

DOCKET NO. 980271-115

REQUEST TO ESTABLISH DOCKET

Date 2/13/98

1. Division Name/Staff Name Water and Wastewater / Messer BSM
JW
2. OPR Legal / Tim Vaccaro

3. OCR _____
4. Suggested Docket Title Cancellation of Certificate Nos. 491-S for Weber Investments Corp. and No. 558-W for Landis Enterprises, Inc. in Putnam County and Certificate Nos. 326-W and 274-S for Pine Island Utility in Volusia County.

5. Suggested Docket Mailing List (attach separate sheet if necessary)

A. Parties (Provide names of regulated companies or use abbreviation from list below if Parties should include all regulated companies in one or more industries; provide names and addresses of nonregulated companies; provide names, addresses, and affiliation (i.e., attorney, company liaison officer, or customer) of individuals.)

B. Interested Persons/Companies (Provide names, complete mailing addresses, and affiliation. Use abbreviation from list below if Interested Persons should include all regulated companies in one or more industries.)

County Utility Administrator County Utility Administrator
Putnam County Volusia County
P.O. Box 758 County Courthouse
Palatka, FL 32178-0758 DeLand, FL 32720

REGULATED INDUSTRIES

Investor-Owned Electrics	(EI)	Water Utilities	(WU)
Electric Cooperatives	(EC)	Local Exchange Telephone Cos.	(LT)
Municipal Electrics	(EM)	Interexchange Telephone Cos.	(IT)
Gas Utilities	(GU)	Coin-Operated Telephone Cos.	(CT)
Wastewater Utilities	(SU)	Shared Tenant Telephone Cos.	(ST)
		Alternate Access Vendors	(AV)

6. Check One:

- Documentation attached.
- Documentation will be provided with recommendation.

DOCUMENT NUMBER DATE
024920 FEB 23 1998
FPC-REC. H. STATE OFFICE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for) DOCKET NO. 960800-SU
Acknowledgment of Abandonment of) ORDER NO. PSC-96-1087-FOF-SU
Wastewater System in Putnam) ISSUED: August 23, 1996
County by Weber Investments)
Corporation, and Naming Putnam)
County as Receiver)

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 ACKNOWLEDGING ABANDONMENT AND APPOINTMENT OF RECEIVER

BY THE COMMISSION:

Weber Investments Corporation (Weber or utility) is a Class C utility located in Putnam County. The system provides service to approximately 58 mobile homes within the Port Buena Vista Mobile Home Park. Although the utility was constructed in 1969, and Weber had been operating the utility since 1972, we did not learn of the utility's existence until October 1992. On June 29, 1994, we granted the utility Certificate No. 491-S by Order No. PSC-94-0805-FOF-SU.

Pursuant to Section 367.165, Florida Statutes, a utility must give sixty days notice to this Commission and the county prior to abandonment. The utility provided notice on May 13, 1996, as required. The owner, Warren Weber, explained that he was relocating out of the state and would no longer be able to devote the necessary attention to the facility. Subsequent to the notice of abandonment, we and Putnam County learned that the utility was delinquent in paying its electric bill and that the electric provider intended to promptly disconnect the electrical service. In addition, the owner's telephone service had been disconnected and he could not be reached. To allow the electrical service to be disconnected would have deprived the customers of essential services and could have caused irreparable injury in the form of serious health and environmental problems. As a result, on June 4, 1996, Putnam County petitioned the Circuit Court of the Seventh Judicial Circuit for Putnam County for appointment of receiver. On

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June 4, 1996, the court, Judge Stephen L. Boyles, found that Weber had prematurely abandoned the system and that a receiver was necessary and vital to continue service and prevent irreparable injury. The court appointed Putnam County interim receiver of the Port Buena Vista wastewater treatment system.

Among other provisions, the court's order requires that the owner surrender all property, assets, documents and facilities pertaining to Weber to the receiver; that the receiver shall not be liable for debts, costs, or other obligations relating to the system incurred prior to the date of the order; and that the receiver's liability in respect to operating the system shall not exceed revenues collected.

