

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer) DOCKET NO. 940850-WS
of Certificates Nos. 481-W and) ORDER NO. PSC-95-0622-FOF-WS
417-S in Broward County from) ISSUED: May 22, 1995
COLONIES WATER COMPANY to MHC-)
DeANZA FINANCING LIMITED)
PARTNERSHIP, d/b/a COLONIES)
WATER COMPANY)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING RATE BASE FOR PURPOSES OF THE TRANSFER
AND IMPLEMENTING MISCELLANEOUS SERVICE CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein regarding the establishment of rate base for purposes of the transfer and the implementation of miscellaneous service charges are 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

Colonies Water Company (Colonies or utility) is a Class C utility which provides water and wastewater service to the Colonies of Margate Mobile Home Park, located in Broward County. According to the utility's 1993 annual report, the utility serves 827 customers. In 1993, the utility had annual operating revenues of \$115,511 and \$103,387 for water and wastewater, respectively. Additionally, the utility had a net operating income of \$4,009 for water, and a net operating loss of \$20,969 for wastewater.

DOCUMENT NO. 95-0622-FOF-WS

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FPSC-RECORDS/REPORTING

Colonies purchases water and wastewater service from the City of Margate, and therefore does not own water or wastewater treatment plants. The facilities of the utility consist of one water transmission and distribution system and one wastewater collection system.

On May 9, 1994, DeAnza Properties-X, Ltd., and MHC Operating Limited Partnership entered into an acquisition agreement for the sale and purchase of the Colonies of Margate Mobile Home Park, including all of the assets of the utility. On August 15, 1994, the utility filed an application for transfer of Certificates Nos. 481-W and 417-S from Colonies Water Company (seller) to MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company (buyer). The application states that the transfer of the utility's certificates is in the public interest because it will permit the buyer to continue providing the utility services to its residents. According to the application, the seller will continue to operate and maintain the utility system until the Commission makes its determination regarding the request to transfer the certificates.

On September 12, 1994, the City of Margate and the Colonies of Margate Homeowners Association filed objections to the application. By Order No. PSC-95-0417-FOF-WS, issued March 27, 1995, the Commission dismissed those objections. Additionally, a customer objection was received, but was later withdrawn.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of certificate. In particular, the application contains a check in the amount of \$3,000, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Further, Rule 25-30.037(2)(g), Florida Administrative Code, requires that the utility provide evidence that it owns the land upon which its treatment facilities are located. As noted above, the utility purchases water and wastewater service from the City of Margate, and therefore does not own a water or wastewater treatment plant. However, the applicant has provided evidence that it owns the land upon which the Colonies of Margate Mobile Home Park is located, and thus that it owns the land upon which the utility's water transmission and distribution system and wastewater collection system is located. Additionally, a description of the territory served by the utility is appended to this memorandum as Attachment A, and is incorporated herein by reference.

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 of the system to be transferred. As noted above, the City of Margate and the Colonies of Margate Homeowners Association filed objections to the application. We dismissed those objections by Order No. PSC-95-0417-FOF-WS, issued March 27, 1995. Also, a customer objection to the application was received from Mr. and Mrs. Alfred and Marie Del Pozzo. We have contacted Mrs. Del Pozzo by telephone, and have followed-up the conversation by letter. Mrs. Del Pozzo advised us that Mr. Del Pozzo is now deceased, that she does not wish to pursue the matter through an administrative hearing, and that she wishes to withdraw her objection. We hereby acknowledge the withdrawal of this objection. Therefore, there are no pending objections to the application.

According to the application, the buyer is comprised of MHC Operating Limited Partnership, which owns 99% of the limited partnership, and MHC-QRS DeAnza, Inc., which owns 1% of the limited partnership. The application includes a copy of the acquisition agreement between DeAnza Properties - X, Ltd., and MHC Operating Limited Partnership for the sale and purchase of the Colonies of Margate Mobile Home Park. According to the agreement, the buyer has agreed to purchase the mobile home park for \$23,147,228. Included in that purchase are all of the assets of the utility. The application indicates that the transfer of the utility's certificate is in the public interest because it will permit the buyer to continue providing the utility services to its residents.

Regarding the buyer's financial ability to operate the utility, the application indicates that the buyer has the ability to raise cash when necessary to finance its operations through its limited partner, MHC Operating Limited Partnership, whose general partner, Manufactured Home Communities, Inc. (MHC), is publicly traded on the New York Stock Exchange. Additionally, financing of the Partnership will be through working capital and approximately \$55 million of secured financing.

