

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 17, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Clapp, Redemann, Romig)
Office of the General Counsel (Brubaker)

RE: Docket No. 040159-WU – Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. to Sunrise Utilities, LLC, in Polk County.
County: Polk

AGENDA: 03/01/05 – Regular Agenda – Proposed Agency Action for Issues 2 and 3 – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Docket No. 040160-WU is a related docket.

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040159.RCM.DOC

Case Background

Keen Sales, Rentals and Utilities, Inc. (Keen or utility) is a Class C water utility serving approximately 541 equivalent residential connections (ERCs) in Polk County. The utility is in the Southwest Florida Water Management District (SWFWMD) and is in the Southern water use caution area. Wastewater service is provided by septic tanks. The utility's 2003 annual report shows total operating revenue of \$149,512 and net operating loss of \$33,518.

Keen was granted grandfather Certificate No. 582-W for the Ray Keen, Earlene Keen, and Ellison Park Subdivisions systems in 1997.¹ The utility was granted a name change in

¹ Certificate issued pursuant to Order No. PSC-97-0152-FOF-WU, issued February 11, 1997, in Docket No. 961007-WU, In re: Application of Keen Sales & Rentals, Inc. for Certificate Under Grandfather Rights to Provide Water Service in Polk County.

1998². Keen was granted the transfer of water facilities from Alturas Water Works in 1999.³ The Lake Region Paradise Island facilities were transferred to Keen in 2000⁴ as well as the Sunrise Water Company, Inc. facilities⁵.

On February 23, 2004, Keen submitted an application for transfer of the Sunrise water system from Keen to Sunrise Utilities, LLC (Sunrise or buyer). The Sunrise system serves approximately 267 residential and one general service customers. Keen's 2003 annual report for this system shows total operating revenue of \$65,140 and net operating loss of \$12,091. Many deficiencies were found in this application. The final corrections were received on November 12, 2004. Mr. Stuart Sheldon, managing member of Sunrise, is also buying the Alturas system from Keen in Docket No. 040160-WU.

This recommendation addresses the transfer of the water facilities from Keen to Sunrise Utilities, LLC. The Commission has jurisdiction to consider this matter pursuant to section 367.071, Florida Statutes.

² Name change was approved pursuant to Order No. PSC-98-1294-FOF-WU, issued October 5, 1998, in Docket No. 980751-WU, In re: Application for name change on Certificate No. 582-W in Polk County from Keen Sales & Rentals, Inc. to Keen Sales, Rentals and Utilities, Inc.

³ Alturas Water Works facilities transfer was approved pursuant to Order No. PSC-99-0431-FOF-WU, issued March 3, 1999, in Docket No. 980536-WU, In re: Application for transfer of water facilities from Alturas Water Works to Keen Sales, Rentals, and Utilities, Inc. in Polk County, cancellation of Alturas' Certificate No. 591-W, and amendment of Keen's Certificate No. 582-W to include additional territory.

⁴ Lake Region Paradise Island facilities transfer was approved pursuant to Order No. PSC-00-0913-PAA-WU, issued May 8, 2000, in Docket No. 970201-WU, In re: Application for transfer of facilities of Lake Region Paradise Island and amendment of Certificate No 582-W held by Keen Sales, Rentals and Utilities, Inc. in Polk County.

⁵ Sunrise Water Company, Inc. facilities transfer was approved pursuant to Order No. PSC-00-1388-PAA-WU, issued July 31, 2000, in Docket No. 990731-WU, 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 and amendment of Certificate No 582-W to include additional territory.

Discussion of Issues

Issue 1: Should the transfer of the Sunrise water system from Keen to Sunrise Utilities, LLC, the amendment of Certificate No. 582-W, and issuance of Certificate No. 627-W be approved?

Recommendation: Yes. The transfer of the Sunrise water system from Keen to Sunrise Utilities, LLC, is in the public interest and should be approved. Certificate No. 582-W should be amended to delete the Sunrise system from the Keen service area, and Certificate No. 627-W should be issued effective the date of the Commission vote. The buyer should be required to provide a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer. Keen should be responsible for the regulatory assessment fees (RAFs) for January 1 to February 10, 2004, and Sunrise Utilities, LLC should be responsible for the remainder of the 2004 and future RAFs and the 2004 and future annual reports. The territory being transferred is described in Attachment A. (Clapp, Redemann, Romig)

Staff Analysis: As stated in the case background, Keen applied for a transfer of the Sunrise facilities in Polk County from Keen to Sunrise on February 23, 2004. The closing on the transfer of the utility facilities took place on February 10, 2004, subject to approval by the Commission. The purchase price was \$90,000.

