



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 1998
TO: Steve C. Tribble, Director, Division of Administration
FROM: Tim Vaccaro, Senior Attorney, Division of Legal Services
RE: Docket No. 980342-WS - Disposition of delinquent regulatory assessment fees of Homosassa Utilities, Inc., former holder of Certificate No. 429-S in Citrus County

On May 14, 1998, the Commission issued Final Order No. PSC-98-0663-FOF-WS, in which it ordered that a show cause proceeding would not be initiated against Homosassa Utilities, Inc. (HUI or utility) for failing to remit its 1991 and 1992 regulatory assessment fees. The Commission's decision was based on its finding that the utility's wastewater certificate had been transferred and its corporation dissolved. The Commission found that pursuant to Chapter 607, Florida Statutes, the directors and shareholders of the corporation could not be held liable for payment of the regulatory assessment fees.

The Order also required that HUI's delinquent regulatory assessment fees and associated penalties and interest be referred to the Department of Banking and Finance, Comptroller's Office for permission to write off the account as uncollectible.

In light of the foregoing, we submit this matter to your office to forward the account to the Comptroller's Office for permission to write off the account as uncollectible.

The events leading to this determination are outlined below for your convenience:

- HUI was a Class C utility operating in Citrus County. Based on its 1991 annual report, the utility reported operating revenues of \$92,653.
- HUI's Certificate No. 429-S was transferred to RHV Utility, Inc. by Order No. PSC-94-1163-FOF-SU, issued September 22, 1994 in Docket No. 930763-SU. HUI was incorporated in the State of Florida in June of 1987; however, the corporation was dissolved on August 13, 1993.
- Notices of delinquency for failure to remit its regulatory assessment fees were mailed to the utility on April 28, 1993, May 21, 1997, January 15, 1998, January 30, 1998 and March 25, 1998. Notices of delinquency were mailed to the utility's officers on January 15, 1998, January 30, 1998 and March 25, 1998.
- As of March 31, 1998, the utility owed \$8,490.13 (\$4,169.39 for 1991 and \$4,320.74 for 1992) in regulatory assessment fees, \$2,122.54 (\$1,042.35 for 1991 and \$1,080.19 for 1992) in penalties and \$5,975.70 (\$3,210.43 for 1991 and \$2,765.27 for 1992) in interest, for a total of \$16,588.37.

ACK _____
 AFA _____
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAG _____
 LEG _____
 LIN _____
 OPC _____
 RCH _____
 SEC 1 _____
 WAS _____
 OTH _____

PSC-98-0663-FOF-WS-DATE

06677 JUN 24 1998

FPSC-RECORDS/REPORTING

Memorandum to Steve C. Tribble, Director
June 23, 1998
Page 2

5. On May 14, 1998, the Commission issued Final Order No. PSC-98-0663-FOF-WS, in which it ordered that show cause proceedings not be initiated against HUI for failure to remit its 1991 and 1992 regulatory assessment fees. The Commission further ordered that HUI's delinquent regulatory assessment fees and associated penalties and interest be referred to the Comptroller's Office for permission to write off the account as uncollectible.

Please find the following attached hereto:

- a. Order No. PSC-98-0663-FOF-WS
- b. Order No. PSC-94-1163-FOF-SU
- c. Delinquent Notice, April 28, 1993
- d. Certified Letter, May 21, 1997, P 407 857 560
- e. Certified Letter, January 15, 1998, P 263 572 556
- f. Certified Letter, January 15, 1998, P 263 572 557
- g. Certified Letter, January 15, 1998, P 263 572 558
- h. Certified Letter, January 15, 1998, P 263 572 559
- i. Certified Letter, January 30, 1998, P 263 572 654
- j. Certified Letter, January 30, 1998, P 263 572 655
- k. Certified Letter, January 30, 1998, P 263 572 656
- l. Certified Letter, January 30, 1998, P 263 572 657
- m. Certified Letter, March 25, 1998, P 263 572 683
- n. Certified Letter, March 25, 1998, P 263 572 684
- o. Certified Letter, March 25, 1998, P 263 572 685
- p. Certified Letter, March 25, 1998, P 263 572 686

