inc., Post Office Box 639, Gainesville, Florida 32602, is hereby approved. It is further

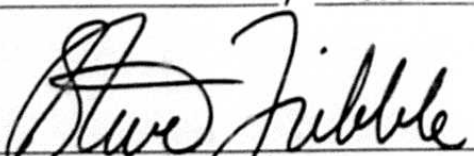
ORDERED that rate base, which reflects the net book value of the utility as of the date of the transfer, is \$76,203 for the water system and \$74,254 for the wastewater system. It is further

ORDERED that FIMC Hideaway, Inc. shall continue to charge the rates and charges approved in Hideaway Services, Inc.'s tariff until authorized to change by the Commission. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings attached hereto. It is further

ORDERED that this Docket shall be closed upon expiration of the protest period, if no protest is received.

By ORDER of the Florida Public Service Commission, this 8th day of JANUARY, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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Commissioner Deason dissents, in part, as follows:

I respectfully dissent only from that part of the Commission's decision to set rate base without regard to the negative acquisition adjustment that resulted in the foreclosure sale. The Commission found that no negative acquisition adjustment should be recognized because of the lack of "extraordinary circumstances." However, I believe that this case does involve extraordinary circumstances.

The most important extraordinary circumstance is that the original owner apparently failed to maintain the system. According to the Commission Staff, a considerable amount of money has been and will have to be spent to bring the system into compliance with DER requirements. Conceivably, the customers could end up paying twice for service. Additionally, this case does not involve the situation where the lack of an incentive could be considered a detriment to the transfer. Here the transfer occurred at a public foreclosure sale and without regard to any Public Service Commission initiated incentive. In all likelihood, the Commission's acquisition adjustment policy was wholly unknown to the parties to the transaction.

I also believe that this case should be viewed differently because it involves the initial establishment of rate base. The Commission's choice is between an engineering cost study and a purchase made pursuant to bid. I believe that the purchase at a foreclosure sale is a superior method of valuation -- at least in the initial establishment of the rate base. I would also note that the trustee remarked at the Agenda conference that there may have been some irregularities in the original mortgage transaction. This gives me some comfort that the subsequent arm's-length market valuation at a noticed foreclosure sale is a better maximum indicator of rate base.

I would also like to state that I do not find any fault with the study conducted by the Commission Staff in this case. It is my opinion that the circumstances of this case simply call for a different, market-based valuation.

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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.

As identified in the body of this order, our action establishing rate base, for purposes of this transfer, is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 1/29/92. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.

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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.

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ATTACHMENT A

Hideaway Service, Inc.

Territory Description

The following described lands located in portions of Section 25, Township 11 South, Range 13 East, Levy County, Florida:

Section 25

The Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 25.

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SCHEDULE NO.1Hideaway Service, Inc.SCHEDULE OF WATER RATE BASE

As of March 7, 1991

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$ 61,392	\$34,949 (1)	\$ 96,341
Land	5,000	(1,142) (2)	3,858
Accumulated Depreciation	(57,902)	33,906 (3)	(23,996)
Contributions-in- aid-of-Construction	0	0	0
CIAC Amortization	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	<u>\$ 8,490</u>	<u>\$67,713</u>	<u>\$ 76,203</u>

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SCHEDULE NO. 2Hideaway Service, Inc.SCHEDULE OF WASTEWATER RATE BASEAs of March 7, 1991

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$ 61,392	\$48,702 (1)	\$110,094
Land	5,000	(39) (2)	4,961
Accumulated Depreciation	(58,928)	18,292 (3)	(40,636)
Contributions-in- aid-of-Construction	0	(172) (4)	(172)
CIAC Amortization	<u>0</u>	<u>7</u> (5)	<u>7</u>
 TOTAL	 <u>\$ 7,464</u>	 <u>\$66,790</u>	 <u>\$ 74,254</u>

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SCHEDULE NO. 3Hideaway Service, Inc.SCHEDULE OF RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>	
	<u>Water</u>	<u>Wastewater</u>
Utility Plant in Service To reflect plant values established by original cost study	<u>\$34,949</u>	<u>\$48,702</u>
Land To reflect land values established by original cost study	<u>\$(1,142)</u>	<u>\$ (39)</u>
Accumulated Depreciation Depreciation recalculated at 2.5% composite depreciation rate	<u>\$33,906</u>	<u>\$18,292</u>
Contributions-in-aid- of-Construction To reflect a pump that was expensed instead of capitalized	<u>\$ 0</u>	<u>\$ (172)</u>
CIAC Amortization To reflect amortization related to CIAC adjustment	<u>\$ 0</u>	<u>\$ 7</u>