All of the filing requirements for the application were completed on November 12, 2004. The application as filed and amended is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment or transfer of certificates of authorization. The territory being transferred is described in Attachment A.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. No objections to the application were received by the Commission and the time for filing such has expired. The application contains a copy of a recorded warranty deed transferring the property upon which the utility facilities are located to Sunrise. Customer deposits were transferred to the buyer at the closing.

The application contains a statement that the buyer has performed a reasonable investigation of the utility system and found the overall condition of the water facilities to be in satisfactory condition and in general compliance with the requirements of the Polk County Health Department. Staff has contacted the Polk County Health Department and verified that there are no outstanding notices of violation.

The owner of the Keen systems indicated that they are in the process of downsizing their utility business. The buyer appears to have the financial ability and interest in owning and running a utility. Sunrise has contracted with Keen for two years of transitional management and operations assistance. During this time, staff in the Keen office will provide the bookkeeping services for the utility and the contract operator for the Keen systems will perform the system repairs, maintenance, and testing.

It should be noted that in the utility's last rate case, it was determined that the utility was not using the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) as required by Rule 25-30.115, Florida Administrative Code. The utility was ordered to set up its books using NARUC and an allocation for professional services was included in its rates based on the estimated cost to set up the utility's books and records in conformance with NARUC. During the staff audit for this transfer, the auditor determined that the utility has used the NARUC USOA; however, the records for Sunrise were commingled with the records for the other Keen systems, and the adjustments to rate base required in the utility's last rate case had not been recorded.

Staff discussed these issues with the buyer and seller. According to the Keen staff, a general ledger has been set up for the Sunrise and Alturas systems and capital additions and expenses for each system are identified. However, it is not clear whether separate general ledger balances can be determined for each of the systems. Staff recommends that the buyer be required to provide a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission-approved rate base balances as of the date of the transfer.

The 2003 and all previous annual reports were timely filed and regulatory assessment fees (RAFs) have been paid timely through December 31, 2003. No penalties, late fees, interest, or refunds are due or outstanding. Keen will be responsible for RAFs for January 1 to February 10, 2004. The buyer will be responsible for the remainder of the 2004 and future RAFs and the 2004 and future annual reports.

Based on the above, staff recommends that the transfer of the Sunrise water system from Keen to Sunrise is in the public interest and should be approved. Certificate No. 582-W should be amended to delete the Sunrise system from the Keen service area, and Certificate No. 627-W should be issued effective the date of the Commission vote. The buyer should be required to provide a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission approved rate base balances as of the date of the transfer. The territory being transferred is described in Attachment A.

Issue 2: What is the rate base of the Sunrise system at the time of transfer?

Recommendation: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$52,609 for the Sunrise system as of February 10, 2004. (Clapp)

Staff Analysis: Rate base was last set for the utility as of March 31, 2000.⁶ The transfer of the Sunrise system occurred on February 10, 2004. As discussed in Issue 1, Keen does not keep its books on a monthly basis, did not reconcile to the prior rate case order, and commingled Sunrise records with all other systems owned by Keen. Therefore, staff began with the prior rate case order balances and verified plant additions and retirements in order to establish rate base, as of the transfer date, February 10, 2004.

Utility-Plant-in-Service (UPIS). The Sunrise rate base balance as of March 31, 2000, included total depreciable UPIS of \$112,782. Staff recommends that UPIS should be adjusted to remove \$17,500 in pro forma plant and the \$1,432 averaging adjustment included in the prior rate case, to include plant additions of \$24,289 since the last rate case, and to remove \$11,331 for plant retirements. In addition, \$10,989 should be removed to reflect assets not transferred to the buyer. As a result, staff recommends the UPIS balance as of February 10, 2004, is \$98,683.

Land. The utility's rate base balance as of March 31, 2000, included land of \$553. No additions or deletions to the land account were noted. Therefore, staff recommends the land balance for the Sunrise system as of February 10, 2004, should be \$553.