TV/dr

cc: Division of Water and Wastewater (Gilchrist)
Division of Administration (Knight, Sewell)

State of Florida

Commissioners:
J. TERRY DEASON, CHAIRMAN
THOMAS M. BEARD
SUSAN F. CLARK
LUIS J. LAUREDO
JULIA L. JOHNSON



FLETCHER BUILDING
101 EAST GAINES STREET
TALLAHASSEE, FL 32399-0864
JAMES A. WARD, DIRECTOR
DIVISION OF ADMINISTRATION
(904) 488-4733

Public Service Commission

April 28, 1993

WS559
Homosassa Utilities, Inc.
6608 Walten Way
Tampa, FL 33610-5517

Sumter

DELINQUENT NOTICE - WATER AND WASTEWATER UTILITY

According to our records, we have not received your 1992 Regulatory Assessment Fee for the period ending December 31, 1992, which was due on March 31, 1993. This is to advise that pursuant to Florida Law, interest at 12% per annum, plus a 5% penalty for each 30-day period or fraction thereof up to a maximum of 25%, will be assessed against any delinquent amount due.

If your Regulatory Assessment Fee Filing is not received in this office by May 12, 1993, your certificate may be canceled and your account referred to the Commission's Division of Legal Services for appropriate action.

Should you have any questions, please contact Mrs. Valorie Moore at Telephone (904) 488-4733.

JAW:ml:rafn.pp
WS559

c: Ms. Sherri Meador
Mrs. Valorie Moore

STATE OF FLORIDA

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



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(904) 413-6199

Public Service Commission

May 21, 1997

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
P 407 857 560**

Mr. T. O. Sullivan
Homosassa Utilities, Inc.
853 Tarawit Drive
Longboat Key, FL 34228-1832

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

According to our records, Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa Utilities, Inc. owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1991	\$4,169.39	\$3,710.76	\$7,880.15

Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before June 2, 1997, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

Mr. T. O. Sullivan

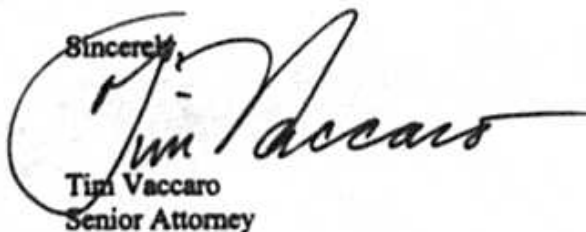
Page 2

May 21, 1997

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. Please be aware that the above-referenced amounts have been calculated as of June 1, 1997. The amounts owed are subject to change and increase over time, and any delay in payment past June 2, 1997, may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (904) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,

A handwritten signature in cursive script that reads "Tim Vaccaro". The signature is written in black ink and is positioned above the printed name and title.

Tim Vaccaro
Senior Attorney

TV:mw

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

P 263 Sna 554

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 15, 1998

Homosassa Utilities, Inc.
6608 Walton Way
Tampa, Florida 33610-2517

In re: Homosassa Utilities, Inc.

To whom it may concern:

According to our records, Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa Utilities, Inc. owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1991	\$4,169	\$4,044.31	\$8,213.70

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before January 26, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in payment may subject you to a greater amount. Furthermore, if payment is not made by the date

Homosassa Utilities, Inc.

Page 2

January 15, 1998

indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

P 263 572 557

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 15, 1998

Mr. T.O. Sullivan, Registered Agent
710 Old Compass Road
Longboat Key, Florida 34228

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

According to our records, Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa Utilities, Inc. owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1991	\$4,169	\$4,044.31	\$8,213.70

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before January 26, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in payment may subject you to a greater amount. Furthermore, if payment is not made by the date

Mr. T.O. Sullivan, Registered Agent

Page 2

January 15, 1998

indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Vaccaro", written over a light-colored background.

Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

P 263 572558

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 15, 1998

Mr. T. O. Sullivan
853 Tarawit Drive
Longboat Key, Florida 34228-1832

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

According to our records, Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa Utilities, Inc. owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1991	\$4,169	\$4,044.31	\$8,213.70

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before January 26, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in payment may subject you to a greater amount. Furthermore, if payment is not made by the date

Mr. T.O. Sullivan
Page 2
January 15, 1998

indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

P263 572 559

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 15, 1998

Mr. Carl M. Jacobs
1775 60th Terrace, N.E.
St. Petersburg, Florida

In re: Homosassa Utilities, Inc.

Dear Mr. Jacobs:

According to our records, Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa Utilities, Inc. owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1991	\$4,169	\$4,044.31	\$8,213.70

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before January 26, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.


Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in payment may subject you to a greater amount. Furthermore, if payment is not made by the date

Mr. Carl. M. Jacobs
Page 2
January 15, 1998

indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

P 263 572 654

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEACON
SUSAN F. CLARK
E. LEON JACOBS, JR.
JOE GARCIA



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 30, 1998

Mr. Carl M. Jacobs
1775 60th Terrace N.E.
St. Petersburg, Florida

SECOND NOTICE

In re: Homosassa Utilities, Inc.

Dear Mr. Jacobs:

On January 15, 1998, a letter was sent informing you that Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991 as required by Section 367.145, Florida Statutes. To date no response to that letter has been received.

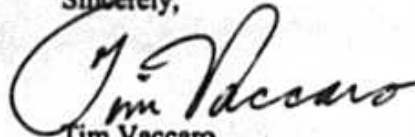
As of January 31, 1998, Homosassa Utilities, Inc. owes \$4,169 for RAFs, plus penalties and interest of \$4,044.31, totaling \$8,213.70. Please submit the amount owed by check made payable to the Florida Public Service Commission. Your payment is due on or before February 9, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

As stated in our January 15, 1998, letter, Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the fees. The amount now owed is subject to change and increase over time, and any delay in payment past February 9, 1998, may subject the utility to a greater amount. Furthermore, if payment is not received by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and Homosassa Utilities, Inc. is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Mr. Carl M. Jacobs
Page 2
January 30, 1998

If you have any questions regarding this matter, please do not hesitate to call me at (904) 413-6222.

Sincerely,


Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

STATE OF FLORIDA

263 572 655

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEACON
SUSAN F. CLARK
E. LEON JACOBS, JR.
JOE GARCIA



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 30, 1998

Homosassa Utilities, Inc.
6608 Walton Way
Tampa, Florida 33610-2517

SECOND NOTICE

In re: Homosassa Utilities, Inc.

To whom it may concern:

On January 15, 1998, a letter was sent informing you that Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991 as required by Section 367.145, Florida Statutes. To date no response to that letter has been received.

As of January 31, 1998, Homosassa Utilities, Inc. owes \$4,169 for RAFs, plus penalties and interest of \$4,044.31, totaling \$8,213.70. Please submit the amount owed by check made payable to the Florida Public Service Commission. Your payment is due on or before February 9, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

As stated in our January 15, 1998, letter, Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the fees. The amount now owed is subject to change and increase over time, and any delay in payment past February 9, 1998, may subject the utility to a greater amount. Furthermore, if payment is not received by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and Homosassa Utilities, Inc. is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Homosassa Utilities, Inc.

Page 2

January 30, 1998

If you have any questions regarding this matter, please do not hesitate to call me at (904) 413-6222.

Sincerely,

A handwritten signature in cursive script that reads "Tim Vaccaro". The signature is written in black ink and is positioned above the printed name and title.

Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

STATE OF FLORIDA

203 572 656

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEACON
SUSAN F. CLARK
E. LEON JACOBS, JR.
JOE GARCIA



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 30, 1998

Mr. T.O. Sullivan
853 Tarawit Drive
Longboat Key, Florida 34228-1832

SECOND NOTICE

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

On January 15, 1998, a letter was sent informing you that Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991 as required by Section 367.145, Florida Statutes. To date no response to that letter has been received.

