

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a) DOCKET NO. 900967-SU
staff-assisted rate case in) ORDER NO. PSC-92-G192-FOF-SU
Citrus County for the) ISSUED: 04/13/92
RIVERHAVEN SYSTEM OF)
HOMOSASSA UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Homosassa Utilities, Inc., Riverhaven System, (HUI or utility) is a class "C" wastewater utility whose service area is located near the city of Homosassa in Citrus County, Florida. On December 7, 1990, HUI applied for the instant staff-assisted rate case and paid the appropriate filing fee. Pursuant to Section 367.0814, Florida Statutes, February 7, 1991, was established as the official date of filing. The test year for setting rates was the twelve-month period which ended December 31, 1990.

By proposed agency action (PAA) Order No. 24937, issued August 20, 1991, this Commission proposed allowing HUI to collect rates designed to produce \$112,951 in annual wastewater revenues, an increase of \$23,646 (26.5%). The provisions of the PAA Order became final and effective when no timely protest was filed.

In Order No. 24937, we included in rate base \$161,855 in proforma plant items, including a sand filter, improvements to the lift stations, and improvements to the percolation ponds. We ordered that the portion of the approved rates attributable to the proforma plant were to be held subject to refund with interest in accordance with Rule 25-30.360, Florida Administrative Code. In addition, we ordered HUI to adhere to the September 1, 1991, deadline which the Florida Department of Environmental Regulation (DER) established for HUI to reobtain its operating permit and also ordered HUI to submit, by February 20, 1992, a comprehensive study of the existing facility's available connection capacity and plans for plant expansion if expansion was required.

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For HUI to reobtain its operating permit, DER required HUI to install a sand filter and to make improvements to the percolation ponds, the costs of which we allowed in rate base. HUI submitted an application for an operating permit to DER, but DER denied the application. Since HUI elected to litigate DER's decision, any DER application deadlines are, in effect, suspended. As of the date of our vote in this matter, March 24, 1992, HUI had completed the percolation pond improvements, but it had not installed the sand filter or completed the improvements to its lift stations. Apparently, HUI is disputing the need for the sand filter as part of its protest of DER's permit denial. HUI also failed to submit the capacity study we required by Order No. 24937.

By letter dated December 12, 1991, HUI stated that it had installed gauges to help it determine capacity, but it did not specify the type of gauges. In its letter HUI also stated that it was having difficulty obtaining financing for the necessary plant improvements. Its current financial situation, HUI claimed, was due in part to this Commission's sanctioning rates lower than what HUI required and to a five-month delay in the implementation of the approved rates. We need not address the former complaint, but with regard to the latter, we note that although the Order setting rates was issued August 20, 1991, HUI did not submit the required security until November; thus, the tariff sheets were not approved until December 3, 1991.

In consideration of the above, we hereby order HUI to show cause why it should not be fined up to \$5,000 a day for violating Order No. 24937. We may, at a later date, initiate proceedings to reduce HUI's revenues by that portion attributable to the uncompleted proforma plant.

It is, therefore,

ORDERED by the Florida Public Service Commission that Homosassa Utilities, Inc., shall show cause in writing why it should not be fined up to \$5,000 a day for violating Order No. 24937. It is further

ORDERED that Homosassa Utilities, Inc.'s written response to this Order must be received as set forth in the Notice below. It is further

ORDERED that Homosassa Utilities, Inc.'s response to this Order must contain specific allegations of fact and law. It is further

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ORDERED that Homosassa Utilities, Inc.'s opportunity to file a written response to this Order shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission. It is further

ORDERED that a failure to file a timely response to this Order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event that Homosassa Utilities, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

By ORDER of the Florida Public Service Commission, this 13th day of April, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

This order is preliminary, procedural or intermediate in nature. 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 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be

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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 May 4, 1992.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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.