Accumulated Depreciation. The utility's rate base balance as of March 31, 2000, included total accumulated depreciation of \$28,679. Staff recommends that accumulated depreciation should be adjusted to remove \$515 in pro forma depreciation and the \$2,545 averaging adjustment included in the prior rate case, and to reflect \$17,208 in additional depreciation since the prior rate case. In addition, \$7,469 in accumulated depreciation associated with assets not transferred to the buyer should be removed. As a result, staff recommends the accumulated depreciation balance as of February 10, 2004, is \$40,448.

Contributions-In-Aid-of-Construction (CIAC) and Amortization of CIAC. The Sunrise rate base balance as of March 31, 2000, included CIAC of \$12,393 and accumulated amortization of \$3,068. The system has been built out and there were no CIAC additions since the last rate case. Staff recommends that accumulated amortization be increased \$2,953 to reflect additional accumulated amortization since the last rate case and increased by \$193 to remove the averaging adjustment included in the last rate case. Therefore, staff recommends the CIAC balance of \$12,393 and accumulated amortization of \$6,214, should be included in rate base as of February 10, 2004.

Conclusion. Staff recommends that, as of February 10, 2004, rate base for the Sunrise system is \$52,609. Schedule No. 1 shows the calculation of the water rate base. Schedule No. 2 details staff's recommended adjustments. Schedule No. 3 shows staff's recommended account

⁶ Rate base was last set for the Sunrise system pursuant to Order No. PSC-01-1162-PAA-WU, issued May 22, 2001, in Docket No. 001118-WU, In Re: Application for a staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.

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balances as of February 10, 2004. Staff notes that rate base for transfer purposes does not include the normal ratemaking adjustments for working capital or used and useful.

Issue 3: Should an acquisition adjustment be approved?

Recommendation: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes. (Clapp)

Staff Analysis: An acquisition adjustment results when the purchase price differs from the original cost of the assets adjusted to the time of the acquisition. The calculation of an acquisition adjustment is shown below.

Purchase Price	\$90,000
Commission Established Rate Base	<u>\$52,609</u>
Positive Acquisition Adjustment	\$37,391

Pursuant to Rule 25-30.0371, 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, staff recommends that an acquisition adjustment should not be included in the calculation of rate base for transfer purposes.

Issue 4: Should the rates and charges approved for this utility be continued?

Recommendation: Yes. The rates and charges approved for the Sunrise system should be continued until authorized to change by the Commission in a subsequent proceeding. Within 30 days of the date of the order approving the transfer, Sunrise Utilities, LLC should submit the tariff page reflecting a copy of the customer bill in the name of Sunrise. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. (Clapp)

Staff Analysis: Rule 25-9.044(1), Florida Administrative Code, provides that in the case 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.

Sunrise's current rates for water service and customer deposits were approved by the Commission in the previous rate case. Service availability and other charges were approved pursuant to the Sunrise Water Company transfer Docket No. 990731-WU. The utility's approved rates and charges are shown on Schedule No. 4.

The buyer has not requested a change in the rates and charges of the utility. Accordingly, staff recommends that the existing rates and charges for the Sunrise system be continued, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by the Commission in a subsequent proceeding. Within 30 days of the date of the order approving the transfer, Sunrise Utilities, LLC should submit the tariff page reflecting a copy of the customer bill in the name of Sunrise. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Issue 5: Should this docket be closed?

Recommendation: No. If no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission approved rate base balances as of the date of the transfer and pending receipt of the customer bill tariff page. Upon receipt of the statement and the customer bill tariff page, the docket should be administratively closed. (Brubaker)

Staff Analysis: If no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of a statement and supporting documentation within 30 days of the order approving the transfer that it has established its books and records in compliance with the NARUC USOA, including the ability to provide separate general ledgers for the Sunrise and Alturas systems, and that its books have been adjusted to reflect the Commission approved rate base balances as of the date of the transfer and pending receipt of the customer bill tariff page. Upon receipt of the statement and the customer bill tariff page, the docket should be administratively closed.