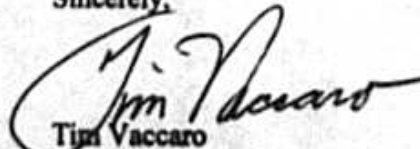
As of January 31, 1998, Homosassa Utilities, Inc. owes \$4,169 for RAFs, plus penalties and interest of \$4,044.31, totaling \$8,213.70. Please submit the amount owed by check made payable to the Florida Public Service Commission. Your payment is due on or before February 9, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

As stated in our January 15, 1998, letter, Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the fees. The amount now owed is subject to change and increase over time, and any delay in payment past February 9, 1998, may subject the utility to a greater amount. Furthermore, if payment is not received by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and Homosassa Utilities, Inc. is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Mr. T.O. Sullivan
Page 2
January 30, 1998

If you have any questions regarding this matter, please do not hesitate to call me at (904) 413-6222.

Sincerely,


Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEACON
SUSAN F. CLARK
E. LEON JACOBS, JR.
JOE GARCIA



263 572 657
DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

January 30, 1998

Mr. T.O. Sullivan
710 Old Compass Road
Longboat Key, Florida 34228

SECOND NOTICE

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

On January 15, 1998, a letter was sent informing you that Homosassa Utilities, Inc. has not paid regulatory assessment fees (RAFs) for 1991 as required by Section 367.145, Florida Statutes. To date no response to that letter has been received.

As of January 31, 1998, Homosassa Utilities, Inc. owes \$4,169 for RAFs, plus penalties and interest of \$4,044.31, totaling \$8,213.70. Please submit the amount owed by check made payable to the Florida Public Service Commission. Your payment is due on or before February 9, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

As stated in our January 15, 1998, letter, Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the fees. The amount now owed is subject to change and increase over time, and any delay in payment past February 9, 1998, may subject the utility to a greater amount. Furthermore, if payment is not received by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and Homosassa Utilities, Inc. is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Mr. T.O. Sullivan
Page 2
January 30, 1998

If you have any questions regarding this matter, please do not hesitate to call me at (904) 413-6222.

Sincerely,

A handwritten signature in cursive script that reads "Tim Vaccaro". The signature is written in dark ink and is positioned above the printed name and title.

Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

P 263 572 683

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

March 25, 1998

Mr. Carl M. Jacobs
1775 60th Terrace N.E.
St. Petersburg, Florida

In re: Homosassa Utilities, Inc.

Dear Mr. Jacobs:

I previously informed you by letter that Homosassa Utilities, Inc. (Homosassa) has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Our records also indicate that Homosassa owes RAFs for 1992. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa owes the following additional RAFs:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1992	\$4,320.74	\$3,845.46	\$8,166.20

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before April 8, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in

Mr. Carl M. Jacobs
March 25, 1998
Page 2

payment may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,

A handwritten signature in cursive script that reads "Tim Vaccaro". The signature is written in black ink and is positioned above the printed name and title.

Tim Vaccaro
Senior Attorney

TV/dr

cc. Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

P 263 572 684

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

March 25, 1998

Mr. T.O. Sullivan
853 Tarawit Drive
Longboat Key, Florida 34228-1832

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

I previously informed you by letter that Homosassa Utilities, Inc. (Homosassa) has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Our records also indicate that Homosassa owes RAFs for 1992. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa owes the following additional RAFs:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1992	\$4,320.74	\$3,845.46	\$8,166.20

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before April 8, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in

Mr. T.O. Sullivan
March 25, 1998
Page 2

payment may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

Commissioners:
 JULIA L. JOHNSON, CHAIRMAN
 J. TERRY DEASON
 SUSAN F. CLARK
 JOE GARCIA
 E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
 NOREEN S. DAVIS
 DIRECTOR
 (850) 413-6199

Public Service Commission

March 25, 1998

Homosassa Utilities, Inc.
 6608 Walton Way
 Tampa, Florida 33610-2517

In re: Homosassa Utilities, Inc.

