

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval  
of sale of Inglewood Water  
System, holder of Certificate  
No. 428-W in Levy County, to  
Lonnie and Royanna Parnell.

DOCKET NO. 990253-WU  
ORDER NO. PSC-00-0682-FOF-WU  
ISSUED: April 12, 2000

The following Commissioners participated in the disposition of  
this matter:

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

ORDER APPROVING TRANSFER AND  
DECLINING TO INITIATE SHOW CAUSE PROCEEDING

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ESTABLISHING RATE BASE FOR PURPOSES OF  
THE TRANSFER AND DECLINING TO RECOGNIZE A  
NEGATIVE ACQUISITION ADJUSTMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the actions establishing rate base for purposes of  
the transfer, and declining to recognize a negative acquisition  
adjustment as discussed herein, are 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 March 4, 1999, Inglewood Water System (Inglewood or  
utility) filed an application with this Commission for approval of  
the sale of the utility and transfer of Certificate No. 428-W from  
James D. Ditullio to Lonnie and Royanna Parnell (the Parnells).  
The application, as filed, was deficient. Satisfaction of all  
deficiencies was completed in January 2000.

DOCUMENT NUMBER-DATE

04460 APR 12 8

FPSC-RECORDS/REPORTING

Inglewood is a Class C utility, which serves approximately 56 water customers in Levy County. The utility was granted Certificate No. 428-W and initial rates by Order No. 13961, issued January 3, 1985, in Docket No. 840031-WU. This Commission received jurisdiction in Levy County on January 4, 1983.

Show Cause

The transfer of Inglewood from Mr. Ditullio to the Parnells occurred on June 3, 1998, prior to obtaining Commission approval. Section 367.071, Florida Statutes, states, in part,

No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof . . . without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest.

This statute was subsequently revised, effective June 11, 1999, to allow closing prior to Commission approval provided that it is made contingent upon Commission approval. The agreement between Mr. Ditullio and the Parnells contained no such provision.

Section 367.161(1), Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. In closing on the transfer prior to Commission approval, the utility's act was "willful" in the sense intended by Section 367.161, Florida Statutes. 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, Florida Administrative Code, Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission having found that the company 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 "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a state or rule." 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).

Although Inglewood's failure to obtain Commission approval prior to transferring its facilities to the Parnells constitutes an apparent violation of Section 367.071, Florida Statutes, we do not find that the violation rises in these circumstances to the level that warrants the initiation of a show cause proceeding. The Parnells purchased the water system on June 3, 1998, by paying Mr. Ditullio \$17,234 in cash. Upon becoming aware of the requirement to obtain Commission approval, they immediately filed an application for approval of the transfer. In addition, Mr. Ditullio no longer wanted to be in the utility business. Therefore, we do not find it appropriate to order Inglewood to show cause for failing to obtain approval prior to transferring the utility to the Parnells.

#### Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$750, as prescribed by Rule 25-30.020, Florida Administrative Code. Further, the application includes evidence in the form of a warranty deed that the utility owns the land upon which its facilities are located, as required by Rule 25-30.037(2)(q), Florida Administrative Code.

The application also contains proof of compliance with the noticing provision 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.

With regard to technical ability, Mr. Parnell has been providing operation, maintenance and management services for municipal and private water utilities since 1980. He is a licensed operator and has been self-employed as a water utility operator for the last 11 years. Mr. Parnell has indicated that he will maintain and operate the system in compliance with the appropriate laws and rules.

Further, from information provided with the application, it appears that Mr. Parnell has the financial resources to continue to operate the utility and ensure consistent compliance with environmental regulations. According to Mr. Parnell, he intends to continue to make necessary investments in the utility with a goal

of providing the financial stability required to maintain the utility in accordance with Commission standards.

The application also contains a copy of the Sales Contract which indicates the purchase price, terms of payment, a list of assets purchased and liabilities assumed and non assumed. There are no guaranteed revenue contracts, developer agreements, customer advances, debt of the utility and leases that must be disposed of in association with the transfer of the utility.

