

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Seven Rivers Utilities, Inc. for a Water Certificate in Citrus County, Florida.)	DOCKET NO. 920933-WU
)	ORDER NO. PSC-93-0877-AS-WU
)	ISSUED: June 10, 1993
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)	

The following Commissioners participated in the disposition of this matter:

- J. TERRY DEASON, Chairman
- THOMAS M. BEARD
- SUSAN F. CLARK
- JULIA L. JOHNSON
- LUIS J. LAUREDO

ORDER GRANTING CERTIFICATE AND ACCEPTING SETTLEMENT OFFER

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the establishment of rates and charges discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On September 15, 1992, Seven Rivers Utilities, Inc. (Seven Rivers or utility) filed an application with this Commission for a water certificate in Citrus County. Seven Rivers was incorporated on March 13, 1992. The utility is made up of three small systems (Homosassa Villa Terrace Unit 11, Kenwood North and Meadow Street). The stockholders of Seven Rivers are Terence O. Sullivan, June McFarland and John H. Hotaling.

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PPSC-RECORDS/REPORTING

Seven Rivers provides water service to approximately 147 connections. The utility has a potential customer base of 229; however, some of the existing lots are served by private wells. Sewer service is provided by septic tanks. Seven Rivers is located in the Southwest Florida Water Management District, which is not a critical use area. The systems which make up Seven Rivers are comprised of Homosassa Villa Terrace Unit 11 water treatment system, Homosassa Villa Terrace Unit 11 water distribution system, Kenwood North water treatment system, Kenwood North water distribution system, Meadow Street water treatment system, and Meadow Street water distribution system.

The Kenwood North system was previously owned by Ms. McFarland, and Mr. Sullivan owned the Meadow Street system. Mr. Sullivan is the majority shareholder of Homosassa Utilities, Inc., which owned the Villa Terrace Unit II system. U.S.A. Utilities Unit 2, Inc. (formerly Homosassa Utilities, Inc.) is jointly owned by Mr. Sullivan and Mr. Hotaling. In addition, Messrs. Sullivan and Hotaling each own fifty percent of U.S.A. Utilities, Inc., which is the contract operator of the three systems. When the systems were purchased, the previous owners advised the buyers that the systems were not jurisdictional.

The Commission became aware of the existence of the systems on May 29, 1991, after a customer complained about a rate increase for the Kenwood North system. At that time, the new owners were advised that the systems are jurisdictional and that they needed to file applications for original certificates. Upon learning that the systems are jurisdictional, the owners of the systems formed Seven Rivers. As stated previously, Seven Rivers filed its application for an original certificate on September 15, 1992. The application, as filed, was deficient; all deficiencies were corrected on May 4, 1993.

Application

Except as discussed previously, the application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains a filing fee in the amount of \$150, as prescribed by Rule 25-30.020, Florida Administrative Code.

Seven Rivers also provided evidence in the form of warranty deeds that it owns the land upon which the Homosassa Villa Terrace Unit 11 and Meadow Street systems are located. The utility also

provided a quit claim deed with title insurance as evidence that it owns the land upon which the Kenwood North system is located, as required by Rule 25-30.033(1)(j), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.033(1)(l), (m) and (n), Florida Administrative Code. The territory requested by Seven Rivers is described on Attachment A of this Order, which by reference is incorporated herein.

Seven Rivers also provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the existing customers. No protests to the application have been received and the time for filing such has expired.

It appears that Seven Rivers has the technical ability to continue to provide adequate service to the customers in the requested service area. Mr. Hotaling, one-third stockholder of Seven Rivers, is a registered professional engineer who has specialized in water and wastewater studies and design since 1963. Mr. Sullivan, who is a one-third stockholder, directs the billing, collection, account inquiry and action for another utility with a customer base of 9,000. Mr. Sullivan and Mr. Hotaling each own fifty percent of U.S.A. Utilities, Inc., which is the contract operator of the three systems which comprise Seven Rivers. It should also be noted that, according to the Department of Environmental Regulation, there are no outstanding violations against Seven Rivers.

