

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application For Transfer) DOCKET NO. 930570-WS
of Certificates Nos. 414-W and) ORDER NO. PSC-93-1448-FOF-WS
347-S From Lake Placid Utilities) ISSUED: October 4, 1993
to Lake Placid Utilities, Inc.)
_____)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER APPROVING TRANSFER

BY THE COMMISSION:

Background

On June 8, 1993, this Commission received an application seeking approval of the transfer of Certificates Nos. 414-W and 347-S and water and wastewater facilities from Lake Placid Utilities (Lake Placid or utility) to Lake Placid Utilities, Inc. (LPUI). The utility provides service to approximately 140 water and 182 wastewater customers in Highlands County. LPUI is a wholly-owned subsidiary of Utilities, Inc.

On June 10, 1993, LPUI filed a Motion for Extension of Time for Mailing Notice to Customers Under Rule 25-30.030(6), Florida Administrative Code. In its Motion, LPUI stated that the purchase and sale of the utility assets is subject to the approval of the Bankruptcy Court in the Southern District of Florida. LPUI requested that it be allowed to delay notice to the utility's customers until the Court made a decision on the sale.

By Order No. PSC-93-1068-FOF-WS, issued July 22, 1993, this Commission granted LPUI's Motion and extended the time for noticing the customers until July 26, 1993. On July 21, 1993, the United States Bankruptcy Court, Southern District of Florida, entered its Order approving the sale of Lake Placid to LPUI. According to the affidavit filed by LPUI, notice of the transfer was provided to the customers of Lake Placid on July 22, 1993.

As stated previously, LPUI is purchasing Lake Placid because the utility has been in bankruptcy. Closing on the sale has not

DOCKETED AT 10:58 OCT 4 1993

1058 OCT-4 1993

yet occurred since Section 367.171, Florida Statutes, precludes an entity from selling, assigning or transferring its certificate, facilities or portion thereof without prior Commission approval.

Application

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, as prescribed by Rule 25-30.020, Florida Administrative Code.

LPUI provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system being transferred. No objections to the notice of application have been received and the time for filing such has expired.

Rule 25-30.037(1)(o), Florida Administrative Code, requires a utility to provide evidence that it owns the land upon which its facilities are located or an agreement which provides for long-term use of the land, e.g. a 99-year lease. LPUI has provided an unexecuted copy of a Trustee's Quit-Claim Deed which will be executed upon closing of the sale. Since a quit-claim deed is not sufficient to prove land ownership, we find it appropriate to require LPUI to provide a recorded copy of the executed quit-claim deed with title insurance or a recorded warranty deed as proof that it owns the land upon which its facilities are located.

LPUI provided a copy of the contract for sale which set forth the purchase price, terms of payment and a list of assets purchased and liabilities assumed. According to the information provided, the purchase is a cash transaction; there are no entities which will provide funding to LPUI in connection with the transfer.

As mentioned previously, LPUI is a wholly-owned subsidiary of Utilities, Inc., which currently operates five certificated utilities within the State of Florida. In addition, Utilities, Inc. has 26 years of experience operating utilities of this nature, and will provide certified operators, management and financial resources to LPUI. Therefore, it appears that LPUI has the technical and financial ability to operate the utility. Also, according to the Department of Environmental Protection, there are no outstanding notices of violation against the utility.

Based on the foregoing, we find that it is in the public interest to approve the transfer of Certificates Nos. 414-W and 347-S from Lake Placid to LPUI. The territory being transferred is described on Attachment A of this Order, which by reference is incorporated herein. LPUI is directed to return Certificates Nos. 414-W and 347-S to the Commission for entry reflecting change of ownership. LPUI has filed tariff sheets reflecting the change of ownership.

In addition, LPUI shall file a copy of the recorded quit-claim deed with title insurance or a recorded warranty deed in the name of Lake Placid Utilities, Inc. as proof that it owns the land upon which its facilities are located. Proof of land ownership shall be filed with the Commission within 90 days of the date of closing of the sale.

