

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of facilities and Certificate No. 139-W in Pasco County from Dixie Groves Estates, Inc. to Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc.

DOCKET NO. 030656-WU
ORDER NO. PSC-04-0338-PAA-WU
ISSUED: March 31, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TRANSFER OF FACILITIES AND CERTIFICATE NO. 139-W IN PASCO COUNTY FROM DIXIE GROVES ESTATES, INC. TO DIXIE GROVES UTILITY COMPANY, A DIVISION OF COMMUNITY UTILITIES OF FLORIDA, INC.

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the actions determining rate base and determining that there will be no acquisition adjustment, 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.

Dixie Groves Estates, Inc. (Dixie Groves or utility) is a Class C water utility located in Pasco County serving approximately 337 water customers. The utility was issued Water Certificate No. 139-W pursuant to Order No. 5740, issued May 7, 1973, in Docket No. C-73191-W, In Re: Application of Dixie Groves Estates, Inc. for Certificate to Operate an Existing Water System In Pasco County. Dixie Groves is located in the Southwest Florida Water Management District (SWFWMD). This particular area of the SWFWMD is in the Tampa Bay Water Use Caution Area. Wastewater service is provide by Pasco County Utilities. The utility's 2002 annual report reflects operating revenues of \$54,410 and an operating loss of (\$11,432).

On July 21, 2003, Dixie Groves Utility Company, a division of Community Utilities of Florida, Inc. (DGUC or Buyer), filed an application for transfer of the utility's facilities and certificate from Dixie Groves to DGUC. According to the application, on December 30, 2002, Dixie Groves entered into an agreement for the purchase and sale of the utility and the land upon

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which the facilities were located for a purchase price of \$115,000. The application was found to be deficient. The deficiencies were corrected on November 18, 2003.

We have jurisdiction to consider this matter pursuant to the provisions of Section 367.071 Florida Statutes.

Transfer of Facilities and Certificate No. 139-W

The application as filed and amended is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and rules concerning an application for transfer. The application contained a check in the amount of \$750, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Section 367.071, Florida Statutes, requires that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control, without prior approval of the Commission unless such sale, assignment, or transfer is made contingent upon Commission approval. The closing took place on December 30, 2002, contingent upon the Commission's approval of the transfer.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the utility to be transferred. No objections to the notice of application were received and the time for filing such has expired.

The application contains documentation to comply with Rule 25-30.037(2)(g), (h), (i), and (k), Florida Administrative Code, regarding terms of the sale and financing of the purchase. The application contains a copy of the purchase agreement which includes the purchase price, terms of payment and a list of the assets purchased. The customer deposits were transferred to the buyer. The purchase price for the utility and land is \$115,000. This purchase was a cash transaction.

Rule 25-30.037(2)(q), Florida Administrative Code, requires proof that the utility owns or has provided for the continued use of the land upon which the utility facilities are located. The applicant has provided evidence in the form of a recorded warranty deed, that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(2)(q), Florida Administrative Code.

The application also contains a statement, pursuant to Rule 25-30.037(2)(j), Florida Administrative Code, regarding how the transfer is in the public interest. According to the application the transfer is in the public interest because the buyer has the expertise and finances to operate the utility to better serve the customers. In addition, DGUC is wholly-owned by Community Utilities of Florida, Inc., which is a corporation established for the purpose of

uniting small utility systems under an organization that would increase the quality of customer service and efficiencies of the utility. Mr. Deremer will own and operate the utility system.

With regard to the buyer's technical ability, Mr. Deremer has approximately nineteen years of experience in the utility industry. He owned a utility service company that provided operation and maintenance services and engineering services to private and municipal utility systems in Florida. Mr. Deremer's service company was purchased in 1999, by American Water Services, Inc.

With regard to the buyer's financial ability, a statement was provided that Mr. Deremer has both the regulatory experience and the financial ability to ensure consistent compliance with the Florida Department of Environmental Protection (FDEP) regulations. In support of this statement, the application contained Mr. Deremer's financial statement which indicates sufficient net worth. While most of the assets are in real estate, the statement also reflects liquid assets, as well as the ability to attract financing. According to the application, the utility's investment capital will be provided by Mr. Deremer. DGUC will receive the benefit of centralized management, accounting, billing, and data processing functions, resulting in the economies of scale that would be unattainable on a stand-alone basis. Additionally, the application contains a statement that the buyer will fulfill the commitments, obligations, and representations of the sellers with regard to utility matters.

The application states that the buyer has performed a reasonable investigation of the utility system as required by Rule 25-30.037(2)(p), Florida Administrative Code. The buyer included a statement that the system appears to be in satisfactory condition and in compliance with all applicable standards set by the FDEP. Our staff has contacted the FDEP and verified that there are no outstanding notices of violation.

The utility's service area is at build-out. The water treatment plant is composed of three wells, two of which are active. Liquid chlorination is used as the primary form of treatment. The average daily flow for the calendar year 2002, was approximately 34,132 gallons per day (gpd). Given the age of the system, the new owners of the utility have initiated a replacement program for older equipment. Approximately 50 meters have been replaced.

