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ESCROW ACCOUNT AGREEMENT

COMMISSION
CLERK
This Escrow Account Agreement is made by and between Sun Trust Bank, Southeast Florida, ("Bank") the Florida Public Service Commission ("Commission") and Mobile Manor Water Company, Inc. ("Utility"), upon the following terms, conditions and considerations:

WITNESSTH:

1. This account is established at the direction of the Commission for the purpose(s) set forth in the Order Approving Interim Rate Increase, Order No. PSC-09-0421-PCO-WU, dated June 15, 2009, Docket No. 091070-WU (a copy is attached) that include the primary purpose of protecting the Utility in the event that the final rates are less than those authorized as the result of the Order Approving Interim Rate Increase.
2. No withdrawals of funds shall occur without prior approval of the Commission through the Commission Clerk, Office of Commission Clerk.
3. The information concerning the account shall be available from the holder of the escrow account to the Commission or its representative at all times.
4. This account is not subject to garnishment pursuant to Cosentino v. Elson, 263 So.2d 253 (Fla. 3rd DCA 1972).
5. The account shall be an interest bearing account. If a refund to the Utility's customers is required then the interest earned shall be distributed to the Utility's customers. If a refund is not required then the interest shall revert to the Utility.
6. The amount of revenue subject to refund shall be deposited in the escrow account within seven (7) days of receipt.
7. All maintenance fees and administrative costs shall be borne by the Utility and under no circumstances shall any maintenance fees or administrative costs associated with any refund to the Utility's Customers be borne by the Utility's Customers.
8. The Utility shall identify and hold the Bank harmless from any claim damage or loss suffered by the Bank and the cost thereof (including court costs, and attorney's fees for negotiation, trial and appeal).

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DOCUMENT NUMBER-DATE

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THIS ESCROW AGREEMENT shall become effective and binding upon the parties upon the date it becomes executed by all parties:

Approved By:

Date: _____
Ann Cole, Commission Clerk, Florida Public Service Commission

Thomas Hawkins _____ Date: *7/29/2009*
Thomas Hawkins, President, Mobile Manor Water Company, Inc.

GPMM _____ Date: *7/31/09*
Gary P. Donabed, Relationship Mgr. SunTrust Bank, Southeast Florida.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Lee County by Mobile Manor Water
Company, Inc.

DOCKET NO. 090170-WU
ORDER NO. PSC-09-0421-PCO-WU
ISSUED: June 15, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING INTERIM RATES

BY THE COMMISSION:

Background

Mobile Manor Water Company, Inc. (Mobile Manor or Utility) is a Class C utility serving 315 water customers in Lee County. According to Mobile Manor's 2008 Annual Report, the Utility had total gross revenue of \$50,531 and operating expenses of \$70,979 for water.

Mobile Manor was granted water Certificate No. 056-W on July 22, 1976. The Utility has never had a rate proceeding before this Commission. Mobile Manor changed its name from Mobile Manor, Inc. to Mobile Manor Water Company, Inc. on November 29, 2004.¹ In the instant docket, the Utility filed a request for a staff-assisted rate case (SARC) on April 6, 2009, and also requested interim rates.

This Order addresses the Utility's request for interim rates. We have the authority to consider this rate case and interim rates under Section 367.0814(4), Florida Statutes (F.S.).

Interim Water Rates

As stated above, the Utility has requested interim water rates. Section 367.0814(4), F.S., provides that:

[t]o establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and

¹ See Order No. PSC-04-1104-FOF-WU, issued in Docket No. 040602-WU, In re: Application for name change on Certificate No. 56-W in Lee County from Mobile Manor, Inc. to Mobile Manor Water Company, Inc.

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FPSC-COMMISSION CLERK

Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

A review of the Utility's 2008 Annual Report and SARC filing shows that its operation and maintenance (O&M) expenses exceed its revenues.

Mobile Manor recorded \$70,979 for water O&M expenses in its 2008 annual report. An analysis of the O&M expenses reported on the 2008 annual report shows that they are reasonable when compared to expenses that we have allowed in past cases for like-sized utilities.² Therefore, the Utility shall be allowed an interim water revenue increase that will cover the cost of its O&M expenses of \$70,979, plus any applicable regulatory assessment fees (RAFs). We have previously determined that an increase in a utility's rates to cover its O&M expenses should include the funds to pay RAFs.³ The RAFs accrued during the interim period will amount to \$3,345.