According to our records, Inglewood is current with regard to its regulatory assessment fees through December 1998 and has filed an annual report for 1998 and all prior years. The Parnells will be responsible for the 1999 regulatory assessment fees and the 1999 annual report, both of which are due March 31, 2000.

Based on the foregoing, we find that the transfer of Inglewood from Mr. Ditullio to the Parnells is in the public interest and it is approved. The territory Inglewood is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein. Inglewood shall return Certificate No. 428-W to this Commission within 20 days of the date of this Order for entry reflecting the change in ownership.

#### Rate Base

Rate base was previously established for Inglewood by Order No. 17558, issued on May 14, 1987, in Docket No. 861263-WU. At that time, rate base was found to be \$19,665.

An audit of the utility's books and records has been conducted to determine rate base at the time of transfer. The audit reveals that because the utility did not maintain a general ledger, the utility's books and records were not reconciled with Order No. 17558. Therefore, audited additions and adjustments have been made to the balances included in Order No. 17558.

The audited additions to plant since the last rate case have been added to the utility plant balances in the above Order resulting in an ending test period plant balance of \$51,531. The utility's recorded balance for the plant-in-service account was overstated by \$2,586. This account has been adjusted to reflect the proper amount of plant additions.

Similarly, to reconcile the land value with the order, land has been decreased by \$1,000. The utility misclassified a major repair to the plant structure to land. This account has been reduced by \$1,000 to correct the misclassification, which results in a land value of \$3,307.

Order No. 17558 established the contributions-in-aid-of-construction (CIAC) balance to be \$14,464, as of December 31, 1986. Amortization of the CIAC balance was established at \$5,207. Since there have been no customer additions since 1986, an adjustment to CIAC in the amount of \$164 has been made to reconcile the account to that established by the Order. An adjustment has also been made to amortization of the CIAC account in the amount of \$11,548. We have calculated accumulated amortization at the time of the transfer using the composite depreciation rate from the Order. This calculation results in an ending balance of \$12,193 for amortization of CIAC.

The utility's recorded accumulated depreciation was \$37,184, which is overstated. According to the audit, the accumulated depreciation balance should be \$27,329. Therefore, accumulated depreciation has been reduced by \$9,855.

Based on the foregoing, we find Inglewood's rate base to be \$25,238. Our calculation of rate base is shown on Schedule No. 1 of this Order, which by reference is incorporated herein.

The rate base calculations are used solely to establish the net book value of the property being transferred. The calculations do not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.

#### Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the original cost calculation adjusted to the time of transfer. The purchase price of the system was \$17,234; rate base is \$25,238, as of the date of transfer. This results in a negative acquisition adjustment of \$8,004.

In the absence of extraordinary circumstances, it has been Commission practice that the purchase of a utility system at a premium or discount shall not affect the rate base calculation. The circumstances in this exchange do not appear to be extraordinary. In addition, Inglewood has not requested an

acquisition adjustment. Therefore, an acquisition adjustment has not been included in the calculation of rate base.

Rates and Charges

Inglewood's rates and charges were approved in its last rate case proceeding by Order No. 17558, issued on May 14, 1987, in Docket No. 861263-WU. The rates were last increased through a 1990 price index and pass-through rate adjustment effective March 30, 1991. Inglewood's current rates and charges are set forth below.

