

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer
of Certificate No. 53-W in Palm
Beach County from Lake Osborne
Utilities Company, Inc. To
Crystal River Utilities, Inc.

DOCKET NO. 961535-WU
ORDER NO. PSC-97-1149-FOF-WU
ISSUED: September 30, 1997

The following Commissioners participated in the disposition of
this matter:

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

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING RATE BASE FOR PURPOSES
OF THE TRANSFER

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service
Commission that the action establishing rate base for purposes of
the transfer, as 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

On December 26, 1996, Crystal River Utilities, Inc. (Crystal
River) filed an application with this Commission for approval of
the transfer of Certificate No. 53-W from Lake Osborne Utilities
Company, Inc. (Lake Osborne) to Crystal River. Lake Osborne is a
Class C utility, which buys water from the City of Lake Worth and
resells it to about 464 residential customers in Palm Beach County.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Crystal River is a Class B utility, which owns and operates about eleven utility systems in Florida. Crystal River currently holds Certificate No. 396-W in Citrus County, Certificates Nos. 507-W and 441-S in Sumter County, Certificate No. 123-W in Lake County and Certificates Nos. 594-W and 510-S in Polk County.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$750, as prescribed by Rule 25-30.020, Florida Administrative Code.

Rule 25-30.037(1)(o), Florida Administrative Code, requires a utility to provide proof of ownership of the land upon which the facilities are located. However, Lake Osborne purchases water from the City of Lake Worth and resells it to its customers; it does not own or operate any water treatment facilities. Further, its distribution lines lie within easements and public right-of-ways. A description of the territory Lake Osborne is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein.

Crystal River 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 application have been received and the time for filing such has expired.

Our review indicates that Crystal River has been providing satisfactory service to the customers of the utility systems it owns and operates in Florida. Therefore, we believe that Crystal River has demonstrated that it has the financial and technical abilities needed to operate the Lake Osborne system. Further, according to the Department of Environmental Protection, there are no outstanding notices of violation against the utility.

Crystal River provided a copy of the sales contract which included the purchase price, terms of payment and a list of the assets purchased and the liabilities assumed. The utility is current with respect to payment of regulatory assessment fees through 1996. Crystal River will pay the regulatory assessment fees for 1997.

Based on the foregoing, we find that the transfer of Certificate No. 53-W from Lake Osborne to Crystal River is in the public interest and it is approved. According to the application, Certificate No. 53-W has been misplaced. Accordingly, a replacement certificate shall be issued to Crystal River reflecting the change in ownership.

Rate Base

According to Crystal River, the net book value of the assets being transferred was \$41,029 as of December 31, 1996. That amount was determined using Lake Osborne's 1995 annual report and projected provisions for 1996 depreciation. However, other corrections are necessary.

Lake Osborne's rate base was last determined by the Commission in Docket No. 950641-WU (Order No. PSC-96-0357-FOF-WU). In that proceeding, the Commission found that Lake Osborne failed to book certain plant and reserve adjustments that were required in a previous docket. After making the appropriate corrections, the approved rate base amount was \$17,446, including \$11,886 for working capital. In a transfer proceeding, the rate base balance excludes working capital. Therefore, the resulting net book value, excluding working capital, was \$5,560. With adjustments to include 1995 additions to plant and accumulated depreciation during 1996, the resulting rate base amount was \$1,842 as of December 31, 1996.

An acquisition adjustment results when the purchase price of a system differs from the original cost calculation. In the absence of extraordinary circumstances, it has been Commission policy that the purchase of a utility at a premium or discount shall not affect the rate base calculation. Because the circumstances in this exchange do not appear to be extraordinary, and an acquisition adjustment has not been requested by Crystal River, no acquisition adjustment is included in the calculation of rate base.

Therefore, we find rate base, which for transfer purposes reflects the net book value of the system, to be \$1,842 as of December 31, 1996. Our calculation of rate base is shown on Schedule No. 1 of this Order. Adjustments to the rate base calculation are shown on Schedule No. 2. The 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 for working capital or used and useful adjustments.

Operating Ratio Methodology

In a transfer proceeding, it is customary to retain the rates of the utility unless special circumstances are shown. Rates were approved for Lake Osborne by Order No. PSC-96-0357-FOF-WU issued on March 13, 1996, in Docket No. 950641-WU, using the operating ratio methodology rather than the traditional methodology using return on investment principles. Lake Osborne is the only utility, at this time, with rates established using the operating ratio methodology.

As provided by Rule 25-30.456, Florida Administrative Code, alternative rate setting procedures are available for utilities that meet certain filing conditions. These conditions include: a) the utility's revenues may not exceed \$150,000 if water or wastewater service is provided, or \$300,000 if both are provided; b) the utility should be current with respect to submission of annual reports and payment of revenue taxes; c) the utility's operating expenses exceed its rate base amount; d) the utility will maintain its Class C filing status indefinitely; and e) the applicant is in general compliance with Commission decisions and data requests. Also, pursuant to Rule 25-30.456, Florida Administrative Code, the maximum rate increase allowed under alternative rate setting practices is 50 percent.