To whom it may concern:

I previously informed you by letter that Homosassa Utilities, Inc. (Homosassa) has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Our records also indicate that Homosassa owes RAFs for 1992. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa owes the following additional RAFs:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1992	\$4,320.74	\$3,845.46	\$8,166.20

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before April 8, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

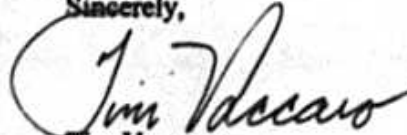
Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in

Homosassa Utilities, Inc.
March 25, 1998
Page 2

payment may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

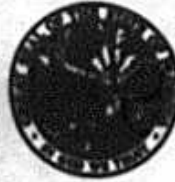
TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

P263 572 6860

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

March 25, 1998

Mr. T.O. Sullivan
710 Old Compass Road
Longboat Key, Florida 34228

In re: Homosassa Utilities, Inc.

Dear Mr. Sullivan:

I previously informed you by letter that Homosassa Utilities, Inc. (Homosassa) has not paid regulatory assessment fees (RAFs) for 1991, as required by Section 367.145, Florida Statutes. Our records also indicate that Homosassa owes RAFs for 1992. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Homosassa owes the following additional RAFs:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1992	\$4,320.74	\$3,845.46	\$8,166.20

Although the utility's certificates were transferred by this Commission by Order PSC-92-1113-FOF-WS, and PSC-94-1163-FOF-SU, the transferor remains responsible for outstanding RAFs pursuant to Section 367.071(2), Florida Statutes. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before April 8, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Homosassa Utilities, Inc. has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in

Mr. T.O. Sullivan
March 25, 1998
Page 2

payment may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Disposition of
delinquent regulatory assessment
fees of Homosassa Utilities,
Inc., former holder of
Certificate No. 429-S in Citrus
County.

DOCKET NO. 980342-WS
ORDER NO. PSC-98-0663- FOF-WS
ISSUED: May 14, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER DECLINING TO INITIATE SHOW CAUSE AND REFERRING DELINQUENT
REGULATORY ASSESSMENT FEES, PENALTY AND INTEREST TO COMPTROLLER'S
OFFICE FOR PERMISSION TO WRITE-OFF ACCOUNT

BY THE COMMISSION:

BACKGROUND

Homosassa Utilities, Inc. (HUI or utility) was a Class C utility in Citrus County serving 66 water customers and 62 wastewater customers. Based on the information in its 1991 annual report, HUI reported operating revenues of \$92,653. By Order No. PSC-94-1163-FOF-SU, issued September 22, 1994 in Docket No. 930763-SU, we approved the transfer of HUI's Certificate No. 429-S to RHV Utility, Inc (RHV). HUI was incorporated in the State of Florida in June of 1987; however, the corporation was dissolved on August 13, 1993. T.O. Sullivan was HUI's registered agent.

Based upon HUI's 1991 annual report, the utility owes \$4,169.39 for 1991 regulatory assessment fees. We have also estimated that HUI owes \$4,320.74 for 1992 regulatory assessment fees. The amount of the utility's 1992 regulatory assessment fees was estimated, because HUI did not file a 1992 annual report. According to RHV, it acquired no utility records for 1992 when it

DOCUMENT NUMBER-DATE

05382 MAY 14 8

FPSC-RECORDS/REPORTING

ORDER NO. PSC-98-0663-FOF-WS
DOCKET NO. 980342-WS
PAGE 2

purchased HUI. To date, HUI has failed to remit its 1991 and 1992 regulatory assessment fees.

REGULATORY ASSESSMENT FEES

In establishing rates, we include in our determination of the revenue requirements, the utility's obligation to pay regulatory assessment fees. However, this utility failed to pay regulatory assessment fees for 1991 and 1992. Although the utility was transferred to RHV, HUI remains responsible for those fees pursuant to Section 367.071(2), Florida Statutes.

Pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(5)(a), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its regulatory assessment fees, in the following manner:

1. 5 percent of the fee if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.
2. The amount of interest to be charged is 1% for each 30 days or fraction thereof, not to exceed a total of 12% annum.