Based on the above, Mobile Manor's interim water rates shall be established to produce revenues of \$74,324 (\$70,979 + \$3,345) in order to cover O&M expenses and RAFs. This is a 47.09 percent increase above the Utility's 2008 revenues of \$50,531. It is our practice to apply the interim percentage increase to existing rates. The approved interim rates are shown on Schedule No. 1.

If the Utility submits revised tariffs reflecting our decision on interim rates, our staff shall have administrative authority to approve the submitted tariffs. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C., provided customers have received notice. The rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision; the proposed customer notice is adequate, and the required security has been filed. The Utility shall provide proof of the date notice was given within 10 days after the date the notice is provided to the customers.

Appropriate Security

In order to protect the customers in the event that the final rates are less than those authorized as a result of the interim increase, the Utility shall provide security by placing in escrow the difference in revenues between the interim rates and the previously authorized rates, or by providing a bond or letter of credit. We calculate the amount of potential refunds associated with the interim revenue increase to be \$15,912 pursuant to Section 367.0814(5), F.S., which specifies that:

² See Order No. PSC-07-0385-SC-WS, issued May 1, 2007, in Docket No. 060575-WS, In re: Application for staff-assisted rate case in Lee County by Useppa Island Utility, Inc. (Useppa Island Utility, Inc. had 145 wastewater customers, and we approved O&M expenses of \$108,102.); and Order No. PSC-04-1264-PAA-SU, issued December 21, 2004, in Docket No. 040300-SU, In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities. (Tymber Creek had 415 customers, and we approved O&M expense of \$148,384.)

³ See Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 010396-WS, In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.

The Commission may require that the difference between the interim rates and the previously authorized rates be collected under a bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

If the security provided is an escrow account, said account shall be established between the Utility and an independent financial institution pursuant to a written escrow agreement. The Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following: that the account is established at the direction of this Commission for the purpose set forth above; that no withdrawals of funds shall occur without the prior approval of the Commission through the Commission Clerk, Office of Commission Clerk; that the account shall be interest bearing; that information concerning the escrow account shall be available from the institution to the Commission or its representative at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

The Utility shall deposit 47.09 percent of the interim water rate revenue into the escrow account each month, pending the completion of the rate case proceeding. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility.

If the security provided is a bond or a letter of credit, said instrument shall be in the amount of \$15,912. If the Utility chooses a bond as security, the bond shall state that it will be released or shall terminate upon subsequent order of the Commission addressing the requirement of a refund. If the Utility chooses to provide a letter of credit as security, the letter of credit shall state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered addressing the requirement of a refund.

Regardless of the type of security provided, the Utility shall keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), F.A.C., the Utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund as of the end of the proceeding month. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

Under no circumstances shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of Mobile Manor Water Company, Inc., for an interim water rate increase is approved as set forth in the body of this Order. It is further

ORDERED that the approved interim rates shall be as shown on Schedule No. 1, which, by reference, is incorporated herein. It is further

ORDERED that if the Utility submits revised tariffs reflecting our decision on interim rates, our staff shall have administrative authority to approve the submitted tariffs. It is further

ORDERED that the approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C., provided customers have received notice. It is further

ORDERED that the rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. It is further

ORDERED that the Utility shall provide proof of the date notice was given within 10 days after the date the notice is provided to the customers. It is further

ORDERED that the Utility shall be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenues collected under interim conditions as set forth in the body of this Order. It is further

ORDERED that pursuant to Rule 25-30.360(6), F.A.C., the Utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund as of the end of the proceeding month. It is further

ORDERED that this docket shall remain open pending the final resolution of the Utility's staff-assisted rate case.

By ORDER of the Florida Public Service Commission this 15th day of June, 2009.



ANN COLE
Commission Clerk

(S E A L)

RRJ

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 this order, which is non-final in nature, may request (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

| MOBILE MANOR WATER COMPANY, INC. | | SCHEDULE NO. 1 | |
|---|---|--|--|
| TEST YEAR ENDING 12/31/08 | | DOCKET NO. 090170-WU | |
| MONTHLY WATER RATES | | | |
| | UTILITY'S EXISTING RATES | COMMISSION APPROVED INTERIM RATES | |
| <u>Residential and General Service</u> | | | |
| <u>Base Facility Charge by Meter Size:</u> | | | |
| 5/8"X3/4" | \$6.94 | \$10.21 | |
| <u>Residential Service Gallonage Charge</u> | | | |
| Per 1,000 Gallons | \$6.24 | \$9.18 | |
| <u>General Service Gallonage Charge</u> | | | |
| Per 1,000 Gallons | \$6.24 | \$9.18 | |
| <u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u> | | | |
| 3,000 Gallons | \$25.66 | \$37.75 | |
| 5,000 Gallons | \$38.14 | \$56.11 | |
| 10,000 Gallons | \$69.34 | \$102.01 | |