Also, from information provided with the application, it appears that Seven Rivers has the financial ability to provide adequate service in the territory requested. Although the owners did not provide personal guarantees, we believe by their actions in funding improvements and emergency repairs to the systems, they have demonstrated their commitment to continue to finance the utility.

Accordingly, we find that it is in the public interest to grant Seven Rivers Certificate No. 551-W to provide water service to the territory described in Attachment A of this Order.

Rates and Charges

The rates and charges currently in effect for Seven Rivers are set forth below. We find these rates to be reasonable and they are, therefore, approved. The rates and charges are as follows:

Residential Water Rates

First 5,000 Gallons (Minimum)	\$ 10.74
Per 1,000 Gallons Over 5,000 Gallons	\$.79

Miscellaneous Service Charges

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

Plant Capacity (350 GPD*)	\$150.00
Main Extension Charge	\$150.00
Service Line Extension and Tap	\$100.00
Meter Installation Charge	\$100.00

*Gallons Per Day

The rates and charges approved herein have been in effect for the utility since September 1992. The rates were also charged to the customers of the individual systems when they were owned separately except for a one and one-half year period when a rate increase was implemented. Subsequent to implementation of the increase, it was withdrawn.

The miscellaneous service charges set forth herein are consistent with the Staff Advisory Bulletin No. 13, Second Revised. Also, customer deposits requested by the utility are consistent with the provisions of Rule 25-30.311, Florida Administrative Code, and they are approved.

According to the application, in the past the systems had no formal service availability policy. They collected \$500 from each customer at the time of connection. The \$500 service availability

charge included meters in the Kenwood North and Villa Terrace Unit 11 systems. The same service availability charges were assessed to the Meadow Drive system, which was previously unmetered. The \$500 service availability charge has been broken down as set forth above.

Seven Rivers shall submit a tariff reflecting the rates and charges approved herein. The rates and charges shall become effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

Refund

In April 1991, a rate increase was implemented for each of the three separate systems. The base or minimum charge for residential service was increased from \$10.74 to \$11.25. The gallonage charge was increased from \$.79 to \$1.74 for usage over 5,000 gallons. In September 1992, after Seven Rivers was incorporated, the rates were reduced back to the April 1991 level.

Seven Rivers refunded the monies collected as a result of the increase in rates for the period from March 1992 to September 1992. The refund was accomplished through a credit to the customers' bills. Since the stockholders of Seven Rivers were also the owners of the three systems prior to the utility's incorporation, we find it appropriate for the utility to refund the increase collected, but not refunded, for the period from April 1991 through February 1992. By letter from Seven Rivers' attorney dated May 14, 1993, Seven Rivers has agreed to refund all monies collected as a result of the increase. Seven Rivers shall refund all of the money collected as a result of the increase since implementation of the increase in April 1991, pursuant to Rule 25-30.360, Florida Administrative Code. However, although the Rule requires refunds within 90 days, we find it appropriate to allow Seven Rivers to make the refund within six months of the date of this Order through credits to customers' bills.

Regulatory Assessment Fees and Annual Reports

As discussed previously, the Commission became aware of the three systems which comprise Seven Rivers in May of 1991. At that time the owners of the systems were advised that the systems were jurisdictional. Therefore, we find it appropriate to require Seven Rivers to pay regulatory assessment fees for 1991 and to file an annual report for 1991. Seven Rivers has filed the 1992 annual

report and has paid the regulatory assessment fees for 1992. The utility shall file its 1991 annual report within 45 days of the date of this Order.

Seven Rivers shall submit a schedule for payment of its 1991 regulatory assessment fees. The Schedule shall provide for the payment of the regulatory assessment fees within six months of the date of this Order. Seven Rivers shall submit the schedule outlining the method of payment within 20 days of this date of this Order.

