

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of water facilities from Sunrise Water Company, Inc., holder of Certificate No. 584-W, to Keen Sales, Rentals and Utilities, Inc., holder of Certificate No. 582-W, in Polk County, for cancellation of Certificate No. 584-W, and for amendment of Certificate No. 582-W to include additional territory.

DOCKET NO. 990731-WU  
ORDER NO. PSC-00-2100-FOF-WU  
ISSUED: November 6, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
E. LEON JACOBS, JR.  
LILA A. JABER  
BRAULIO L. BAEZ

ORDER DECLINING TO REOPEN PROTEST PERIOD OF  
ORDER NO. PSC-00-1388-PAA-WU, DETERMINING THAT RATE BASE,  
POSITIVE ACQUISITION ADJUSTMENT AND IMPUTATION OF  
CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION MAY BE ADDRESSED IN  
DOCKET NO. 001118-WU, AND CLOSING DOCKET

BY THE COMMISSION

On July 31, 2000, this Commission issued Order No. PSC-00-1388-PAA-WU in Docket No. 990731-WU approving the transfer of water facilities from Sunrise Water Company, Inc. (Sunrise) to Keen Sales, Rentals and Utilities, Inc. (Keen). The portion of the Order establishing rate base for purposes of the transfer and declining to recognize a positive acquisition adjustment was issued as proposed agency action. Any person whose interests were substantially affected by the Commission's action in the Order had until August 21, 2000 to file a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code. Upon expiration of the protest period, with no petitions having been filed, Order No. PSC-00-1566-CO-WU was issued on August 31, 2000,

DOCUMENT NUMBER-DATE

14307 NOV-68

FPSC-RECORDS/REPORTING

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making Order No. PSC-00-1388-PAA-WU effective and final and closing the docket.

Subsequent to the closing of the docket, Keen, by telephone calls and letters, expressed its concerns regarding the rate base, the positive acquisition adjustment and imputation of contributions-in-aid-of-construction. Docket No. 990731-WU was reopened to address these concerns.

Currently, Keen has a staff-assisted rate case pending before the Commission in Docket No. 001118-WU. Keen indicated that it first became aware that Order No. PSC-00-1388-PAA-WU had been issued from an Commission auditor in the staff-assisted rate case. At that time, September 20, 2000, Keen called the Division of Records and Reporting (Records) and stated that it had not received the notice of the agenda conference or the Order. According to Records, the notice of the time and place of the agenda conference was mailed to Keen on June 30, 2000. The Order was issued and mailed to Keen on July 31, 2000. We have no record of either having been returned to the Commission as undeliverable. According to Records, the Notice and Order were sent to Keen at the following address:

685 Dyson Road  
Haines City, Florida 33844

Keen did, however, receive tariff sheets which were sent to the utility on September 9, 2000, at the 685 Dyson Road, Haines City, Florida address. This is the address shown in the docket file and on the Commission's master directory. Records verified with Keen that the notice and Order had been mailed to the correct address.

Keen then called the Division of Legal Services, and stated that it disagreed with the rate base set by Order No. PSC-00-1388-PAA-WU. The telephone call was followed up with a letter dated September 22, 2000, in which Keen requested an opportunity to respond to the information in the Order and the audit report. This Commission also received a letter from Keen on October 10, 2000, transmitting the utility's "Rebuttal to Commission Order No. PSC-00-1388-PAA-WU." In its Rebuttal, Keen responded to the Order stating its disagreement with our decision not to recognize a positive acquisition adjustment, and imputation of contributions-

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in-aid-of-construction (CIAC). Keen requested recognition of the positive acquisition adjustment and reconsideration of imputation of CIAC.

In its September 20, 2000, letter, Keen stated that numerous mailings had been sent to the previous owner, Sunrise, instead of Keen. Included with that letter was a copy of a letter from the Division of Regulatory Oversight to Sunrise Water Company regarding the audit request in Docket No. 001118-WU. This letter should have been addressed to Keen at the address shown above. Also included was an Affidavit from Sunrise stating that it had received "numerous mailings from the Florida Public Service Commission that should have actually gone to Keen."

During the processing of the transfer application, both Sunrise and Keen would have received correspondence from the Commission staff regarding information needed to process the application. Although the letter from the Division of Regulatory Oversight was sent to the wrong address, it was not sent by Records. As previously stated, Records verified with Keen during the telephone conversation on September 20, 2000, that the 685 Dyson Road address is correct.

To our knowledge, there have been no previous problems regarding the receipt of information by Keen from the Commission. However, Keen maintains that it did not receive a copy of Order No. PSC-00-1388-PAA-WU, and, therefore, did not have an opportunity to respond to the information contained therein.

It should be noted that rate base was established by Order No. PSC-00-1388-PAA-WU for purposes of the transfer only. The calculation did not include the normal ratemaking adjustments of working capital and used and useful adjustments. Because Keen currently has a staff-assisted rate case pending before the Commission, Keen's concerns may be addressed in that docket.

Based on the foregoing, we do not find it appropriate to reopen the protest period for Order No. PSC-00-1388-PAA-WU. Keen's concerns regarding rate base, recognition of a positive acquisition adjustment and imputation of contributions-in-aid-of-construction shall be addressed in Docket No. 001118-WU.

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It is, therefore,

ORDERED by the Florida Public Service Commission that the protest period for Order No. PSC-00-1388-PAA-WU shall not be reopened. It is further

ORDERED that Keen Sales, Rentals and Utilities, Inc.'s concerns regarding rate base, the recognition of a position acquisition adjustment and imputation of contributions-in-aid-of-construction shall be addressed in Docket No. 001118-WU. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 6th day of November, 2000.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

ALC

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

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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.