

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

MEMORANDUM

MARCH 9, 1995

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES (CAPELESS) *PSC*
DIVISION OF WATER AND WASTEWATER (TOMLINSON) *can*

RE : UTILITIES: TAMAMI VILLAGE WATER COMPANY, INC.
TAMAMI VILLAGE UTILITY, INC.
DOCKET NO. 950015-WU
COUNTY: LEE
CASE: APPLICATION FOR TRANSFER OF CERTIFICATE
NO. 388-W IN LEE COUNTY FROM TAMAMI
VILLAGE UTILITY, INC.; AND FOR A LIMITED
PROCEEDING TO INCREASE RATES TO RECOVER
INCREASED OPERATION AND MAINTENANCE
EXPENSES AS A RESULT OF PENDING TRANSFER
BY TAMAMI VILLAGE WATER COMPANY, INC.

AGENDA : MARCH 21, 1995 - REGULAR AGENDA - DECISION PRIOR TO
HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: Location of File: I:\PSC\LEG\WP\950015.RCM

DOCUMENT NUMBER-DATE

02587 MAR-9 95

FPSC-RECORDS/REPORTING

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CASE BACKGROUND

On January 3, 1995, Tamiami Village Water Company, Inc. (TVWC or utility), filed an application for transfer of Certificate No. 388-W from Tamiami Village Utility, Inc. (TVU), to TVWC. TVWC has provided notice of the transfer application pursuant to Sections 367.071 and 367.045, Florida Statutes, and Rule 25-30.030, Florida Administrative Code. Because several customers of TVU have protested the transfer application, this matter has been set for a formal hearing on November 3, 1995, in Ft. Myers, pursuant to Chapter 120.57(1), Florida Statutes.

Also on January 3, 1995, along with the transfer application, TVWC filed a Petition for Approval of Increased Rates, requesting commencement of a limited proceeding pursuant to Section 367.0822, Florida Statutes. By this Petition, the utility sought to recover certain increased operation and maintenance expenses which it claims will accrue as a result of the transfer. TVWC has not provided notice of its Petition for Approval of Increased Rates.

TVWC filed two separate filing fees in the amount of \$750 each; one pursuant to Section 367.071(3), Florida Statutes, and Rule 25-30.020, Florida Administrative Code, for the transfer application, and the other pursuant to Section 367.0822(2), Florida Statutes, and Rule 25-30.020, Florida Administrative Code, for the Petition for Approval of Increased Rates by way of a limited proceeding.

On February 15, 1995, TVWC filed a request for withdrawal of its Petition for Approval of Increased Rates, and for a return of the corresponding filing fee, in the amount of \$750. TVWC further requests that the docket remain open in order to process the transfer application.

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DISCUSSION OF ISSUES

ISSUE 1: Should TVWC's withdrawal of its request for a limited proceeding be acknowledged, and should the corresponding filing fee be refunded?

RECOMMENDATION: Yes, TVWC's withdrawal of its request for a limited proceeding should be acknowledged. Further, the corresponding filing fee in the amount of \$750 should be refunded. (CAPELESS, TOMLINSON)

STAFF ANALYSIS: TVWC is a newly formed corporation. The corporation was formed on November 29, 1994, for the purpose of providing water service to the customers of TVU in the event that the Commission approves the transfer of Certificate No. 388-W in this docket. On December 8, 1994, TVWC entered into an agreement with TVU for the purchase of TVU's water distribution facilities for \$24,000, \$4,800 of which was payable upon execution of the agreement, and the remainder of which will become payable following the Commission's approval of the transfer application. TVWC currently serves no customers.

As noted in the case background, by way of its Petition for Increased Rates, TVWC sought to recover certain increased operation and maintenance expenses which it claims will accrue as a result of the transfer of TVU's certificate to TVWC. TVWC has not provided notice of this request. Because it is premature for Staff to calculate, and for the Commission to approve, new or revised rates for TVWC prior to the Commission's ruling on the transfer application, the request for a limited proceeding was not appropriate. On February 15, 1995, following discussions with Staff, TVWC informed the Division of Records and Reporting that it wishes to withdraw its Petition for Approval of Increased Rates. Staff recommends that TVWC's request for withdrawal of its Petition for Increased Rates should be acknowledged. Should the Commission approve the transfer application in this docket, TVWC will be free to reapply for a rate increase.

TVWC submitted a \$750 filing fee to cover the processing of its transfer application, and a second \$750 filing fee to cover the processing of its Petition for Increased Rates. In its request for withdrawal of this Petition, TVWC also requests a return of the corresponding \$750 filing fee. The Commission typically analyzes utility requests for filing fee refunds in terms of the amount of time and work that Staff has devoted to processing the utility's application. In those cases in which the application process has been relatively simple, such as when it only involves the filing of

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a Case Assignment and Scheduling Record, the Commission has generally refunded the corresponding filing fee. Order No. PSC-94-0776-FOF-WS, issued June 22, 1994, in Docket No. 931198-WS. See also, Order No. 20717, issued February 9, 1989, in Docket No. 880830-WS (finding that Commission practice is to refund a filing fee if no significant time and effort have been spent on a case); Order No. 19133, issued April 12, 1988, in Docket No. 871326-SU (directing that the filing fee be refunded, as virtually no Commission Staff time or resources had been expended). Staff has spent little time or resources on the processing of TVWC's Petition for Increased Rates. Accordingly, Staff recommends that TVWC's request for return of the corresponding filing fee in the amount of \$750 should also be approved.

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ISSUE 2: Should the docket remain open?

RECOMMENDATION: Yes. The docket should remain open in order to process TVWC's transfer application. (CAPELESS, TOMLINSON)

STAFF ANALYSIS: In its request for withdrawal of its Petition for Increased Rates, TVWC also requests that this docket remain open in order to process its transfer application. As noted in the case background, TVWC has submitted a separate filing fee for, and has provided notice of, the transfer application. The matter has been set for a formal hearing on November 3, 1995. Staff recommends that the utility's request that this docket remain open in order to process the transfer application should be granted.