In addition, pursuant to Sections 367.145(1)(b) and 367.161, Florida Statutes, and Rule 25-30.120(5)(b), Florida Administrative Code, the Commission may impose an additional penalty upon a utility for failure to pay regulatory assessment fees in a timely manner.

Notices of delinquency for failure to remit its regulatory assessment fees were mailed to the utility on April 28, 1993, May 21, 1997, January 15, 1998 and March 25, 1998. Notices were mailed to the utility's officers on January 15, 1998, January 30, 1998 and March 25, 1998. As of March 31, 1998, the utility owes the following: \$8,490.13 (\$4,169.39 for 1991 and \$4,320.74 for 1992) in regulatory assessment fees, as well as \$2,122.54 (\$1,042.35 for 1991 and \$1,080.19 for 1992) in penalties and \$5,975.70 (\$3,210.43 for 1991 and \$2,765.27 for 1992) in interest for a total of \$16,588.37. We calculated the penalty and interest based on the number of days elapsed since the respective regulatory assessments

ORDER NO. PSC-98-0663-FOF-WS
DOCKET NO. 980342-WS
PAGE 3

were due and the date of our vote in this matter. The date of our vote was included in computing the amount of time elapsed.

Regulatory assessment fees are intended to cover the costs incurred in our regulation of utilities. Apparently, the utility had no inclination to pay the fees voluntarily, nor does it appear that the utility made a good faith effort toward payment. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to pay regulatory assessment fees, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., this Commission, having found that the utility had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

We believe that the utility's failure to pay its regulatory assessment fees rises to a level that would normally warrant a show cause proceeding. As stated in the case background, this utility was transferred in 1994, and the utility corporation was dissolved on August 13, 1993. Under certain conditions, the directors and shareholders of a dissolved corporation could be held responsible for a distribution of funds prior to the payment of regulatory assessment fees. However, as discussed below, we do not believe that HUI's directors and shareholders can be held responsible for HUI's delinquent regulatory assessment fees.

Section 607.06401(3), Florida Statutes, provides in pertinent part:

No distribution may be made, if after giving it effect:
(a) The corporation would not be able to pay its debts as they become due in the usual course of business

Section 607.0834(1), Florida Statutes, provides in pertinent part:

A director who votes for or assents to a distribution made in violation of s. 607.06401 . . . is personally

liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating s. 607.06401 . . . if it is established that he did not perform his duties in compliance with s. 607.0830.

To hold a director liable under Section 607.0830, Florida Statutes, it must essentially be shown that the director made the unlawful distribution in bad faith. Furthermore, for a director to be held liable for an unlawful distribution, a proceeding must be "commenced within 2 years after the date on which the effect of the distribution was measured" Section 607.0834(3), Florida Statutes. In this case, we have no information regarding when distributions were made. Therefore, it is unclear when the time began to run for holding the directors liable. Further, Section 607.1406(13), Florida Statutes, provides that a shareholder of a dissolved corporation is not liable for any claim against the corporation which is brought after three years of the effective date of dissolution. A proceeding against the shareholders would have required commencement by August 13, 1996.

Based on the foregoing, we find that a show cause proceeding and further collection efforts would not be cost effective. As discussed earlier, we have already made attempts by letter to collect the delinquent regulatory assessment fees, penalty and interest. Therefore, we find that a show cause proceeding shall not be initiated against HUI for its failure to pay 1991 and 1992 regulatory assessment fees. HUI's unpaid regulatory assessment fees and associated penalty and interest shall be referred to the State of Florida Comptroller's Office for permission to write off the account as uncollectible. Upon referral to the Comptroller's Office, no further action will be required, and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that a show cause proceeding shall not be initiated against Homosassa Utilities, Inc. for violation of Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code. It is further

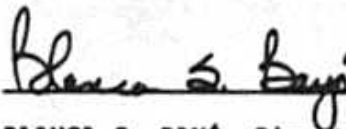
ORDERED that Homosassa Utilities, Inc.'s delinquent 1991 and 1992 regulatory assessment fees and associated penalties and interest shall be referred to the State of Florida Comptroller's

ORDER NO. PSC-98-0663-FOF-WS
DOCKET NO. 980342-WS
PAGE 5

Office for permission to write off the account as uncollectible.
It is further

ORDERED that upon referral of this matter to the Comptroller's
Office, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 14th
day of May, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

TV

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.

