



# Public Service Commission

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RECORDS AND REPORTING

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

**DATE:** OCTOBER 26, 2000

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF REGULATORY OVERSIGHT (MESSER, REDEMANN) *BSM*  
DIVISION OF LEGAL SERVICES (CROSBY, GERVASI) *RR*

**RE:** DOCKET NO. 971185-WS - APPLICATION FOR ORIGINAL CERTIFICATES FOR AN EXISTING UTILITY PROVIDING WATER AND WASTEWATER SERVICE IN POLK COUNTY BY NEW RIVER RANCH, L.C. d/b/a RIVER RANCH *RD*

COUNTY: POLK

**AGENDA:** 11/07/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** I:\PSC\RGO\WP\971185WS.RCM

### CASE BACKGROUND

On September 11, 1997, New River Ranch, L.C. d/b/a River Ranch (NRR or utility) filed an application for a grandfather certificate to provide water and wastewater service in Polk County, pursuant to Section 367.171, Florida Statutes. The Commission received jurisdiction in Polk County in May 1996 after the Board of County Commissioners adopted a resolution declaring privately-owned water and wastewater utilities in the County to be subject to the provisions of Section 367, Florida Statutes.

Polk County granted a franchise to the utility in 1970 when it was known as River Ranch Water Company, Inc. In 1979, Polk County approved a transfer of the franchise to All-American River Ranch Water and Sewer Company, Inc. Subsequently, the utility was transferred to River Utilities, Inc. in 1981, when River Utilities,

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Inc.'s parent company, River Ranch, Inc., acquired the utility's assets through foreclosure.

NRR acquired the utility on January 14, 1997, during the final stages of a bankruptcy proceeding that involved the former owner, River Utilities, Inc. and its parent company. NRR was formed by a group of ten property owners in the utility's service area who joined together to acquire the utility and its parent company.

As stated previously, on September 11, 1997, NRR filed an application for grandfather certificates. However, because NRR did not own the system when the Commission received jurisdiction in Polk County on May 14, 1996, NRR was asked to submit an application for original certificates for a utility in existence rather than an application for a grandfather certificate. The Commission granted the utility Certificates Nos. 603-W and 519-S by Order No. PSC-99-0254-FOF-WS, issued February 9, 1999, in this docket.

The utility is a Class C water and wastewater utility that serves a resort area known as River Ranch, which includes a 367-unit recreational vehicle (RV) park, a 192-unit condominium village, 119 homes in Long Hammock and 29 homes in River Ranch Shores. The area served by the utility also includes restaurants, a golf course, a marina, offices and shops.

According to the Polk County Health Department (PCHD), the utility has seven water items needing correction. Five of the seven items have been completed. The remaining two items are reported to be completed but need to be verified by the PCHD. With respect to the wastewater system, according to a representative for the Department of Environmental Protection (DEP), some of the vitrified clay collection system pipes have collapsed, the wastewater plant does not appear to be working properly due to sand and debris, effluent appears to be turbid, and the clarifier needs replacement parts, specifically, the scraper arm. Also, according to the DEP representative, the gas chlorination system does not have all of the safety equipment needed and the plant stairs appear to be unsafe. Of the repairs that are necessary, the DEP representative believes that the collection system repair should be made first.

Section 367.011(2), Florida Statutes, gives the "...Commission exclusive jurisdiction over each utility with respect to its authority, service, and rates." By Order PSC-99-0254-FOF-WS, the Commission allowed the utility to continue charging its current rates and charges. However, the rates that were being charged included flat rates for some of the utility's customers. The Order

states that, although the collection of metered rates is preferred, no information was available to indicate how much it would cost the utility to install meters. The Commission did not have sufficient information to make a determination that collection of metered rates would justify the cost of metering. Therefore, in order to determine the feasibility of requiring the utility to install meters and develop metered rates for its customers, the Commission determined that additional information regarding customer usage and the cost to install meters was needed.

According to the Order, this docket would remain open pending the receipt of information required to make a determination regarding metering and the appropriate rates and charges. Staff attempted to follow-up with the utility to obtain the required information on several occasions. We were informed in August 2000, by the utility's operator, and also by Ms. Ellen Avery-Smith, Esq., that the utility is in foreclosure proceedings and a receiver has been appointed to manage and operate the utility. Ms. Avery-Smith's law firm represents Ocwen Federal Bank, FSB, which is the bank that initiated the foreclosure proceedings against NRR.