Thus, we acknowledge Weber's abandonment and the appointment of Putnam County as receiver for the utility. Pursuant to Sections 367.031 and 361.022(2), Florida Statutes, Putnam County is exempt from our regulation.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the abandonment of the Port Buena Vista Wastewater System by Weber Investments Corporation is acknowledged. It is further

ORDERED that the appointment of Putnam County as the receiver for Weber Investments Corporation is acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 23rd day of August, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: /s/ Kay Flynn
Chief, Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

CJP

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of Abandonment of) DOCKET NO. 941330-WU
Facility in Putnam County by) ORDER NO. PSC-95-0844-FOF-WU
Landis Enterprises, Inc.) ISSUED: July 14, 1995
_____)

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 ACKNOWLEDGING ABANDONMENT, APPOINTMENT OF RECEIVER, AND
EXEMPT STATUS OF RECEIVER
AND
NOTICE OF PROPOSED AGENCY ACTION ORDER ESTABLISHING
RESPONSIBILITY FOR PAYMENT OF REGULATORY ASSESSMENT FEES AND
FILING ANNUAL REPORT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein requiring Landis Enterprises, Inc., to pay regulatory assessment fees, but not requiring the filing of the 1994 annual report, 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 23, 1994, Landis Enterprises, Inc., (LEI) filed a notice of abandonment of the Port Buena Vista Water System (PBV or utility) with this Commission pursuant to Section 367.165, Florida Statutes. PBV is a class C utility presently serving 64 customers. According to its 1993 annual report, the utility earned revenues of \$14,299 in that year and suffered a net operating loss of \$16,816.

We granted LEI Certificate No. 558-W in Order No. PSC-94-0804-FOF-WU, issued June 29, 1994. LEI purchased the utility on June 3, 1993, following P.B.V. Corporation's notice of abandonment on January 14, 1993. On September 14, 1994, LEI applied for a staff-assisted rate case for PBV. In the staff-assisted rate case, Docket No. 940974-WU, in Order No. PSC 94-1464-FOF-WU, issued November 29, 1994, we approved installment payment plans for the

staff-assisted rate case application fee and delinquent regulatory assessment fees. Later in that docket, in Order No. PSC-95-0043-FOF-WU, issued January 10, 1995, we denied the utility emergency rate relief. We placed the staff-assisted rate case in abeyance by Order No. PSC-95-0429-WU, issued March 29, 1995.

ACKNOWLEDGMENT OF ABANDONMENT AND APPOINTMENT OF RECEIVER

On March 27, 1995, Circuit Judge A. W. Nichols, III, Circuit Court, Seventh Judicial Circuit, Putnam County, Florida, appointed the Board of County Commissioners, Putnam County, as the receiver for PBV.

The order appointing the receiver provided that:

- 1) The receiver was appointed with full authority as set forth in Section 367.165, Florida Statutes, and other applicable law;
- 2) The receiver has ingress and egress rights over, and full use of, such real and personal property as is necessary to maintain, service and otherwise facilitate the operation of the system;
- 3) LEI provide to the receiver all blueprints, drawings and other documents relating to the water system, copies of pertinent contracts, leases and other agreements, a list of system defects and malfunctioning or inoperative facilities, a list of existing violations, funds necessary to make necessary repairs and cure existing violations, and other pertinent documents;
- 4) The receiver shall have no liability for debts, costs or other obligations related to the system incurred before the receivership; and
- 5) Without limiting the receiver's authority to make expenditures, the receiver's liability in operating the system is limited to the revenues collected from the system's customers by the receiver.

Pursuant to Rule 25-30.090(3), Florida Administrative Code, we furnished Putnam County with a copy of PBV's tariff and most recent annual report. The utility's plant is in poor condition and has serious Department of Environmental Protection compliance problems related to the quality of water.

Accordingly, we find it appropriate to acknowledge Landis Enterprises, Inc.'s abandonment of the Port Buena Vista Water System and the appointment on March 27, 1995, of Putnam County as the receiver for the utility.

EXEMPTION

On March 28, 1995, Putnam County, requested an exemption from Commission regulation pursuant to Section 367.022(2), Florida Statutes. Rule 25-30.090(6), Florida Administrative Code, provides that a governmental authority appointed as receiver by the circuit court shall, upon request, be found exempt pursuant to Section 367.022(2), Florida Statutes. Accordingly, we acknowledge the exempt status of Putnam County as the receiver for the Port Buena Vista Water System.