SUNRISE UTILITIES, LLC

POLK COUNTY

Water Service Area

Township 28 South, Range 25 East, Section 21

Serving an area generally known as Sunrise Acres Subdivision, an unrecorded subdivision known as Pinewood, and an unrecorded mobile home village. More particularly described as:

From the Northwest corner of Section 21, also the Point of Beginning, run due East (along the South line of Section 16 and the North line of Section 21) for a distance of 2618.23 feet, more or less; thence, due South a distance of 1313 feet, more or less; thence due West a distance of 1455.20 feet, more or less; thence due South a distance of 235 feet, more or less; thence due West a distance of 405 feet, more or less; thence due South a distance of 1063 feet, more or less; thence due West a distance of 420.71 feet, more or less; thence due North a distance of 695 feet, more or less; thence due West a distance of 340 feet, more or less, to the West line of Section 21; thence due North a distance of 1922.35 feet, more or less, to the Point of Beginning.

SUNRISE UTILITIES, LLC
SCHEDULE OF WATER RATE BASE
AS OF FEBRUARY 10, 2004

DESCRIPTION	PRIOR RATE CASE BALANCE	STAFF'S ADJUSTMENTS		BALANCE PER STAFF
Utility Plant in Service	\$112,782	(\$14,099)	A	\$98,683
Land	553	0		553
Contributions in Aid of Construction (CIAC)	(12,393)	0		(12,393)
Accumulated Depreciation	(28,679)	(11,769)	B	(40,448)
Amortization of CIAC	<u>3,068</u>	<u>3,146</u>	C	<u>6,214</u>
WATER RATE BASE	<u>\$75,331</u>	<u>(\$22,722)</u>		<u>\$52,609</u>

SUNRISE UTILITIES, LLC
 SCHEDULE OF WATER RATE BASE ADJUSTMENTS

EXPLANATION	STAFF RECOMMENDED ADJUSTMENT
A Plant In Service	
1. To remove pro forma plant	(\$17,500)
2. To remove averaging adjustment	1,432
3. To record UPIS additions	\$24,289
4. To record UPIS retirements	(11,331)
5. To remove plant not transferred to buyer	<u>(10,989)</u>
Total UPIS adjustments	(\$14,099)
B Accumulated Depreciation	
1. To remove depreciation for pro forma plant	\$515
2. To remove averaging adjustment	(2,545)
3. To record depreciation since previous rate case	(17,208)
4. To remove depreciation for plant not transferred to buyer	<u>7,469</u>
Total Accumulated Depreciation adjustments	(\$11,769)
C Accumulated Amortization of CIAC	
1. To increase amortization since previous rate case	\$2,953
2. To remove averaging adjustment	<u>193</u>
Total Accumulated Amortization of CIAC	\$3,146
Total Adjustments	<u>(\$22,722)</u>

SUNRISE UTILITIES, LLC		SCHEDULE NO. 3	
STAFF RECOMMENDED FEBRUARY 10, 2004 BALANCE			
WATER		ACCUMULATED	
ACCT NO.	ACCOUNT NAME	PLANT BALANCE	DEPRECIATION BALANCE
301	Organization	\$750	\$81
304	Structures and Improvements	5,169	2,030
307	Wells & Springs	16,972	7,837
310	Power Generation	11,074	6,963
311	Pumping Equipment	14,551	2,608
320	Water Treatment Equipment	4,055	2,497
330	Distribution and Reservoirs	21,485	8,815
331	Transmission and Distribution Mains	12,393	4,704
334	Meter and Meter Installations	9,846	3,573
348	Other Tangible Plant	<u>2,388</u>	<u>1,340</u>
Total Water Plant		\$98,683	\$40,448

Sunrise Utilities, LLC
Water Monthly Service Rates
Residential and General Service

Meter Sizes:	Base Facility Charge
5/8" x 3/4"	\$ 10.10
3/4"	15.15
1"	25.25
1 1/2"	50.50
2"	80.80
3"	161.60
4"	252.50
6"	505.00

Residential Service Gallonage Charges

For each 1,000 gallons in each block	
0 – 5,000	\$1.64
5,000 – 10,000	2.46
Over 10,000	4.92

General Service Gallonage Charge

Charge Per 1,000 gallons	\$2.51
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Service Availability Charges

System Capacity Charge	\$450
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Miscellaneous Service Charges

Initial Connection	\$15
Normal Reconnection	15
Violation Reconnection	15
Premises Visit (in lieu of disconnection)	10
Late Payment Fee	5