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

ORDER NO. PSC-98-0663-FOF-WS
DOCKET NO. 980342-WS
PAGE 6

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: Application for transfer
of Certificate No. 429-S from
HOMOSSASSA UTILITIES, INC.
to RHV UTILITY, INC. in Citrus
County.

DOCKET NO. 930763-SU
ORDER NO. PSC-94-1163-FOF-SU
ISSUED: September 22, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
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

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the establishment of 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 July 30, 1993, an application was filed with this Commission requesting approval of the transfer of Certificate No. 429-S and utility assets from Homosassa Utilities, Inc. (HUI or Utility) to RHV Utility, Inc. (RHV). HUI provides wastewater service to the Riverhaven development located near the City of Homosassa.

Upon review of the application, it was determined that the transfer occurred on December 7, 1992. Although Section 367.071 (1), Florida Statutes, requires a utility to obtain Commission approval prior to selling or transferring its certificate or facilities, we do not find that it is in the public interest to initiate show cause proceedings against HUI for transferring without prior Commission approval since HUI filed for bankruptcy subsequent to the transfer.

HUI has had ongoing financial and operating problems, including problems complying with Department of Environmental Protection (DEP) requirements. The Riverhaven system has been operating under a consent order without an operating permit and has been prohibited from connecting additional customers. In Docket No. 900967-SU, by Order No. PSC-93-0128-FOF-SU, issued July 13, 1993, a portion of the increased revenues were placed in escrow to be used to make improvements needed to comply with DEP requirements. The funds were released based upon completion of the needed improvements.

In December 1992, after HUI filed for bankruptcy, the Utility was purchased by a group of investors made up primarily of property owners within the Riverhaven development. According to the information provided, the new owners intend to provide quality service and improve the plant to allow for additional connections. The new owners have worked toward bringing the system into compliance with DEP requirements and have entered into a new consent agreement to further improve the plant.

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and rules. In particular, the application contains a filing fee in the amount of \$150.00, pursuant to Rule 25-30.020, Florida Administrative Code. RHV also provided evidence that it owns the land upon which its facilities are located, in accordance with Rule 25-30.037(1)(o), Florida Administrative Code.

RHV provided 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 being transferred. No objections to the application have been received and the time for filing such has expired.

Since RHV does not have experience in operating utilities, it has retained a certified plant operator to oversee the daily operations of the Utility. Further, according to the information provided, it appears that RHV has the financial ability to operate the system. In addition, since the new owners will be serving themselves, they have a vested interest in upgrading and properly operating the Utility.

Therefore, we find that the transfer of Certificate No. 429-S and the assets of the utility from HUI to RHV is in the public interest and it is approved. The territory RHV is authorized to serve is described in Attachment A of this Order which by reference is incorporated herein. RHV shall return Certificate No. 429-S to this Commission within 30 days of the date of this Order for entry reflecting the change in ownership.

Rate Base

Rate base was previously established for HUI by Order No. 24937, issued August 20, 1991, in Docket No. 900967-SU. An audit of the Utility's books and records has been conducted to determine rate base (net book value) at the time of the transfer, December 7, 1992.

As a result of the audit, utility plant-in-service has been decreased by \$67,613 to remove \$6,928 for maintenance items incorrectly included in plant, and \$60,685 for plant improvements which were made but never paid for due to the bankruptcy of the prior owner. Since rate base represents the Utility's investment, the \$60,685 represents cost free assets and is excluded from rate base. However, RHV shall reflect the \$60,685 on its books as \$0, with a notation or footnote reflecting the actual cost of the improvements. The footnote shall also explain that the improvements were made but not paid for due to the bankruptcy of the prior owner.