RESPONSIBILITY FOR PAYING 1994 REGULATORY ASSESSMENT FEE AND
FILING 1994 ANNUAL REPORT

Pursuant to Section 367.121(1)(c), Florida Statutes, and Rule 25-30.110, Florida Administrative Code, each regulated utility shall file an annual report with the Commission by March 31 for the preceding calendar year. In addition, a regulated utility is required to remit regulatory assessment fees each year based upon its gross operating revenues, pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120(1), Florida Administrative Code. The abandonment of the utility does not eliminate the utility's responsibility for payment of the fees or filing the annual report.

We recognize that the receiver could, in some cases, discharge the utility's accrued liability for regulatory assessment fees by advancing funds from its own resources, subsequently recovering them through increased rates. However, we believe it to be inappropriate to in any way encourage the receiver to take that step, because the unjust effect would be to tax the utility's customers a second time for those fees. Moreover, our essential interest is that the receiver provide uninterrupted efficient and effective water service to the utility's customers, while addressing those deficiencies that threaten the utility's viability.

In this case, the utility's obligation to pay the regulatory assessment fee for 1994 arose prior to LEI's abandonment. Additionally, LEI fully collected those revenues upon which the fee for 1994 is assessed before the abandonment. Thus, we find that LEI is responsible for payment of regulatory assessment fees due for calendar year 1994 and up to March 27, 1995, the date the

receiver was appointed. Furthermore, we find it appropriate that LEI be given 60 days from the effective date of this order to pay the past-due 1994 regulatory assessment fee for PBV, with penalties and interest.

Section 367.145, Florida Statutes, provides that a governmental authority to whom control of a regulated utility passes is not liable for any fees owed the Commission by the utility as of the passing date. The court's order appointing Putnam County receiver provides that the receiver shall have no liability for debt, costs or other obligations relating to the system incurred prior to the receiver's appointment and that the receiver's liability in respect to operating the system is limited to the revenues collected from the utility's customers. We have herein acknowledged Putnam County's exemption as a governmental authority acting as receiver pursuant to Section 367.022(2), Florida Statutes, and Rule 25-30.090(6), Florida Administrative Code, and, therefore, no regulatory assessment fees will be owing after the date of the County's appointment.

As with the obligation for the regulatory assessment fee, LEI's obligation to file PBV's annual report for 1994 arose prior to abandonment. However, we have, again, acknowledged Putnam County's exempt status, and so we will not regulate this system as long as the county operates it as its receiver. We find that we have no need for the utility's 1994 annual report and, therefore, we will not require LEI to file it.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that the abandonment of the Port Buena Vista Water System by Landis Enterprises, Inc., and the appointment on March 27, 1995, of the Putnam County Board of County Commissioners as the receiver for the Port Buena Vista Water System is herein acknowledged. It is further

ORDERED that the exempt status of Putnam County, pursuant to Section 367.022(2), Florida Statutes, is herein acknowledged. It is further

ORDERED that Landis Enterprises, Inc., shall be responsible for payment of regulatory assessment fees for calendar year 1994 and up to March 27, 1995. It is further

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ORDERED that Landis Enterprises, Inc., shall remit the utility's 1994 regulatory assessment fee, with penalties and interest, within 60 days of the effective date of this order. It is further

ORDERED that Landis Enterprises, Inc., shall not be required to file the 1994 annual report. 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 14th day of July, 1995.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

CJP

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 requiring Landis Enterprises, Inc., to pay regulatory assessment fees, but not requiring the filing of the 1994 annual report 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 4, 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 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.

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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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of Abandonment of) DOCKET NO. 941331-WS
Facility in Volusia County by) ORDER NO. PSC-95-0842-POF-WS
Landis Enterprises, Inc.) ISSUED: July 14, 1995
_____)

