

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
ratemaking considerations of
gain on sale from sale of
facilities of Florida Water
Services Corporation to Orange
County.

DOCKET NO. 980744-WS
ORDER NO. PSC-99-2125-FOF-WS
ISSUED: October 26, 1999

The following Commissioners participated in the disposition of
this matter:

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

ORDER SCHEDULING DOCKET FOR HEARING AND
EXPANDING GAIN ON SALE INVESTIGATION

BY THE COMMISSION:

Florida Water Services Corporation (FWSC or utility), formerly known as Southern States Utilities, Inc., is a Class A utility which provides water and wastewater service throughout Florida. According to its 1998 annual report, FWSC recorded operating revenues of \$26,219,322 for water service and \$22,018,885 for wastewater service for facilities regulated by the Commission. The corresponding net utility operating income amounts were \$4,259,676 and \$4,046,716, respectively.

On December 30, 1997, FWSC filed an application to transfer all of its water and wastewater facilities in Orange County to Orange County with the exception of the Druid Hills water system. The transfer was based on an agreement executed by FWSC and Orange County. The closing date of the agreement was December 30, 1997. According to the contract, the sale price for the Orange County facilities was \$13,100,000, subject to adjustments and prorations permitted therein. By Order No. PSC-98-0688-FOF-WS, issued May 19, 1998, in Docket No. 971667-WS, we approved the application for transfer and ordered the cancellation of Certificate No. 73-S upon the resolution of all pending cases relating to the Orange County facilities. We also ordered the opening of this docket to evaluate

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FWSC-RECORDS/REPORTING

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any gain on sale from the sale of facilities from FWSC to Orange County.

On June 29, 1998, the Office of the Public Counsel (OPC) filed a Notice of Intervention in this docket, which was acknowledged by Order No. PSC-98-1099-PCO-WS, issued August 17, 1998. On July 10, 1998, OPC filed interrogatories and requests for production of documents. On August 13, 1998, the utility filed a motion for protective order on the basis that certain information and documents requested by OPC were confidential. By Order No. PSC-98-1489-CFO-WS, issued November 9, 1998, we granted a temporary protective order to FWSC with respect to those documents.

The issue of the extent to which the gain or loss realized by utilities from the sale of property which has been included in rate base should be shared with ratepayers has been a source of continuing controversy. We have dealt with a number of such cases in the water and wastewater industry. See Order No. PSC-96-1229-FOF-WS, issued September 30, 1996, in Docket No. 950828-WS, In Re: Application for rate increase in Marion County by Rainbow Springs Utilities, L.C.; Order No. PSC-93-0295-FOF-WS, issued February 24, 1993, in Docket No. 910637-WS, In Re: Application for a Rate Increase in Pasco County by Mad Hatter Utility, Inc.; Order No. PSC-93-0301-FOF-WS, issued February 25, 1993, in Docket No. 911188-WS, In Re: Application for a rate increase in Lee County by Lehigh Utilities, Inc.

This issue has been vigorously debated in both of FWSC's most recent rate cases (Dockets Nos. 920199-WS and 950495-WS). In both cases, OPC and the utility presented witnesses with widely divergent views regarding the gain-on-sale issue. Moreover, OPC appealed our determination of this issue in both cases. Our decisions in these cases, as in those cited above, have resulted in varied treatments of the gain or loss issue because the circumstances underlying each case have been different. Our analysis of these cases leads to the belief that we would be unable to issue a proposed agency action (PAA) which would not have a high probability of being protested by OPC and/or by the utility. This belief is reinforced by review of the discovery propounded by OPC in this docket.

Accordingly, we find it is appropriate to schedule a hearing in this docket. We believe that issuance of a PAA Order in this case would result in an inefficient use of time and resources for the Commission and parties to this docket.

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During the course of this investigation, we became aware that the utility sold a laboratory located in Volusia County. The costs of construction and operation of this laboratory were included in the test year rate base and operation and maintenance expense in FWSC's most recent rate case. Additionally, the utility reported the sale of facilities in Citrus County known as Crystal River Highlands in connection with an application for transfer of facilities in Docket No. 990743-WU. We believe it would be less costly and more efficient to investigate these sales in the context of this docket, rather than through opening separate dockets in which to investigate the sales. We therefore find that it is appropriate to expand the current docket to include an investigation of these sales.

This docket shall remain open in order to proceed to hearing in this matter.

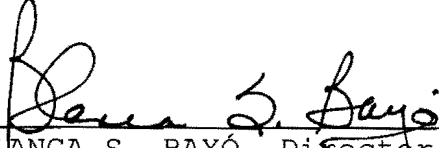
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that this docket shall be scheduled for hearing. It is further

ORDERED that this docket shall be expanded to include an investigation of the sales of the laboratory in Volusia County and the Crystal River Highlands facilities in Citrus County. It is further

ORDERED that this docket shall remain open pending final disposition of this matter.

By ORDER of the Florida Public Service Commission this 26th Day of October, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 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.