Rule 25-30.037(2)(r), Florida Administrative Code, requires the application to contain a statement regarding the disposition of any outstanding RAFs, fines, or refunds owed. The application states that all RAFs, fines, and refunds have been paid by the applicant. We have verified that the RAFs and annual reports have been filed through December 31, 2002, and that there are no outstanding penalties, refunds or interest as of December 31, 2002, for RAFs or Annual Reports. DGUC is responsible for remitting the 2003 and all future RAFs and annual reports.

Based on the above, we find that the transfer of the facilities and Certificate No. 139-W from Dixie Groves to DGUC is in the public interest and is hereby approved. The transfer shall be effective the day of the Commission vote. A description of the territory being transferred is appended to this order as Attachment A.

Rate Base

Rate base for this utility was previously established by Order No. PSC-99-0243-FOF-WU, issued February 9, 1999, in Docket No. 980726-WU, In Re: Application of Staff Assisted Rate Case by Dixie Groves Estates, Inc., as \$35,805 for water as of June 30, 1998.

Dixie Groves entered into a contract on December 30, 2002, to sell its water facilities to DGUC. Our staff conducted an audit of the books and records of the utility to determine rate base as of December 30, 2002, the date of transfer. The rate base was determined from company provided historical records and supporting source documentation. The audit report contained several audit disclosures. The utility did not file a response to the audit report. The following adjustments were made by our staff as a result of the rate base audit.

UTILITY PLANT-IN-SERVICE (UPIS)

Order No. PSC-99-0243-FOF-WU established a UPIS balance of \$74,697, as of June 30, 1998. Our staff verified that from July 1, 1998 through December 30, 2002, the company made plant additions totaling \$17,417, which results in a total UPIS balance of \$92,114.

The utility did not record the retirement of the pumping equipment and meters. In addition, the office furniture that was not included in the sale of the utility shall be removed from the books and records. Therefore, the utility shall decrease pumping equipment (Acct. 311) by \$3,306; meters (Acct. 334) by \$3,174; and office furniture and equipment (Acct. 340) by \$2,229. The water UPIS shall be decreased by a total of \$8,709 to reflect retirements and assets not transferred.

Based on these adjustments, the UPIS is \$83,405 for the water system as of December 30, 2002.

ACCUMULATED DEPRECIATION

The utility's books and records reflected an accumulated depreciation balance of \$63,768 as of December 30, 2002. Dixie Groves used the correct depreciation rates pursuant to Rule 25-30.140, Florida Administrative Code, however the utility did not take depreciation in the years the new meters were placed in service, nor did the utility reflect the adjustments for the retired plant and the office furniture not included in the purchase as discussed above. The accumulated depreciated balance shall be decreased by \$8,709 to remove the retired plant and the depreciation

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on the office furniture that was not included in the transfer. Also, accumulated depreciation shall be increased by \$371 to reflect the depreciation on the new meters that were placed in service.

Based on these adjustments, the balance for accumulated depreciation is \$55,430 as of December 30, 2002.

LAND

The utility's general ledger reflected a land balance of \$211. Dixie Groves Estates, Inc. owned the land on which the utility is located. Order No. PSC-99-0243-FOF-WU, issued February 9, 1999, established the land value as \$1,211. No utility land has been sold since the land value was established. Therefore, an adjustment of \$1,000 reflects the appropriate balance of \$1,211.

CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC)

Pursuant to Order No. PSC-99-0243-FOF-WU, issued February 9, 1999, CIAC as of June 30, 1998 was \$10,343. The service area is built out and there have been no subsequent CIAC additions. Based on the above, the CIAC balance is \$10,343, as of December 30, 2002.

ACCUMULATED AMORTIZATION OF CIAC

The utility's CIAC balance was fully amortized as of December 30, 2002. Therefore, the balance for accumulated amortization of CIAC is \$10,343 as of December 30, 2002.

RATE BASE

Calculation of rate base is shown on Schedule No. 1, attached to this order. The adjustments to rate base are itemized on Schedule No. 2, attached to this order. Based on the adjustments set forth herein, the rate base is established as \$29,186 for the water system as of December 30, 2002. This rate base calculation is used solely to establish the net book value of the property being transferred and does not include the normal rate making adjustments for working capital and used and useful.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the rate base at the time of the acquisition. Pursuant to Rule 25-30.0371(2), Florida Administrative Code, a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. The buyer has neither requested an acquisition adjustment nor identified any extraordinary circumstances. Therefore, a positive acquisition adjustment shall not be included in the calculation of rate base for transfer purposes.