Regarding the buyer's technical ability to operate the utility, the application states that MHC will provide for on-site managers, and a certified operator if required, to oversee the day-to-day operation of the utility. Additionally, MHC currently operates water and/or wastewater facilities at ten other locations throughout the United States, and will provide assistance and consultation to the on-site managers as necessary. The application states that after reasonable investigation, it appears that the utility system being acquired is in satisfactory condition. We have been informed by the Department of Environmental Protection

that it does not regulate this utility system, as it is comprised of a water transmission and distribution system and wastewater collection system only, and does not contain treatment plants.

As noted above, the application contains a copy of the acquisition agreement for the Colonies of Margate Mobile Home Park for a total of \$23,147,228, which includes the assets of Colonies Water Company. The buyer was unable to provide a separate purchase price for the utility's assets, as they were included in the purchase of the mobile home park. However, the application does include the buyer's estimated rate base at the time of transfer, which will be discussed further below. The buyer provided a statement that it will use reasonable efforts to fulfill the commitments, obligations, and representations of the seller with regard to utility matters to the extent it is made aware of them prior to the transfer of the certificates. According to the applicant, there are no existing customer deposits, guaranteed revenue contracts, developer agreements, customer advances, utility debts, or leases. The application indicates that all taxes and regulatory assessment fees will be prorated as of the date of closing.

In consideration of the foregoing, we find that the transfer of Water Certificate No. 481-W and Wastewater Certificate No. 417-S from Colonies Water Company to MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, is in the public interest and it is hereby approved.

Rate Base

According to the application, the proposed net book value of the system being transferred as of August 30, 1994, is \$207,536 for the water system, and \$189,044 for the wastewater system. By Order No. 17686, issued June 10, 1987, in Docket No. 861071-WS, the Commission granted the utility's original certificates and established initial rates. An original cost study was performed at that time and was used as the basis for the approved rates. However, rate base has never been formally established by this Commission. The proposed water and wastewater rate bases included in this application were based upon the utility's 1993 annual report and the original cost study estimates obtained in 1986.

We have conducted an audit of the utility's books and records to determine the rate base (net book value) as of June 30, 1994. We have determined that the utility's books and records are maintained in substantial compliance with Commission directives. However, we make the following adjustments as a result of the rate base audit.

According to the audit report, the utility capitalized \$4,654 of invoices for lift station pumps as water plant. We find that the lift station pumps should have been classified as wastewater plant. Therefore, the pumps and the associated depreciation shall be transferred from water plant to wastewater plant. The amount of depreciation associated with this adjustment equals \$547. We note that in its March 1, 1995, response to the audit report, the utility stated that it agrees with this adjustment.

Additionally, we find that the utility has not used Rule 25-30.140, Florida Administrative Code, to compute depreciation rates. In recalculating the utility's depreciation, we find that an adjustment of (\$24,172) and (\$62,365) shall be made for water and wastewater, respectively. In its March 1, 1995, response to the audit report, the utility disagreed with this adjustment. The utility believes the depreciation should be calculated using the service lives that were used in the original cost study upon which the utility's rates were based when it received its original certificates in Docket No. 861071-WS. We note that the utility has not appeared before this Commission in a rate proceeding. Therefore, the original rates adjusted only by an occasional price index are still in effect.

In reviewing the workpapers from Docket No. 861071-WS, we find that the original cost study utilized the average service lives specified in Rule 25-30.140, Florida Administrative Code, for Class A and B utilities rather than for Class C utilities. We calculate the depreciation using the shorter service lives for Class C utilities.

Rule 25-30.140(3), Florida Administrative Code, states that "[e]xcept as listed in Sections (5) and (6) of this rule average service life depreciation rates based on the guideline lives and salvages shall be used in rate proceedings before this Commission." Section (5) provides that a utility may petition for average service life depreciation rates different from those contained in this Rule. Section (6) specifies the conditions under which a utility may apply for guidelines for a proposal for implementation of remaining life depreciation rates. Staff Advisory Bulletin No. 17, 1st revised, states that

the new rules and guideline depreciation rates will not be implemented for any company until that company participates in a proceeding before this Commission either for (1) revised water and/or wastewater rates and charges, or (2) a specific request for changes in depreciation rates (not necessarily advisable without matching revenues).

We believe it may be more appropriate for the utility to base its depreciation on the service lives shown for Class C utilities rather than for Class A and B utilities. However, as discussed above, Rule 25-30.140(5), Florida Administrative Code, provides utilities the opportunity to present documentation within a rate proceeding to support requested depreciation rates which differ from those contained in this Rule. Therefore, because this docket is not a rate proceeding, and because the utility has not participated in a rate proceeding before this Commission, we find that it would not be appropriate to make this adjustment at this time.