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for the transfer of Certificate No. 56-W from William P. and Peggy J. Bishop to Mobile Manor, Inc.) DOCKET NO. 830402-W (TC)) ORDER NO. 13067) ISSUED: 3-8-84

The following Commissioners participated in the disposition of this matter:

CHAIRMAN GERALD L. CUNTER
COMMISSIONER JOSEPH P. CRESSE
COMMISSIONER JOHN R. MARKS, III
COMMISSIONER KATIE NICHOLS

NOTICE OF PROPOSED AGENCY

ORDER APPROVING TRANSFER OF CERTIFICATE

BY THE COMMISSION:

William P. and Peggy J. Bishop hold Certificate No. 56-W authorizing them to provide water service to the public in Lee County, Florida. On August 19, 1983, we received an application for approval of the transfer of the certificate to Mobile Manor, Inc.

Mobile Manor, Inc., is a Florida corporation, whose principal officers and directors are: Clifford Rock, President; Robert Pierce, Vice President; Cecil Ayers, Secretary; Bernice Parker, Treasurer; and William Hagan, Henry Hess, Harlow Knapp, and Wayne Trulock as Directors.

The applicants have submitted proof of notification to the certified utilities and the appropriate governmental bodies as required by the statutes and rules of this Commission. Notice was given on May 6, 1983. Notice by newspaper publication was also given on May 24, 31, and June 7, 1983, in the Fort Myers News-Press, a newspaper of general circulation. Four protests to this application were received by this Commission, but all were subsequently withdrawn. Therefore, there are no valid protests and the time for filing such has expired. The appropriate filing fee of \$150 has been paid by the applicant for this transfer.

The applicant has submitted the necessary documentation and has otherwise complied with the requirements for a transfer under Section 367.071, Florida Statutes, and Rules 25-10.06, 25-10.061, and 25-10.07, Florida Administrative Code. Also, the purchaser has demonstrated that he has both the financial and technical capability to operate this system. We also note that Henry Hess, the manager of the system under the former owners, will continue as manager of the system for Mobile Manor, Inc. Therefore, we find this transfer to be in the public interest.

Rate Base

The components of rate base, as of December 31, 1982, are calculated on Schedule No. 1, and an explanation of adjustments is set out on Schedule No. 2.

A rate base investment of \$23,526 was last established for this utility by Order No. 7339. Several adjustments and changes have occurred since the issuance of that order. Those adjustments which are essentially mechanical in nature or which are self-explanatory will not be further explained in the text of this order. The major adjustments are summarized as follows:

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Florida Public Service Commission
Water and Sewer Department

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(1) Plant-In-Service - The utility's books do not reflect a reduction of \$18,247 which was set out by Commission Order No. 7339. Therefore, the books were adjusted to reflect this amount.

The utility did record: additions to plant of \$18,036; and retirements of wells, tanks and pumping equipment, due to the utility hookup with the county, of \$5,008. Pursuant to the audit, we find that the plant should be reduced by an additional \$5,235 due to the utility hookup with the county. Also, an additional reduction of \$547 was made in order to eliminate items for which the utility had no supporting documentation.

(2) Land - The land owned by the utility was not reflected in the last order. Therefore, since the utility does own the land, \$4,102 was added as the cost of the land.

(3) Accumulated Depreciation - The utility's records reflect an average depreciation rate of 9.8%. However, rates are set so as to allow the 2-1/2% annual depreciation rate. Therefore, accumulated depreciation is adjusted to reflect the depreciation rate of 2-1/2%.

Pursuant to these calculations and adjustments, the rate base of the utility, as of December 31, 1982, is calculated to be \$31,779.

Acquisition Adjustment

Mobile Manor, Inc., contracted with William P. and Peggy J. Bishop to pay \$85,000 as a package deal for the Mobile Manor water utility and recreational facilities. No separation was made as to the purchase price paid for the utility, independent of the remaining facilities. However, Mobile Manor, Inc., allocated \$32,729 of the total purchase price to the water utility based on total assets purchased.

An acquisition adjustment results whenever the purchase price differs from the original cost calculation. The acquisition adjustment resulting from the transfer of the Mobile Manor water utility is calculated as follows:

| | |
|---|----------|
| Allocation of Purchase Price | \$32,729 |
| Net Book Value of the Assets Purchased (Rate Base at Time of Transfer) | \$31,779 |
| Positive Acquisition Adjustment | \$950 |

The applicant, Mobile Manor, Inc. has pointed to no extraordinary circumstances or events surrounding the transfer of this utility system. Therefore, we find that no acquisition adjustment should be included in the rate base.

