

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930197-SU
certificate to provide) ORDER NO. PSC-94-0805-FOF-SU
wastewater service in Putnam) ISSUED: June 29, 1994
County by WEBER INVESTMENT)
CORPORATION.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING APPLICATION FOR WASTEWATER CERTIFICATE
AND REQUIRING PAYMENT OF REGULATORY ASSESSMENT FEES AND
FILING OF ANNUAL REPORT

AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein 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 25-22.029, Florida Administrative Code.

BACKGROUND

Weber Investment Corporation (Weber or utility) is a Class C utility which provides wastewater service to approximately 58 mobile homes within the Port Buena Vista Subdivision. Although the utility was constructed in 1969, and the present owner has been operating the utility since 1972, this Commission did not learn of the utility's existence until October, 1992, when the utility's attorney contacted our Staff requesting information. The utility was advised that it must obtain a certificate from the Commission to provide wastewater service. The utility filed an application for an original certificate, pursuant to Section 367.045, Florida Statutes.

On April 28, 1993, Mr. Allen Himebaugh filed an objection to the application and the case was referred to the Department of Administrative Hearings (DOAH) for processing. The concerns noted in Mr. Himebaugh's objection related to the quality of the utility's service. Our Staff advised Mr. Himebaugh that as a

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certificated utility, Weber will be required to comply with DEP's rules and regulations and if it fails to do so, this Commission may impose fines or other penalties. Mr. Himebaugh was also advised that the Commission has mechanisms to address customer complaints. With an understanding that the certification process requires that the applicant be financially and technically able to provide adequate utility service to its customers, Mr. Himebaugh withdrew his objection to the notice of application on March 31, 1994.

Weber has been operating without a certificate and is in violation of Section 367.045, Florida Statutes. The utility explained that until recently it was not aware that a certificate was needed to provide wastewater service to its small subdivision. There have been at least four other owners of the subdivision since it was originally developed in 1969. When Weber purchased the system in 1972, it was not aware of the Public Service Commission and its regulatory authority. The utility filed an application after being advised by Staff of the necessity to obtain a certificate and has indicated that it fully intends to comply with all of the Commission's rules and regulations. Therefore, we do not find it appropriate to initiate a show cause proceeding be initiated against the utility for failure to obtain a certificate, as the utility did not willfully and intentionally violate the Commission's rules and regulations.

APPLICATION FOR CERTIFICATE

On February 26, 1994, Weber filed its application for an original wastewater certificate to provide service in Putnam County. Except as noted above, the utility's application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for original certificate for an existing utility currently charging for service. The application contains a check in the amount of \$150, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located. The utility has provided adequate service territory and system maps and a territory description as required by Rule 25-30.034(1)(h), (i) and (j), Florida Administrative Code. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed territory. As noted above, an objection to the notice of application was received on April 26, 1993, and withdrawn on March 31, 1994.

According to the financial statement submitted by the applicant, the utility's monthly revenue is \$1,168 and operation and maintenance expenses are approximately \$1,918, resulting in a deficit of \$750. The utility's owner subsidizes the deficit from his own personal income and has stated that he will continue to do so until he seeks a rate proceeding from this Commission.

A manager lives on site and has managed the utility and the mobile home park for three years. In addition, a certified plant operator maintains the daily operations of the wastewater system. The Department of Environmental Protection (DEP) has required the utility to install a dechlorination unit. The utility has indicated that it has made preparations to install that unit. There are no outstanding notices of violation issued by DEP against the utility.

Based on this information, we find that it is in the public interest to grant the application for an original certificate. Accordingly, Weber Investment Corporation is hereby granted Wastewater Certificate No. 491-S to serve the territory described in Attachment A of this Order.

RATES AND CHARGES

The current rate for residential wastewater service is a flat monthly charge of \$20.13. In addition to the 58 residential customers, Weber provides service to one general service customer at the residential rate. The rates for wastewater service to the Port Buena Vista subdivision were implemented on February 7, 1972, and set forth in the subdivision's Declaration of Restrictions. According to the declaration, the rates shall be the same as those charged by the City of Palatka to users outside the city limits, including surcharges, unless the utility is ordered or authorized by this Commission to change the rates. We find it appropriate to allow the utility to continue to charge these rates for both the residential and general service customers until they are addressed in a rate proceeding.

Since its inception, the utility has not charged service availability charges for connection to the system. It is the policy of this Commission that utilities collect service availability charges so that new customers will pay at least a portion of the cost of providing service, thus serving to maintain lower rates than would otherwise be necessary. The utility does not anticipate substantial growth in customers in its current service territory. Therefore, the cost of filing a service availability case to establish cost-based charges is not warranted. Although there is insufficient information to establish truly cost-

based service availability charges, we find it necessary to establish a nominal plant capacity charge so that future customers will pay some portion of the cost of providing service. We therefore find it appropriate to establish a plant capacity charge of \$300 per equivalent residential connection for all future connections.