WATER

Monthly Rates

Residential and General Service

<u>Meter Size</u>	<u>Base Facility Charge</u>
All sizes	\$ 16.08
Gallorage charge per 1,000 gallons	\$ 2.64

Customer Deposits

Residential and General Service

<u>Meter Size</u>	
5/8" x 3/4"	\$ 50.00

Meter Installation Fees

<u>Meter Size</u>	
5/8" x 3/4"	\$190.00

Miscellaneous Service Charges

	<u>Normal Business Hours</u>	<u>After Normal Business Hours</u>
Initial Connection	\$ 10.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 20.00
Violation Reconnection	\$ 20.00	\$ 25.00
Premises Visit Charge (in lieu of disconnection)	\$ 10.00	-----

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classifications and regulations of the former owner unless authorized to change by this Commission. The new owner has not requested to change the rates and charges and we see no reason to change them at this time. Inglewood shall continue charging the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding. Inglewood has filed a tariff reflecting the change in ownership. The tariff shall be effective for services rendered or connections made on or after the stamped approval date, in accordance with Rule 25-30.475, Florida Administrative Code.

If no timely protest is received upon the expiration of the protest period, this Order shall become final and effective upon the issuance of a Consummating Order and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Inglewood Water System, Post Office Box 72, Chiefland, Florida 32644-0072, from Mr. J. D. Ditullio, Post Office Box 1268, Chiefland, Florida 32644, to Lonnie and Royanna Parnell, Post Office Box 953, Bronson, Florida 32621, is hereby approved. The territory Inglewood Water System is authorized to serve is shown on Attachment A of this Order. It is further

ORDERED that Inglewood shall return Certificate No. 428-W to this Commission within 20 days of the date of this Order for entry reflecting the change in ownership. It is further

ORDERED that Inglewood Water System shall not be required to show cause for failing to obtain Commission approval prior to

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transferring its system to Lonnie and Royanna Parnell. It is further

ORDERED that rate base, which for transfer purposes reflects the net book value of the system being transferred, is \$25,238, as of June 3, 1998, the date of transfer. It is further

ORDERED that the \$8,004 acquisition adjustment shall not be included in the calculation of rate base for transfer purposes. It is further

ORDERED that all schedules and attachments attached to this Order are incorporated herein by reference. It is further

ORDERED that Inglewood Water System shall continue to charge the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the tariff filed by Inglewood Water System, which reflects the change in ownership, shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

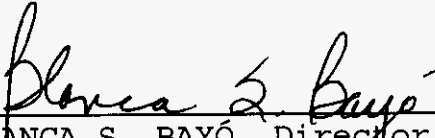
ORDERED that the provisions of this Order establishing rate base for purposes of the transfer, and declining to recognize a negative acquisition adjustment in the calculation of rate base, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, 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" attached hereto. It is further

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



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By ORDER of the Florida Public Service Commission this 12th  
day of April, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

ALC

DISSENT:

Commissioner J. Terry Deason dissents from the decision in this order not to recognize a negative acquisition adjustment in the calculation of rate base.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our actions establishing rate base for purposes of the transfer, and declining to recognize a negative acquisition adjustment in the calculation of rate base, are preliminary in nature. Any person whose substantial interests are affected by the actions proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 3, 2000. If such a petition is filed, mediation may be available on a case-by-case

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basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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**ATTACHMENT A**

INGLEWOOD WATER SYSTEM

Territory Description

Levy County

Docket No. 840031-WU, Order No. 13961, issued January 3, 1985

TOWNSHIP 16 SOUTH, RANGE 16 EAST

Section 34

That portion of the North 950 feet of the South 3,100 feet of the East 1/2 of said Section 34, lying South of State Road 40-A.

SCHEDULE NO. 1

INGLEWOOD WATER SYSTEM

Schedule of Water Rate Base  
As of June 30, 1998

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant-in-Service	\$ 54,117	\$ (2,586)	\$ 51,531
Land	\$ 4,307	\$ (1,000)	\$ 3,307
Accumulated Depreciation	\$(37,184)	\$ (9,855)	\$(27,329)
Contributions-in-aid-of- Construction	\$(14,628)	\$ 164	\$(14,464)
Contributions-in-aid-of- Construction Amortization	<u>\$ 645</u>	<u>\$ 11,548</u>	<u>\$ 12,193</u>
TOTAL	\$ 7,257	\$ 17,981	\$ 25,238