The Commission received a letter on September 7, 2000 from Ms. Avery-Smith, Esq. requesting that we grant the receiver additional time to become familiar with the operation and management of the water and wastewater systems before undertaking a metering study or metering changes. The purpose of this recommendation is to address the Receiver's request.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the utility be required to provide customer usage and meter installation cost data?

**RECOMMENDATION:** No. The utility should not be required to provide customer usage and meter installation cost data at this time. (MESSER, REDEMANN)

**STAFF ANALYSIS:** When NRR acquired the utility in January 1997, the rates in effect were flat rates for water and wastewater. NRR has continued to charge these rates since that time. Currently, NRR charges three commercial accounts fixed monthly charges through their homeowners' associations. These accounts are a 367-unit RV park (River Ranch RV Resort) which pays \$10.50 per unit; a 192-unit condominium resort area (River Ranch Inn and Cottages) which pays \$7.00 per unit; and a residential community (Long Hammock) consisting of 119 homes that pay \$10.50 each. Also, outside the park area, 29 single-family homes in the River Ranch Shores area are individually billed on a quarterly basis. Some customers in the River Ranch Shores area pay \$45.60; others pay \$40.50.

Generally, this Commission has approved the retention of existing rates in grandfather applications or applications for certificates for utilities already in existence. However, there is no incentive to conserve water when flat rates are charged. Further, unless otherwise allowed by the Commission, collection of metered rates is prescribed by Rule 25-30.255, Florida Administrative Code. Installation of meters is also increasingly being mandated by the water management districts.

In Order No. PSC-99-0254-FOF-WS, issued February 9, 1999, the Commission authorized NRR to continue to charge its existing rates and charges. However, in order to determine the feasibility of requiring the utility to install meters and develop metered rates for its customers, the Commission determined that additional information regarding customer usage and the cost to install meters was needed. Therefore, the Commission ordered that this docket remain open pending receipt of the information required to make a determination regarding metering and the appropriate rates and charges.

NRR is a small water and wastewater system located in the South Florida Water Management District (SFWMD). The community is a vacation area that experiences peak water usage from about

October through March. Water demand increases during holiday weekends. In an attempt to determine whether or not the utility should install meters, staff spoke with representatives from the SFWMD. According to the representatives, the utility is not in a critical water supply problem area. Critical water supply problem areas are those areas that have experienced water supply problems or are anticipated to have water supply problems in the next 20 years. Also, according to SFWMD, metering by individual homes in that area is not required by SFWMD.

Through several telephone conversations, staff was informed in August by the utility's operator and also by the bank's attorney that the utility is in foreclosure proceedings and that a receiver has been appointed to manage and operate the utility. The receiver is Mr. Andrew J. Bolnick, a businessman appointed by the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Case No. 05-1999-CA-57677-XXXX-XX-C, Order dated February 28, 2000. As stated in the case background, the Commission received a letter on September 7, 2000 from Ms. Ellen Avery-Smith, Esq., requesting that the Commission grant the receiver additional time to become familiar with the operation and management of the water and wastewater systems before undertaking a metering study or metering change.

Typically, the initial conservation measures taken by the Commission include metering and exploration of a conservation-oriented rate structure. However, staff believes that, given the utility's foreclosure status along with the appointment of a receiver and SFWMD's position, the utility should not be required to provide customer usage or meter installation cost data at this time.

Staff has discussed with utility representatives the option of filing for a staff assisted rate case. The Receiver indicated that the bank is reluctant to file for a staff-assisted rate case prior to a sale to a permanent owner. Staff has strongly encouraged the utility to consider filing for a staff assisted rate case.

Staff recommends that, at this time, it is in the best interest of the utility and its customers to leave the existing rates and charges in place until the utility files for a staff assisted rate case. Therefore, staff recommends that the utility should not be required to provide customer usage and meter installation cost data at this time.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed. (CROSBY,  
GERVASI)

**STAFF ANALYSIS:** No further action is required in this docket.  
Therefore, staff recommends that the docket be closed.