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 ACKNOWLEDGING ABANDONMENT, APPOINTMENT OF RECEIVER, AND
EXEMPT STATUS OF RECEIVER
AND
NOTICE OF PROPOSED AGENCY ACTION ORDER ESTABLISHING
RESPONSIBILITY FOR PAYMENT OF REGULATORY ASSESSMENT FEES AND
FILING ANNUAL REPORT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein requiring Water Spectrum, Inc., to pay regulatory assessment fees, but not requiring the filing of the 1994 annual reports, 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 23, 1994, Water Spectrum, Inc., (WSI), as the receiver, filed a notice of abandonment of Pine Island Utility Corporation (Pine Island Utility or utility) with this Commission, pursuant to Section 367.165, Florida Statutes. Pine Island Utility is a class C utility presently serving 86 water and 71 wastewater customers. According to its 1993 annual reports, in 1993, the utility earned revenues for water service of \$7,754 and for wastewater service of \$8,456, and suffered net operating losses for water of \$24,979 and for wastewater of \$18,034. On July 15, 1993, Judge C. McFerrin Smith, III, Circuit Court, Seventh Judicial Circuit, Volusia County, appointed WSI receiver for Pine Island Utility. WSI is an affiliate of Landis Enterprises, Inc., (LEI), providing management services. This followed the filing on

December 29, 1992, of a notice of abandonment of the utility by the utility's president, Robert McTeer. The utility was granted Certificates Nos. 326-W and 274-S in Order No. 9054, issued September 14, 1979.

The utility filed a staff-assisted rate case on March 4, 1991, which was docketed as Docket No. 910276-WS. In Order No. PSC-92-0126-AS-WS, issued March 31, 1992, we authorized the utility to collect increased rates for water and wastewater. In the same docket, in Order No. PSC-94-0449-POF-WS, issued April 14, 1994, we authorized rates for non-metered water and wastewater customers, but we ordered the docket be kept open in order to monitor the utility's efforts to correct a number of water and wastewater system deficiencies. Later in that docket, in Order No. PSC-94-1053-POF-WS, issued August 29, 1994, we denied the utility's petition for further rate relief and again ordered the docket be kept open in order to continue monitoring the utility's efforts to correct still-unaddressed system deficiencies.

On September 15, 1994, the utility filed an application for another staff-assisted rate case, which was docketed in Docket No. 940982-WS. In Order No. 94-1463-POF-WS, issued November 29, 1994, in that docket, we permitted the utility to pay the staff-assisted rate case application filing fees and the delinquent 1993 regulatory assessment fees according to installment plans. We placed the docket in 30-day abeyance to allow the utility a further opportunity to address system deficiencies. Following WSI's notice of its intention to abandon the receivership for the utility, in Order No. PSC-95-0302-POF-WS, issued March 3, 1995, in the latter docket, we authorized emergency rate relief to be implemented only upon the appointment of a successor receiver for the utility. We ordered Docket No. 910276-WS closed and Docket No. 940982-WS to remain in abeyance until the appointment of the successor receiver and that receiver's representation to the Commission that it wished to reactivate the staff-assisted rate case.

ACKNOWLEDGMENT OF ABANDONMENT AND APPOINTMENT OF RECEIVER

On February 28, 1995, Judge John W. Watson, III, Circuit Court, Seventh Judicial Circuit, Volusia County, appointed Volusia County substitute receiver for Pine Island Utility.

The order appointing the receiver provided that:

- 1) The previous owner surrender all property, assets, documents, and facilities pertaining to Pine Island Utility to the receiver;

- 2) The receiver operate the utility in such a manner so as to provide efficient, effective and environmentally sound continuous service to the customers of the utility as can be provided from the revenues of the system;
- 3) The receiver pay all necessary and reasonable operating expenses from the revenues collected in a manner designed to continue the efficient, effective and environmentally sound operation of the utility; and
- 4) The receiver shall make extensions, expansions, repairs, replacements, and improvements to Pine Island Utility as appropriate and necessary.

Pursuant to Rule 25-30.090(3), Florida Administrative Code, we furnished Volusia County with copies of Pine Island Utility's tariffs and most recent annual reports. As previously noted, the utility operated at substantial deficit in 1993. Both the water and wastewater systems have been and are currently out of compliance with applicable environmental regulations. The water system falls under the enforcement authority of the Volusia County Public Health Unit (VCPHU), while the wastewater systems falls under the enforcement authority of the Department of Environmental Protection (DEP).

Accordingly, we find it appropriate to acknowledge Water Spectrum, Inc.'s abandonment of Pine Island Utility Corporation and the appointment on February 28, 1995, of Volusia County as substitute receiver for the utility.

EXEMPTION

On March 17, 1995, Volusia County requested an exemption from Commission regulation pursuant to Section 367.022(2), Florida Statutes. Rule 25-30.090(6), Florida Administrative Code, provides that a governmental authority appointed as receiver by the circuit court shall, upon request, be found exempt pursuant to Section 367.022(2), Florida Statutes. Accordingly, we acknowledge the exempt status of Volusia County as the receiver for Pine Island Utility Corporation.