Rates and Charges

Lake Placid's current rates and charges became effective on September 6, 1983, pursuant to Order No. 12447, issued in Docket No. 830141-WS. The rates for residential service include a \$6.00 flat monthly rate for water service and a \$6.00 flat monthly rate for wastewater service. The rates for general service include a \$180 flat monthly rate for water service and a \$180 flat monthly rate for wastewater service.

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission. LPUI has not requested to change the rates and we see no reason to change them at this time. LPUI shall continue to charge these rates until authorized to change by the Commission.

LPUI has requested miscellaneous service charges which are consistent with Staff Advisory Bulletin No. 13, 2nd Revised. These charges are as follows:

| <u>Type of Service</u> | <u>Water</u> | <u>Wastewater</u> |
|---|--------------|-------------------|
| Initial Connection | \$ 15.00 | \$ 15.00 |
| Normal Reconnection | \$ 15.00 | \$ 15.00 |
| Violation Reconnection | \$ 15.00 | Actual Cost |
| Premises Visit (in lieu of disconnection) | \$ 10.00 | \$ 10.00 |

When both water and wastewater service is provided, a single charge is appropriate unless circumstances beyond the utility's control require multiple actions.

LPUI has also requested to collect a customer deposit of \$12.00 each for water and wastewater. The amount of the deposit requested is based on two months of service. We find the amount of the deposit requested to be reasonable and it is approved.

LPUI shall charge the rates and charges approved herein until authorized to change by the Commission in a subsequent proceeding.

Rate Base

This Order only addresses the transfer of the Certificates from Lake Placid to LPUI and rates and charges. It does not address rate base. The Docket shall remain open for determination of the appropriate rate base at a later date.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificates Nos. 414-W and 347-S from Lake Placid Utilities, 2344 North Federal Highway, Hollywood, Florida 33020, to Lake Placid Utilities, Inc., c/o Utilities, Inc., 200 Weathersfield Avenue, Altamonte Springs, Florida 32714, is hereby approved. Lake Placid Utilities, Inc. shall return the Certificates to this Commission within 30 days of the date of this Order for entry reflecting the change in ownership. It is further

ORDERED that Lake Placid Utilities, Inc. shall provide a recorded copy of the executed quit-claim deed with title insurance or a recorded warranty deed as proof that it owns the land upon which its facilities are located. Such proof shall be provided within 90 days of the date of the closing of the sale. It is further

ORDERED that Lake Placid Utilities, Inc. shall charge the rates and charges approved in the body of this Order until authorized to change by the Commission in a subsequent proceeding. It is further

ORDERED that Docket No. 930570-WS shall remain open for determination of rate base.

ORDER NO. PSC-93-1448-FOF-WS
DOCKET NO. 930570-WS
PAGE 5

By ORDER of the Florida Public Service Commission this 4th day
of October, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

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ALC

by: Kay Higney
Chief, Bureau of Records

ORDER NO. PSC-93-1448-FOF-WS
DOCKET NO. 930570-WS
PAGE 6

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

LAKE PLACID UTILITIES, INC.

Territory Description

The following described lands located in portions of Sections 20, 21, 28, Township 37 South, Range 30 East, Highlands County, Florida:

Section 28

Beginning at the Southeast corner of the Northwest 1/4, thence South 89°48'35" West a distance of 2,640 feet to the East boundary of said Section 28, thence South 00°04'03" East a distance of 900 feet, thence North 89°44'59" West a distance of 4,000 feet, more or less, to the East right-of-way of U.S. Highway 27, thence following said right-of-way in a Northwesterly direction 3,700 feet, more or less, to the Northern boundary of said Section 28, thence following said Northern boundary in a Westerly direction 2,325 feet, more or less, to the Point of Beginning.

Section 20

That portion of the South 800 feet of said Section 20 lying East of U.S. Highway 27.

Section 21

That portion of the West 1,700 feet of the South 750 feet of said Section 21 lying South, East and West of Lake Grassy.