Rates and Charges

The utility's rates and charges were established by the Commission, pursuant to Order No. PSC-99-0243-FOF-WU, issued February 9, 1999, in Docket No. 980726-WU, In Re: Application of Staff Assisted Rate Case by Dixie Grove Estates, Inc. Effective November 1, 2003, the current rates were revised as a result of a four year rate case expense amortization reduction. The utility's approved rates and charges are as follows:

Monthly Water Service Rates

<u>Meter Size:</u>	<u>Residential and General Service Base Facility Charge:</u>
5/8"	\$ 9.24
3/4"	\$ 13.86
1"	\$ 23.11
1½"	\$ 46.24
2"	\$ 73.96
3"	\$ 147.42
4"	\$ 231.15
6"	\$ 462.28
Charge per 1,000 gallons	\$ 1.51

Miscellaneous Service Charges

	Water
Initial Connection Fee	\$ 15.00
Normal Reconnection Fee	\$ 15.00
Violation Reconnection Fee	\$ 15.00

Premises Visit Fee
(in Lieu of disconnection) \$ 10.00

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case[s] of change of ownership or control of a utility which places the operation under a different or new utility . . . the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission)

DGUC has not requested a change in the rates and charges of the utility. The utility's service area is built-out and there is no service availability policy or approved service availability charges.

Based on the above, we find that the utility shall continue operations under the existing tariff and apply the approved rates and charges until authorized to change by the Commission in a subsequent proceeding. The utility has filed a revised tariff reflecting the transfer to DGUC. The tariff filing shall be effective for services rendered or connections made on or after the stamped approval date.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application for transfer of facilities and Certificate No. 139-W from Dixie Groves Estates, Inc. to Dixie Groves Utility Company, a Division of Community Utilities of Florida, Inc. is approved. DGUC shall be granted Certificate No. 139-W to serve the territory described in Attachment A, attached hereto and incorporated herein. It is further

ORDERED that the rate base for transfer purposes is \$29,186 as of December 30, 2002. It is further

ORDERED that an acquisition adjustment shall not be included in the calculation of rate base. It is further

ORDERED that Dixie Groves Utility Company, a Division of Community Utilities of Florida, Inc., shall continue to charge the rates and charges approved for this utility system until authorized to change in a subsequent proceeding. The tariff reflecting the change in ownership shall be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. It is further

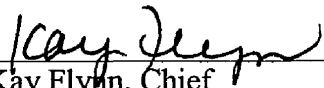
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ORDERED that the provisions of this Order determining rate base and determining that there will be no acquisition adjustment, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 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.

By ORDER of the Florida Public Service Commission this 31st day of March, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: 

Kay Flynn, Chief
Bureau of Records

(SEAL)

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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.

As identified in the body of this order, our action determining rate base and determining that there will be no acquisition adjustment is preliminary in nature. Any person whose substantial interests are affected by the action 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 the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 21, 2004. If such a petition is filed, mediation may be available on a case-by-case 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 the Commission Clerk and Administrative Services 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 the Commission Clerk and Administrative Services 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.

ATTACHMENT A

DIXIE GROVES UTILITY COMPANY

PASCO COUNTY

WATER SERVICE AREA

Serving the areas known as Dixie Grove Estates, Dixie Garden Loop and Knollwood Village

Docket No. C-73191-W, Order No. 5740, dated May 4, 1973

In Township 26 South, Range 16 East, a portion of Sections 29, 31, and 32 further described as follows:

Commence at the Southwest corner of said Section 29 for a Point of Beginning; thence run Easterly along said section line 881.62 feet; thence Northerly 1000.98 feet; thence Easterly 440.58 feet; thence Southerly 2021.46 feet; thence Westerly 550.25 feet; thence Westerly 166.79 feet along the arc of a curve to the left; thence Westerly 578 feet; thence southerly 37 feet +/- to the South right-of-way line of Pine Bough Lane, as it is now established; thence run Westerly along said right-of-way line, 809.35 feet; thence Northerly 25 feet; thence Westerly 98.36 feet; thence Northerly 1012.97 feet to the North boundary of said Section 31; thence Easterly along said section line 880.36 feet to the Point of Beginning.

SCHEDULE 1

**DIXIE GROVES UTILITY COMPANY
SCHEDULE OF WATER RATE BASE
AS OF DECEMBER 30, 2002**

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>COMMISSION ADJUSTMENTS</u>	<u>BALANCE PER COMMISSION</u>
Utility Plant in Service	\$ 92,114	(8,709)	\$ 83,405
Land	211	1,000	1,211
Contributions in Aid of Construction (CIAC)	(10,343)	0	(10,343)
Accumulated Depreciation	(63,768)	8,338	(55,430)
Amortization of CIAC	<u>10,343</u>	<u>0</u>	<u>10,343</u>
WATER RATE BASE	<u>\$ 28,557</u>	<u>629</u>	<u>\$ 29,186</u>

SCHEDULE 2

DIXIE GROVES UTILITY COMPANY
SCHEDULE OF ADJUSTMENTS

<u>EXPLANATION</u>	<u>ADJUSTMENT</u>
Utility Plant in Service	
1) To retire pumping equipment	(\$3,306)
2) To retire meters	(\$3,174)
3) To remove office furniture	(\$2,229)
Total	<u>(\$8,709)</u>
Land	
1) To adjust land	<u>\$1,000</u>
Accumulated Depreciation	
1) To retire pumping equipment	\$3,306
2) To retire meters	\$3,174
3) To remove office furniture	\$2,229
4) To record depreciation on new meters	(\$371)
Total	<u>\$8,338</u>