For these reasons, no utility is assured that its rates will be established using identical operating ratio or other alternate rate setting practices. For example, because Crystal River is a Class B utility, it cannot utilize the operating ratio method for rate setting purposes. This system's return on investment will be disclosed each year when Crystal River files its annual report. If excessive earnings are indicated, corrective measures may be taken at that time. Likewise, if inadequate earnings are indicated, the utility may propose collection of increased rates.

By itself, the operating ratio procedure does not insure that rates will remain sufficient under new ownership. Usually, similar costs are expected irrespective of who owns the system. Presently, about 96.5 percent of Lake Osborne's revenue requirement is directly associated with recovery of operating expenses; thus, the probability of excessive earnings is slight. Indeed, a recent staff investigation disclosed that the Lake Osborne system incurred operating losses in 1996 following implementation of the rates approved in Docket No. 950641-WU.

As noted above, special circumstances must be shown to justify implementation of new rates. For example, when United Water Florida, Inc. acquires other utility systems in Florida, it commonly requests permission to collect its own rates and charges. In those cases, customers are directly noticed concerning the imposition of new rates, and the decisions in such proceedings are issued as proposed agency action.

An alternative to the usual rate retention practice would be adoption of rates that would be compensatory for the new owner with its particular set of operating costs. This would entail projecting expenses and income requirements for the new owner, which may unduly complicate the rate setting issue.

Therefore, we find it appropriate to examine the rationale for changing rates in a transfer proceeding on a case-by-case basis, where special conditions may justify special treatment. Absent some special showing, we find that the acquired utility's rates shall be retained independent of the rate setting procedure used to establish those rates. Accordingly, we do not find that there are any special circumstances in this case which would justify changing Lake Osborne's rates at this time.

Rates and Charges

As stated previously, Lake Osborne's rates were established by Order No. PSC-96-0357-FOF-WU, issued March 13, 1996. Later, on June 29, 1996, Lake Osborne's rates were increased to reflect a price index rate adjustment (WS-96-0113).

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 this Commission. Crystal River has not requested a change in the rates and charges of the utility and we see no reason to change them at this time. Crystal River shall continue to charge the rates and charges approved in Lake Osborne's tariff until authorized to change by this Commission in a subsequent proceeding. Crystal River has filed a tariff reflecting the change in ownership. The tariff shall be effective for service rendered on connections made on or after the stamped approval date on the tariff sheets.

It is, therefore,

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ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 53-W from Lake Osborne Utilities Company, Post Office Box 4118, West Palm Beach, Florida 33402-4118, to Crystal River Utilities, Inc., Post Office Box 520247, Longwood, Florida 32752-0247, is hereby approved. It is further

ORDERED that rate base, which for transfer purposes reflects the net book value of the system, is \$1,842 as of December 31, 1996. It is further


ORDERED that all matters contained in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that Crystal River Utilities, Inc. shall continue to charge the rates and charges approved in Lake Osborne Utilities Company's tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, 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 30th day of September, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

ALC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 rate base for purposes of the transfer 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 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 21, 1997. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. 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

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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.

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ATTACHMENT A

CRYSTAL RIVER UTILITIES, INC.

PALM BEACH COUNTY

(Lake Osborne Territory Description)

In Township 44 South, Range 43 East

Section 32

That part of the East 1/2 lying East and South of the center line of Lake Osborne Drive.

Section 33

That part of the Northwest 1/4 of the Southwest 1/4 lying West of the West right-of-way of Seaboard Air Line Railway right-of-way; the South 330.11 feet of the South 1/2 of the Southwest 1/4 of the Northwest 1/4 also lying West of the West right-of-way of Seaboard Air Line Railroad.

LAKE OSBORNE UTILITIES COMPANY, INC.

SCHEDULE OF WATER RATE BASE

AS OF DECEMBER 31, 1996

<u>Description</u>	<u>Balance per Utility</u>	<u>Adjust</u>	<u>Balance per Commission</u>
Utility Plant in Service	\$158,582	(\$39,121)	\$119,461
Accumulated Depreciation	(\$121,457)	\$11,943	(\$109,514)
CIAC	(\$ 19,904)	\$ 0	(\$ 19,904)
Accumulated Amortization	\$ 11,922	(\$ 123)	\$ 11,799
Working Capital	\$ 11,886	(\$11,886)	\$ 0
Totals	<u>\$ 41,029</u>	<u>(\$39,187)</u>	<u>\$ 1,842</u>

SCHEDULE NO. 2

A) Plant in Service

1) Remove undocumented addition in prior docket	\$ (39,222)
2) Misclassified meter installation costs	\$ (245)
3) Misclassified meter installation costs	\$ <u>(346)</u>
Total	\$ <u>(39,121)</u>

B) Accumulated Depreciation

1) Adjust to agree with Order No. PSC-96-0357-FOF-WU	\$ 17,769
2) Additional depreciation to 12/31/96	\$ <u>(5,826)</u>
Total	\$ <u>11,943</u>

C) Accumulated Amortization

1) Adjust to agree with Order No. PSC-96-0357-FOF-WU	\$ (1,094)
2) Additional amortization to 12/31/96	\$ <u>971</u>
	\$ <u>(123)</u>

D) Working Capital

1) Remove working capital for transfer docket	\$ <u>(11,886)</u>
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