

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM RECEIVED

February 26, 1998

FEB 26 1998

1:05
FPSC - Records Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (MESSER)
DIVISION OF LEGAL SERVICES (VACCARO)

RE: DOCKET NO. 980271-WS - CANCELLATION OF CERTIFICATE NO. 491-S ISSUED TO WEBER INVESTMENTS CORPORATION AND CERTIFICATE 558-W ISSUED TO LANDIS ENTERPRISES, INC. IN PUTNAM COUNTY, AND CERTIFICATES NOS. 326-W AND 274-S ISSUED TO PINE ISLAND UTILITY CORPORATION IN VOLUSIA COUNTY, DUE TO TRANSFER OF SYSTEMS TO RESPECTIVE COUNTY GOVERNMENTS.
COUNTY: PUTNAM AND VOLUSIA

AGENDA: MARCH 10, 1998 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\980271WS.RCM

DOCUMENT NUMBER-DATE

2664 | FEB 26 98

FPSC-RECORDS/REPORTING

DOCKET NO. 980271-WS
DATE: February 26, 1998

CASE BACKGROUND

This recommendation addresses three utility systems, which have all been abandoned and the county appointed receiver by the court. The three Class C systems are Landis Enterprises, Inc. and Weber Investments Corporation in Putnam County, and Pine Island Utility Corporation in Volusia County. The Commission recognized each County as receiver in Order Nos. PSC-95-0844-FOF-WU, issued July 14, 1995 in Docket No. 941330-WU, PSC-96-1087-FOF-SU, issued August 23, 1996 in Docket No. 960800-SU, and PSC-95-0842-FOF-WS, issued July 14, 1995 in Docket No. 941331-SU, respectively.

Landis Enterprises, Inc. served 64 customers. According to its last required annual report, the utility earned revenues of \$14,299 and a net operating loss of \$16,816 in 1993. Weber Investments Corporation provided service to about 58 customers. Its certificate application stated an estimated annual revenue in 1992 of \$14,016 and a net loss of \$9,000. Pine Island Utility Corporation served about 86 water and 71 wastewater customers. According to its last required annual report, the utility earned revenues for water service of \$7,754 and for wastewater service of \$8,456, and net operating losses for water of \$24,979 and for wastewater of \$18,034 in 1993.

Although all three orders addressing these actions identified the counties as exempt from Commission regulation pursuant to Section 367.022(2), Florida Statutes, the orders were silent on the cancellation of certificates. This recommendation is to clarify that the utilities continue to be operated by the counties, they are exempt, and the certificates should be cancelled.

DOCKET NO. 980271-WS
DATE: February 26, 1998

DISCUSSION OF ISSUES

ISSUE 1: Should Certificate Numbers 558-W for Landis Enterprises, Inc., 491-S for Weber Investments Corporation and 326-W and 274-S for Pine Island Utility Corporation be cancelled?

RECOMMENDATION: Yes. Certificate Numbers 558-W for Landis Enterprises, Inc., 491-S for Weber Investments Corporation and 326-W and 274-S for Pine Island Utility Corporation should be cancelled. Weber Investment Corporation should be responsible for the filing of annual reports and payment of regulatory assessment fees up to June 4, 1996. (MRSSER, VACCARO)

STAFF ANALYSIS: The staff has become aware that three utility systems, which have all been abandoned and the county appointed receiver by the court, still retain active certificates from the Public Service Commission. The three Class C systems are Landis Enterprises, Inc. and Weber Investments Corporation in Putnam County, and Pine Island Utility Corporation in Volusia County. The Commission recognized each County as receiver in Orders Nos. PSC-95-0844-FOF-WU, issued July 14, 1995, PSC-96-1087-FOF-SU, issued August 23, 1996 and PSC-95-0842-FOF-WS, issued July 14, 1995, respectively.

By the aforementioned Orders, the Commission granted Putnam and Volusia Counties' requests for exemption from Commission regulation for operation of Landis and Pine Island, under Section 367.022(2), Florida Statutes. Pursuant to Section 367.022(2), Florida Statutes, a utility system that is operated, managed and controlled by a governmental entity is not subject to this Commission's regulation. However, in the case of Weber, the Commission simply acknowledged Putnam County's appointment as receiver and its exempt status on August 23, 1996, since Section 367.022(2), Florida Statutes, became self-executing on July 1, 1996.

Although the Commission found or acknowledged the exempt status of the Counties, the Orders were silent on the cancellation of certificates. Because facilities are exempt from Commission regulation, staff recommends that the Commission order that the certificates identified above be cancelled.

Staff notes that it has advised both Putnam and Volusia Counties of its intention to make this recommendation to the Commission. The Counties affirmed that they will continue to operate the utilities as they are currently doing. The Counties understand that if a disposition of the utility is made to an

DOCKET NO. 980271-WS
DATE: February 26, 1998

entity subject to the Commission's regulation, they will inform the Commission.

In addition, although the responsibility for annual reports and regulatory assessment fees was addressed in two of the orders previously discussed, the third order acknowledging Putnam County as receiver for Weber Investments Corporation did not specifically address these issues.

Pursuant to Rule 25-30.110, Florida Administrative Code, the utility was responsible for filing annual reports while operating under the Commission's jurisdiction. Likewise, pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, Weber was responsible for paying regulatory assessment fees during that period. Weber failed to file annual reports for 1993 through June 4, 1996. Weber also failed to pay regulatory assessment fees for 1992 through June 4, 1996. Weber's obligation to file annual reports and pay regulatory assessment fees ended on June 4, 1996 when Putnam County was appointed receiver. Putnam County does not owe regulatory assessment fees because it is exempt from Commission regulation pursuant to Section 367.022(2), Florida Statutes.

Based on the foregoing, staff recommends that Weber Investment Corporation should be responsible for filing annual reports and paying regulatory assessment fees, as set forth in the body of this analysis. Staff will address the collection of these reports and fees, including appropriate penalties and interest in a separate docket after internal collection efforts are attempted.

DOCKET NO. 980271-WS
DATE: February 26, 1998

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed. (VACCARO)

STAFF ANALYSIS: No further action will be required and the docket should be closed.