Show Cause

We have considered whether Seven Rivers should be ordered to show cause why it should not be fined \$1,000 for violation of Section 367.031, Florida Statutes, for operating a utility without a certificate. In a letter from its attorney dated May 14, 1993, Seven Rivers proposed an offer of settlement to avoid a show cause proceeding. The utility's offer included payment of a \$500 fine, refund of monies collected as a result of the increase implemented in April 1991, and payment of 1991 regulatory assessment fees. We find it appropriate to accept the offer. Seven Rivers shall pay the \$500 fine, make the refund, and pay regulatory assessments fees within six months of the date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Seven Rivers Utilities, Inc., 6608 Walton Way, Tampa, Florida 33610, is hereby granted Certificate No. 551-W to serve the territory described in Attachment A of this Order. It is further

ORDERED that Seven Rivers Utilities, Inc. shall charge the rates and charges approved in the body of this Order until authorized to change by the Commission. It is further

ORDERED that Seven Rivers Utilities, Inc. shall file a tariff reflecting the rates and charges approved in the body of this Order. The rates and charges shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Seven Rivers Utilities, Inc. shall refund all of the money collected as a result of the increase since implementation of the increase in April 1991. The refund shall be

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made pursuant to the provisions of Rule 25-30.360, Florida Administrative Code, and shall be accomplished within six months of the date of this Order. It is further

ORDERED that Seven Rivers Utilities, Inc. shall file a schedule for payment of the regulatory assessment fees for 1991 within 20 days of the date of this Order. The Schedule shall provide for the payment of the regulatory assessment fees within six months of the date of this Order. The six month period shall be from June 6, 1993 through December 7, 1993. It is further

ORDERED that Seven Rivers Utilities, Inc. shall file an annual report for 1991 within 45 days of the date of this Order. It is further

ORDERED that Seven Rivers Utilities, Inc. shall pay a \$500 fine for operating a utility without a certificate. The fine shall be paid within six months of the date of this Order. It is further

ORDERED that the provisions of this Order establishing rates and charges are proposed agency action and 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 this office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that this docket shall be closed if no timely protest is received from a substantially affected person.

By ORDER of the Florida Public Service Commission this 10th day of June, 1993.



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.

As identified in the body of this order, our action establishing rates and charges 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 July 1, 1993. In the absence of such a petition his 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 wastewater 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 wastewater 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.

Seven Rivers Utilities, Inc.
Territory Description

HOMOSASSA VILLA TERRACE UNIT 11 WATER SYSTEM is situated in the Northeast 1/4 of Section 24, Township 19 South, Range 17 East; Citrus County, Florida, being a recorded subdivision - Sub. 0110, Pb. 1, Pg. 52, further shown on the County Aerial No. 72D, County Map 218A and further being described as follows:

Beginning at a point of commencement - the Northeast corner of Section 24 and running due West along the North line of Section 24, 1373.08 feet to the Point of Beginning. From the Point of Beginning, going due South along the center line of Country Club Place a distance of 405.00 feet to a point. Thence going due East along the center line of Grant Drive 283.51 feet to a point of curvature. Thence along the curve having a radius of 2315.10 feet, an arc of 232.74 feet, a chord of 230.78 feet and a chord bearing of North 87°08'00" East to a point. Thence going due South along the center line of Citrus Avenue 611.50 feet to a point of curvature. Thence along the curve having a radius of 470.00 feet, an arc of 738.27 feet, a chord of 666.26 feet and a chord bearing of South 45°00'00" West to a point. Thence going due North a distance of 10 feet to a point. Thence going due West a distance of 170.00 feet to a point. Thence going due North along the center line of Country Club Place a distance of 390.00 feet to a point. Thence going due West along the Center line of Pershing Avenue a distance of 983.35 feet to a point on the center line of Rosedale Avenue and also a point of curvature. Thence along the curve have a radius of 1378.24 feet, an arch of 225.99 feet, a chord of 225.66 feet and a chord bearing of North 04°24'35" East to a point. Thence continuing due North along the center line of Rosedale Avenue a distance of 850.00 feet to a point on the North Section line of Section 24. Thence going due East along the North Section line, a distance of 1090.00 feet to the Point of Beginning.