Accumulated depreciation has been decreased based on the adjustment to plant. In addition, the Utility's contributions-in-aid-of-construction (CIAC) have been recalculated and the Utility's balance has been adjusted by decreasing the account by \$6,127. Amortization has also been recalculated and increased by \$4,140.

An acquisition adjustment results when the purchase price of a utility differs from the original cost calculation. In the absence of extraordinary circumstances, it is this Commission's policy that the purchase of a utility at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary; therefore, a negative acquisition has not been included in the calculation of rate base.

Based on the adjustments, we find that rate base for HUI is \$115,192 as of December 7, 1992, the date of transfer. Our calculation of rate base is shown on Schedule No. 1, with adjustments shown on Schedule No. 2. The rate base calculation is used purely to establish 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.

Rates and Charges

HUI's rates and charges became effective on January 1, 1993, pursuant to a price index rate increase. 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.

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

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 429-S and utility assets from Homosassa Utilities, Inc., 710 Old Compass Road, Long Boat Key, Florida 34228, to RHV Utility, Inc., 1 Northwest U.S. Highway 19, Post Office Box 2770, Crystal River, Florida 34423, is hereby approved. It is further

ORDERED that RHV Utility, Inc. shall return Certificate No. 429-S to this Commission within 30 days of the effective date of this Order for entry reflecting the change in ownership. It is further

ORDERED that rate base, for purposes of the transfer which reflects the net book value, is \$115,192 as of December 7, 1992, the date of transfer. It is further

ORDERED that, as set forth in the body of this order, RHV Utility, Inc. shall reflect the \$60,685 (cost of improvements) on its books as \$0, with a notation or footnote reflecting the actual cost of the improvements. The footnote shall also explain that the improvements were made but not paid for due to the bankruptcy of the prior owner. It is further

ORDERED that RHV Utility, Inc. shall continue to charge the rates and charges approved in Homosassa Utilities, Inc.'s tariff until authorized to change by this Commission in a subsequent proceeding. The tariff shall be effective for service rendered or connections made, on or after the stamped approval date on the tariff sheets. 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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, 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 that this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of September, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

ATTACHMENT A

RHV UTILITIES, INC.

Riverhaven Subdivision

Territory Description

Located within Citrus County:

Township 19 South, Range 17 East

Section 29:

South 1/2 of Section 29;

Section 30:

All of said Section 30;

Section 31:

North 1/2 of Section 31;

Section 32:

Northeast 1/4 of Section 32.

Township 19 South, Range 16 East

Section 25:

East 1/2 of Section 25;

Section 36:

Northeast 1/4 of Section 36.

SCHEDULE NO. 1

Homosassa Utilities, Inc.

SCHEDULE OF WASTEWATER RATE BASE

As of December 7, 1992

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$ 890,247	\$ (67,613) (1)	\$ 822,634
land	85,967	0	85,967
Accumulated Dep.	(346,966)	6281 (2)	(340685)
CIAC	(711964)	6127 (3)	(705,837)
CIAC Amort.	248,973	4140 (4)	253,113
TOTAL	<u>\$ 166,257</u>	<u>\$ (51,065)</u>	<u>\$ 115,192</u>

Footnotes tie to summary number on Schedule 2

SCHEDULE NO. 2Homosassa Utilities, Inc.SCHEDULE OF RATE BASE ADJUSTMENT
(as of December 7, 1992)

<u>DESCRIPTION</u>	<u>ADJUSTMENT</u>
<u>Utility Plant in Service</u>	
(1) To remove maintenance expenses recorded as plant.	\$ (6,928)
To remove additions which were not paid for due to bankruptcy.	\$ (60,685)
Total Plant-in-Service	\$ (67,613)
<u>Accumulated Depreciation</u>	
(2) Recalculate to transfer date based upon adjusted plant	\$ 6,281
<u>Contributions-in-Aid-of-Construction</u>	
(3) Reflect Staff calculation	\$ 6,127
<u>CIAC Amortization</u>	
(4) Recalculate to transfer date	\$ 4,140
<u>TOTAL</u>	\$ 51,065