RESPONSIBILITY FOR PAYING 1994 REGULATORY ASSESSMENT FEES AND FILING 1994 ANNUAL REPORTS

Pursuant to Section 367.121(1)(c), Florida Statutes, and Rule 25-30.110, Florida Administrative Code, each regulated utility

shall file an annual report with the Commission by March 31 for the preceding calendar year. In addition, a regulated utility is required to remit regulatory assessment fees each year based upon its gross operating revenues, pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120(1), Florida Administrative Code. The abandonment of the utility does not eliminate the utility's responsibility for payment of the fees or filing the annual report.

As previously mentioned, this utility was first abandoned by its then-owner, Robert McTeer, in December, 1992, and then in December, 1994, by its first receiver, WSI, acting as the managing agent for LEI. Pine Island Utility Corporation has dissolved. We recognize that the substitute receiver, Volusia County, could, upon advancing funds from its resources sufficient to discharge the utility's accrued liability for 1994 regulatory assessment fees, subsequently recover those funds through increased rates. However, we believe it to be inappropriate to in any way encourage the substitute receiver to take that step, because the unjust effect would be to tax the utility's customers a second time for those fees. Moreover, our essential interest is that the substitute receiver provide uninterrupted efficient and effective water service to the utility's customers, while addressing those deficiencies that threaten the utility's viability.

In this case, the utility's obligation to pay the regulatory assessment fees for 1994 arose during the term of WSI's service as the utility's first receiver. Additionally, WSI collected fully those revenues upon which the 1994 fees are assessed before the abandonment became effective. Thus, we find that WSI, acting in LEI's interest, is responsible to pay the utility's regulatory assessment fees for 1994 and for 1995 up to February 28, 1995, the date of the substitute receiver's appointment. Furthermore, we find it appropriate that WSI be given 60 days from the effective date of this order in which to pay the past-due 1994 regulatory assessment fees for Pine Island Utility, with penalties and interest.

Section 367.145, Florida Statutes, provides that a governmental authority to whom control of a regulated utility passes is not liable for any fees owed the Commission by the utility as of the passing date. The circuit court's order appointing Volusia County substitute receiver provides that Pine Island shall remain liable under all applicable laws for any claims, debts, violations, demands, penalties, suits, proceedings, actions or fees prior to the appointment and acceptance by the receiver. The order further requires the receiver to operate the utility in a manner so as to provide efficient, effective and

environmentally sound continuous service to the utility's customers and to keep separate the utility's revenues from the revenues of the receiver. We have herein acknowledged Volusia County's exempt status as a governmental authority acting as receiver pursuant to Section 367.022(2), Florida Statutes, and Rule 25-30.090(6), Florida Administrative Code, and, therefore, no regulatory assessment fees will be owing after the date of the County's appointment.

As with the regulatory assessment fees, the obligation to file Pine Island Utility's annual reports for 1994 arose prior to abandonment by WSI. However, since we have, again, acknowledged Volusia County's exempt status, we will not regulate these systems as long as the County operates them as their receiver. We find that we have no need for the utility's annual reports for 1994 and, therefore, we will not require WSI to file them.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that the abandonment of Pine Island Utility Corporation by Water Spectrum, Inc., and the appointment on February 28, 1995, of Volusia County as the receiver for Pine Island Utility Corporation are herein acknowledged. It is further

ORDERED that the exempt status of Volusia County, pursuant to Section 367.022(2), Florida Statutes, is herein acknowledged. It is further

ORDERED that Water Spectrum, Inc., shall be responsible for payment of regulatory assessment fees due for calendar year 1994 and up to February 28, 1995. It is further

ORDERED that Water Spectrum, Inc., shall remit the 1994 regulatory assessment fees, with penalties and interest, within 60 days of the effective date of this order. It is further

ORDERED that Water Spectrum, Inc., shall not be required to file the utility's 1994 annual reports. 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

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

By ORDER of the Florida Public Service Commission, this 14th day of July, 1995.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

CJP

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 requiring Water Spectrum, Inc., to pay regulatory assessment fees, but not requiring the filing of the 1994 annual reports 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 4, 1995.

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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.