An acquisition adjustment results when the purchase price of a utility differs from the original cost calculation. As discussed above, the buyer has agreed to purchase the Colonies of Margate Mobile Home Park, including the assets of Colonies Water Company, for \$23,147,228. The buyer was unable to provide a separate purchase price for the utility assets, as they were included in the purchase of the mobile home park. Therefore, we find that an acquisition adjustment cannot be reasonably calculated in this case. Moreover, in the absence of extraordinary circumstances, it is this Commission's policy that a subsequent purchase of a utility system at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary. Based on the foregoing, an acquisition adjustment shall not be included in the calculation of rate base. Further, we note that the applicant did not request an acquisition adjustment.

Based on the adjustments set forth herein, we find that rate base for Colonies is \$203,429 for the water system, and \$193,151 for the wastewater system, as of June 30, 1994. This rate base calculation is used purely to establish the net book value of the property being transferred, and does not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments. Our calculation of rate base is shown on Schedules Nos. 1 and 3, for the water and wastewater systems, respectively. Adjustments to rate base are shown on Schedules Nos. 2 and 4.

Rates and Charges

The utility's approved rates were effective October 12, 1993, pursuant to an administratively approved 1993 price index adjustment. The utility's approved miscellaneous service charges were effective March 10, 1988, by Order No. 17686. The utility does not collect customer deposits or service availability charges.

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case of change of ownership or control of a utility which places the operation under a different or new utility...the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission).

The buyer has not requested a change in the rates of the utility, and we see no reason to change them at this time. However, the buyer has proposed changing the utility's currently approved miscellaneous service charges to the charges shown in Staff Advisory Bulletin No. 13, 2nd revised (SAB No. 13). Rule 25-30.345, Florida Administrative Code, permits utilities to assess charges for miscellaneous services. The principal purpose of such charges is to provide a means by which the utility may recover its costs of providing miscellaneous services from those customers who require the services. Thus, costs are more closely borne by the cost causer rather than by the general body of ratepayers.

SAB No. 13 encourages utilities to establish charges for the services of initial connection, normal reconnection, violation reconnection, and premises visit in lieu of disconnection. Commission practice has been to require utilities to implement miscellaneous service charges in conjunction with rate case proceedings, or to approve them administratively upon a utility's request.

The charges proposed by the buyer represent the charges contained in the SAB No. 13, with the exception that the buyer has proposed using actual cost for the water violation reconnection charge. We note that actual cost is permitted for wastewater service; however, the standard charge for water service is \$15. We believe the appropriate charges are those shown in SAB No. 13 for water service, and we hereby authorize the implementation of those charges. The utility's currently approved monthly rates and miscellaneous service charges, and the miscellaneous service charges which we authorize herein are shown on Schedule No. 5. Because we authorize a violation reconnection charge of \$15, rather than actual cost as the utility requested, we hereby issue this portion of this Order concerning the approval of miscellaneous service charges as proposed agency action.

Based on the foregoing, we hereby find that the buyer shall continue charging the rates approved for Colonies. Additionally,

the utility shall be authorized to implement the miscellaneous service charges as shown in SAB No. 13. The applicant has filed a tariff reflecting the transfer of ownership. The utility shall be required to file revised tariff sheets reflecting the appropriate miscellaneous service charges which we authorize herein. The tariff sheets shall be effective for service rendered on or after the stamped approval date. The tariff sheets will be approved upon our staff's verification that the tariffs are consistent with our decision herein.

Upon expiration of the protest period, if there are no timely protests to the proposed agency actions contained herein concerning the establishment of rate base for purposes of the transfer and the implementation of miscellaneous service charges, no further action will be required and this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificates Nos. 481-W and 417-S from Colonies Water Company, 6603 Colonial Drive, Margate, Florida 33063, to MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, 2 N. Riverside Plaza, Suite 1515, Chicago, Illinois 60606, is hereby approved. It is further

ORDERED that rate base for purposes of the transfer is \$203,429 for the water system, and \$193,151 for the wastewater system, as of June 30, 1994. It is further

ORDERED that MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, shall adopt and charge the rates and charges which were previously approved in Colonies Water Company's tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, shall implement the miscellaneous service charges as set forth in the body of this Order. It is further

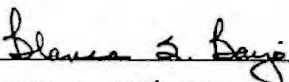
ORDERED that MHC-DeAnza Financing Limited Partnership, d/b/a Colonies Water Company, shall file a revised tariff sheet reflecting the miscellaneous service charges as set forth in the body of this Order. The tariff sheets shall be effective for service rendered on or after the stamped approval date. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that the provisions of this Order regarding the establishment of rate base for purposes of the transfer and the implementation of miscellaneous service charges are issued as proposed agency action and shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of May, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RGC

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 actions regarding the establishment of rate base for purposes of the transfer and the implementation of miscellaneous service charges are 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 actions 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 12, 1995. 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 portions of this Order become 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