The applicant has requested that it be allowed to implement the following miscellaneous service charges:

Initial Connection Fee	\$15
Normal Connection Fee	\$15
Violation Reconnection Fee	Actual Cost
Premises Visit Fee	\$10

These charges are consistent with the miscellaneous service charges recognized by this Commission and contained in Staff Advisory Bulletin No. 13, Second Revised. Therefore the utility's request to implement these charges is approved.

Weber has also requested approval to implement a late payment charge of \$3.00 as an incentive for customers to make timely payments. We find this is a reasonable amount to charge as a late fee for water and wastewater utilities based on estimates of labor and administrative costs. The burden of processing such delinquent notices should be placed on the cost causers, rather than the general body of rate payers. Therefore, we approve the utility's request to charge a late fee of \$3.00. The following language shall be incorporated in the utility's tariff with the charge: "This charge will be levied when a customer's billing account is not paid within 20 days and is therefore delinquent."

The utility is not currently collecting customer deposits, but has requested that it be allowed to implement a \$40.00 customer deposit. This level of deposit will cover a customer's bill for approximately two billing periods and is consistent with Rule 25-30.311 (7), Florida Administrative Code. We, therefore, approve the utility's request to collect customer deposits.

The utility shall file tariff sheets consistent with this Order within thirty days of the effective date of the order if no timely protests are received. The effective date of the tariff shall be the stamped approval date.

REGULATORY ASSESSMENT FEES AND ANNUAL REPORTS

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees

are due from regulated utilities regardless of whether a certificate has been granted. Weber has been subject to this Commission's jurisdiction since 1969, although we did not learn of its existence until 1992. The utility was advised of the Commission's jurisdiction and its responsibility to obtain a certificate on October 27, 1992. Therefore, we find it appropriate to require Weber to remit regulatory assessment fees for 1992 and 1993 and to file an annual report for 1993. The utility shall file these items within 45 days of the issuance of this Order.

If no timely protests are filed to this Order, this docket may be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Weber Investment Corporation is hereby granted Certificate No. 491-S to serve the territory reflected in Attachment A in Putnam County. It is further

ORDERED that Weber Investment Corporation shall file tariff sheets which reflect the appropriate rates and charges as specified in the body of this Order. It is further

ORDERED that Weber Investment Corporation shall be authorized to collect the appropriate rates and charges 30 days from the tariff's stamped approval date. It is further

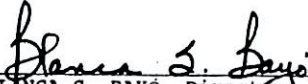
ORDERED that the tariffs will be approved upon our Staff's verification that they are consistent with our decision herein. It is further

ORDERED that within 45 days of the issuance of this Order, Weber Investment Corporation shall remit regulatory assessment fees for 1992 and 1993 and file an annual report for 1993. It is further

ORDERED that the provisions of this Order establishing rates and charges are issued as proposed agency action and shall become final unless an appropriate petition is received by the Director of Records and Reporting at her office at 101 East Gaines Street, Tallahassee, Florida, 32399-0870, by the close of business on the date set forth in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that in the event that no timely protest is received, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 29th day of June, 1994.



BLANCA S. BAYO, 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 granting 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 20, 1994. 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 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.

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.

ATTACHMENT A

WEBER INVESTMENT CORPORATION

TERRITORY DESCRIPTION

The following described lands located in portions of Section 48, Township 9 South, Range 27 East, Putnam County, Florida:

Section 48

Begin in Township 10 South, Range 27 East, Section 8 at the intersection of U.S. Highway 17 (Also, known as State Road 15 and 20), and State Highway 207. Thence Northeasterly along the West Right-of-Way of said Road a distance of about 4.1 miles to the West Right-of-Way of a major road. Thence along said Right-of-Way North 25° 30' West a distance of about 350 feet. Thence leaving said Right-of-Way and continuing North 25° 30' West a distance of about 208 feet to the North Right-of-Way of Federal Point Road. Also the East Right-of-Way of Dancy Avenue. Thence continue along said East Right-of-Way North 23° West a distance of about 910 feet to the Point of Beginning (P.O.B.). Thence continue North 23° West a distance of about 1,300 feet. Thence North 46° 37' East a distance of about 333.5 feet. Thence North 9° 10' West a distance of about 147 feet. Thence North 23° West a distance of about 330 feet to the shoreline of the St. Johns River. Thence meander around Dancy Point going first in a Northeasterly then Southeasterly direction a distance of about 485 feet to the inlet of a manmade Marina. Thence leaving the St. Johns River going South 5° East a distance of about 120 feet. Thence South 22° 26' East a distance of about 239 feet. Thence South 40° 59' East a distance of about 427 feet. Thence South 4° East a distance of about 131.4 feet. Thence South 30° West a distance of about 275 feet. Thence South 15° 30' East a distance of about 836 feet. Thence South 9° East a distance of about 90 feet. Thence South 81° West a distance of about 525 feet to the P.O.B.