In consideration of the above, it is

ORDERED by the Florida Public Service Commission that the application for transfer of Certificate No. 56-W from William P. and Peggy J. Bishop to Mobile Manor, Inc., 150 Lantern Lane, North Fort Myers, Florida 33903, be and the same is hereby approved. It is further

ORDERED that the provisions of this order issued as proposed agency action shall become final unless an appropriate petition is received by the Commission Clerk at his office at 101 East Gaines Street, Tallahassee, Florida 32301, by the close of business on March 28, 1984. It is further

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DOCKET NO. 830402-W
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ORDERED that upon receipt of an appropriate petition regarding this proposed agency action, the Commission will institute further proceedings in accordance with Rule 25-22.36, Florida Administrative Code. It is further

ORDERED that after March 28, 1984, the Commission shall either issue a notice of further proceedings, or an order acknowledging that the provisions of this notice have become final. It is further

ORDERED that within twenty (20) days of the date on which this order becomes final, Certificate No. 56-W shall be surrendered to this Commission for appropriate entries. It is further

ORDERED that the rate base be set at \$31,779 as of December 31, 1982. It is further

ORDERED that the positive acquisition adjustment of \$950 is not includable in rate base. It is further

ORDERED that all rates and charges presently in effect for William P. and Peggy J. Bishop shall remain in effect after this transfer is completed.

By ORDER of the Florida Public Service Commission, this 8th day of MARCH, 1984.


STEVE TRIBBLE
Commission Clerk

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RRJ

MOBILE MANOR WATER UTILITY
 SCHEDULE OF WATER RATE BASE
 RATE BASE AS OF 12/31/82

SCHEDULE NO. 1
 DOCKET NO. 830402-W

| | PREVIOUSLY ESTABLISHED RATE BASE | UTILITY ADDITIONS- RETIREMENTS | RATE BASE PER UTILITY | COMM. ADJUST. TO UTILITY BALANCE | COMM. ADJUSTED RATE BASE |
|-----------------------------|--|--------------------------------------|--------------------------|--|--------------------------------|
| UTILITY PLANT IN SERVICE | \$ 31360. | \$ 29275.(1)\$ | 60643. | \$ -22029(4)\$ | 38614. |
| LAND/NON-DEPRECIABLE ASSETS | 0. | 4102.(2) | 4102. | 0. | 4102. |
| C.I.A.C. | 0. | 0. | 0. | 0. | 0. |
| ACCUMULATED DEPRECIATION | -7842. | -24734.(3) | -32576. | 21639(5) | -10937. |
| AMORTIZATION OF C.I.A.C. | 0. | 0. | 0. | 0. | 0. |
| | ----- | ----- | ----- | ----- | ----- |
| RATE BASE | \$ 23526. ===== | \$ 8643. ===== | \$ 32169. ===== | \$ -390. ===== | \$ 31779. ===== |

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MOBILE MANOR WATER UTILITY
ADJUSTMENTS TO RATE BASE SCHEDULE

Utility Additions/Retirements

1. Utility Plant in Service

| | |
|---|------------------|
| Commission adjustments from Order No. 7339, not posted by utility | \$ 16,247 |
| Utility's additions to plant | 18,036 |
| Utility's retirements from plant | <u>(5,008)</u> |
| Total Utility Adjustments to Plant in Service | <u>\$ 29,275</u> |

2. Land

| | |
|---------------------------------------|-----------------|
| Cost of land, not previously recorded | <u>\$ 4,102</u> |
|---------------------------------------|-----------------|

3. Accumulated Depreciation

| | |
|---|-------------------|
| Utility's additions to accumulated depreciation | <u>\$(24,734)</u> |
|---|-------------------|

Staff Adjustments

4. Utility Plant in Service

| | |
|---|-------------------|
| To eliminate items which had no supporting documentation | \$ (547) |
| Additional retirements, per staff audit, due to hook-up with county | (5,235) |
| Commission adjustments from Order No. 7339, not posted by utility | <u>(16,247)</u> |
| Total Staff Adjustments to Plant in Service | <u>\$(22,029)</u> |

5. Accumulated Depreciation

| | |
|---|------------------|
| To remove depreciation associated with plant removed in Order No. 7339 | \$ 7,311 |
| To reflect depreciation rate of 2 1/2% as recommended in previous Commission Order No. 7339 | <u>14,328</u> |
| Total Staff Adjustments to Accumulated Depreciation | <u>\$ 21,639</u> |