COLONIES WATER COMPANY

TERRITORY DESCRIPTION

The following described lands located in portions of Section 24, Township 48 South, Range 41 East, Broward County, Florida:

The North one half (1/2) of the South one half (1/2) of Section 24, Township 48 South, Range 41 East, Broward County, Florida; less the following described parcel:

Commencing at the Southeast corner of the North one half (1/2) of the South one half (1/2) of said Section 24; thence North 89 degrees 59 minutes 57 seconds West, along the South line of the North one half (1/2) of the South one half (1/2) of said Section 24, a distance of 80.00 feet to the Point of Beginning; thence North 89 degrees 59 minutes 57 seconds West, along the last described course, a distance of 1124.61 feet; thence North 12 degrees 44 minutes 08 seconds West, a distance of 596.92 feet; thence North 01 degrees 31 minutes 56 seconds West, a distance of 737.17 feet to the North line of said North one half (1/2) of the South one half (1/2); thence South 89 degrees 59 minutes 54 seconds East, along the said North line, a distance of 1240.73 feet; thence South 01 degrees 31 minutes 40 seconds East, along a line parallel with and 80.00 feet West of as measured at right angles to the East line of said Section 24, a distance of 1319.58 feet to the Point of Beginning.

And also less the East 80.0 fee thereof.

Said lands situate, lying and being in Broward County, Florida.

SCHEDULE NO. 1

COLONIES WATER COMPANY
SCHEDULE OF WATER RATE BASE

As of June 30, 1994

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$342,630	(\$ 4,654) (1)	\$337,976
Land	0	0	0
Accumulated Depreciation	(135,094)	547 (2)	(134,547)
Contributions-in-aid-of-Construction	0	0	0
CIAC Amortization	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	<u>\$207,536</u>	<u>(\$ 4,107)</u>	<u>\$203,429</u>

SCHEDULE NO. 2

COLONIES WATER COMPANY

SCHEDULE OF WATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>		<u>ADJUSTMENT</u>
Utility Plant in Service		
A. To transfer lift station pumps from water to wastewater	(1)	<u>(\$ 4,654)</u>
Accumulated Depreciation		
A. To transfer depreciation on lift station pumps from water to wastewater	(2)	<u>\$ 547</u>

SCHEDULE NO. 3

COLONIES WATER COMPANY
SCHEDULE OF WASTEWATER RATE BASE

As of June 30, 1994

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$381,357	\$ 4,654 (1)	\$386,011
Land	0	0	0
Accumulated Depreciation	(192,313)	(547) (2)	(192,860)
Contributions-in- aid-of-Construction	0	0	0
CIAC Amortisation	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	<u>\$189,044</u>	<u>\$ 4,107</u>	<u>\$193,151</u>

SCHEDULE NO. 4

COLONIES WATER COMPANY

SCHEDULE OF WASTEWATER RATE BASE ADJUSTMENTS

<u>DESCRIPTION</u>		<u>ADJUSTMENT</u>
Utility Plant in Service		
A. To transfer lift station pumps from water to wastewater	(1)	<u>\$ 4,654</u>
Accumulated Depreciation		
A. To transfer depreciation on lift station pumps from water to wastewater	(2)	<u>(\$ 547)</u>

MONTHLY RATES AND CHARGES OF
COLONIES WATER COMPANY

WATER

Monthly Service Rates

Residential and General Service

Base Facility Charge

Meter Size:

5/8" x 3/4"	\$ 4.79
3/4"	7.18
1"	11.97
1-1/2"	23.94
2"	38.31
3"	76.62
4"	119.72
6"	239.44

Gallage Charge

per 1,000 gallons:

\$ 2.54

WASTEWATER

Monthly Service Rates

Residential Service

Base Facility Charge

All Meter Sizes:

\$ 4.70

Gallage Charge

per 1,000 gallons:

\$ 2.25

(Maximum 10,000 gallons)

WASTEWATER

Monthly Service Rates (Continued)

General Service		
Base Facility Charge		
Meter Size:		
5/8" x 3/4"	\$	4.70
3/4"		7.06
1"		11.75
1-1/2"		23.50
2"		37.59
3"		75.19
4"		117.48
6"		234.96
Gallage Charge		
per 1,000 gallons:	\$	2.70

Miscellaneous Service Charges

	Previously Approved Charges		Newly Approved Charges
	Normal Hours	After Hours	
Initial Connection	\$10.00	\$15.00	\$15.00
Normal Reconnection	10.00	15.00	15.00
Violation Reconnection:			
Water	10.00	15.00	15.00
Wastewater	10.00	15.00	Actual Cost
Premises Visit (in lieu of disconnection)	10.00	N/A	10.00