KENWOOD NORTH WATER SYSTEM is situated in the West 1/2 of the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 19 South, Range 17 East; Citrus County, Florida, being an unrecorded subdivision 1D000, further shown on the County Aerial No. 73A, County Map 219A and being further described as follows:

From a Point of Beginning - Being the Southwest corner of the Northwest 1/4 of Section 25, Township 19 South, Range 17 East, North 00°25'47" West 1288.98 feet to a point on the South right-of-way of Grover Cleveland Boulevard. Thence along the South right-of-way - South 89°58'00" East, 666.04 feet to a point. Thence leaving the South right-of-way South 00°18'48" East, 1292.47 feet to a point. Thence North 89°39'48" West, 663.43 feet to the Point of Beginning.

MEADOW STREET WATER SYSTEM is situated within Green Acres Pb. 5, Pg. 4, Sub. 0200 within the Southeast 1/4 of Section 36, Township 19 South, Range 17 East and within Green Acres Subdivision No. 1, Sub. 0210 Pb. 5, Pg. 5, within the North 1/2 of the Southwest 1/4 in Section 31, Township 19 South, Range 18 East; Citrus County, Florida, and further shown on the County Aerial 86C, County Map 375C, being further described as follows:

From a point of commencement being the Southeast corner of Section 36, Township 19 South, Range 17 East North a distance of 1966.84 feet to the Point of Beginning on the North right-of-way of Meadow Street. Thence South 89°44'44" West, 332.02 feet to a point. Thence leaving the right-of-way North 00°04'49" East, 623.43 feet to a point. Thence South 89°29'56" East, 331.09 feet to a point. Thence South 00°05'32" East, 622.00 feet to the Point of Beginning. Further being the East 1/2 of Lot 22 within Section 36, Township 19 South, Range 17 East.

Also the following within Section 31, Township 19 South, Range 18 East.

Beginning at the point of commencement being the Southwest corner of Section 31, North 1294.56 feet to the Point of Beginning: Thence North 00°13'45" East, 622.28 feet to a point on the South right-of-way of Meadow Street. Thence North 88°49'19" East, 336.54 feet to a point on the right-of-way. Thence leaving the right-of-way South 00°14'28" West, 624.90 feet to a point. Thence 89°15'59" West, 336.37 feet to the Point of Beginning, being Lot 40.

Beginning at a point of commencement being the Southwest corner of Section 31, North 1966.84 feet to a point on the North right-of-way of Meadow Street. Thence along the right-of-way North 88°49'19" East, 336.55 feet to the Point of Beginning on the West Property

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ATTACHMENT A
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Line of Lot 42. Thence North $00^{\circ}14'28''$ East 624.90 feet to a point. Thence along the North Property line of Lots 42 and 43, North $88^{\circ}22'40''$ East, 673.54 feet to a point on the Northeast corner of Lot 43. Thence South $00^{\circ}15'54''$ West, 630.13 feet to a point on the North right-of-way of Meadow Street. Thence along the North right-of-way, South $88^{\circ}49'19''$ West, 673.10 feet to the Point of Beginning, being Lots 42 and 43.

Beginning at a point of commencement, being the Southwest corner of Section 31, North 1966.84 feet to a point on the North right-of-way of Meadow Street. Thence along the North right-of-way, North $88^{\circ}49'19''$ East, 1346.20 feet to the Point of Beginning on the West Property Line of Lot 45. Thence North $00^{\circ}16'37''$ East, 632.74 feet to the Northwest corner of Lot 45. Thence along the North Property Line of Lots 46 and 46, North $88^{\circ}22'40''$ East, 673.56 feet to the Northeast corner of Lot 46. Thence South $00^{\circ}18'02''$ West, 637.96 feet to a point on the North right-of-way of Meadow Street. Thence along the North right-of-way South $88^{\circ}49'19''$ West, 473.10 feet to the Point of Beginning, being Lots 45 and 46.