

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of) DOCKET NO. 881603-WU
Certificate No. 380-W from North Central) ORDER NO. 21762
Florida Utilities, Inc. to A. P.) ISSUED: 8-21-89
Utilities, Inc. in Marion County.)
_____)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
JOHN T. HERNDON
GERALD L. GUNTER

ORDER GRANTING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION

ORDER ESTABLISHING RATE BASE AND
DENYING ACQUISITION ADJUSTMENT

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is final except for the establishment of rate base and denial of an acquisition adjustment. These actions are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On December 29, 1988, A. P. Utilities, Inc., (APUI) filed an application with this Commission for approval of the transfer of utility assets and Certificate No. 380-W from North Central Florida Utilities, Inc. (NCFU or Utility). The Utility consists of three non-contiguous systems in Marion County: Raven Hills, South Oak and Hawks Point, which currently serve approximately 589 connection. The systems will serve approximately 800 connections at build-out.

DOCUMENT NUMBER-DATE

08449 AUG 21 1989

FPSC-RECORDS/REPORTING

The sale of the Utility occurred on May 6, 1988, but the application was not filed until December 29, 1988. We were not aware of the transfer until shortly before the application was filed. Although the Utility failed to obtain Commission approval prior to closing on the sale of the system, we will not order the Utility to show cause for not filing prior to transfer. We are informed that the delay in filing was due to the Seller's lack of books and records, which made it difficult to complete the application. Further, the Buyer has been very cooperative and has promptly provided clarification of the information filed in the application and quickly responded to our requests for additional information.

Application

The application is otherwise in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer. In particular, the application contains:

- a) A check in the amount of \$900.00 which, upon calculation, equates to the correct filing fee as prescribed by Section 367.141, Florida Statutes.
- b) Adequate legal description pursuant to Rule 25-30.035, Florida Administrative Code. Said territory to be served is described as being in Marion County, and more particularly as described in Appendix A attached.
- c) Proof of notice to all customers of record pursuant to 25-30.030(g), Florida Administrative Code.
- d) Proof of notice to all interested governmental and regulatory agencies, and all utilities within a four mile radius of the territory to be served, and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030, Florida Administrative Code.

No objections to the transfer have been filed and the time for doing so has expired.

The on-site inspection conducted by our engineer indicates that the overall appearance and operation of the three systems are good. Further, according to the Department of Environmental Regulation (DER), there are no outstanding complaints against the systems.

In its application, APUI stated that the transfer is in the public interest because the principals of the transferor are primarily developers and are not interested in remaining in the utility business. Mr. Mike Blake, President of APUI, is also the owner or operator of approximately ninety water treatment plants and ninety sewage treatment plants through a separate company, Aqua Pure Water and Sewer Service, Inc., and is interested in owning and operating NCFU. Aqua Pure has been in business since 1972.

Since APUI appears to be able to provide quality service, has a primary interest in operating the systems, and has the financial capability to operate the systems, we find that the transfer is in the public interest and it is, therefore, approved.

Rate Base

We conducted an audit of NCFU, beginning with the rate base established in the last rate case, Order No. 16145, issued May 23, 1986. The auditor found that NCFU has no books and records. Information regarding the Utility was supplied to the auditor by third parties, including the Utility's accountant and Rogers Engineering, the firm that constructed the Hawks Point system.

The last rate case used a test year ended December 31, 1985, and included two non-contiguous systems, Raven Hills and South Oak. The third system, Hawks Point, was added to the Utility, pursuant to Order No. 17458, issued April 23, 1987. The current audit includes rate base for all three systems to the date of transfer, May 6, 1988.

The rate base proposed by NCFU is \$453,877, which includes an acquisition adjustment of \$342,630. ACUI's rate base is the same as NCFU's, with the exception of the acquisition adjustment. In analyzing the rate base proposed by these parties, we determined that the rate base information provided

by them did not include the Hawks Point system or reflect the rate base established in Order No. 16145. We have made adjustments to reflect the rate base set in Order No. 16145. Further, we have included the Hawk's Point system in rate base, recalculated depreciation and amortization of contributions-in-aid-of-construction (CIAC), in accordance with Order No. 16145, and imputed CIAC for the connections since the last rate case.

Depreciable plant has been increased by \$189,939 to reflect the amount of depreciable plant, in accordance with Order No. 16145, which has not been retired. An additional \$105,598 has been included in depreciable plant for the Hawks Point system.

In accordance with Order No. 16145, we have adjusted the Utility's rate base to reflect the inclusion of \$6,966 for land for the Raven Hills and South Oak systems. We have also included \$6,000 for the contributed land associated with the Hawks Point system.

Accumulated depreciation and amortization of CIAC have been recalculated based on the composite depreciation rate of 3.21%, also in accordance with Order No. 16145. This results in increases of \$25,311 and \$39,947, respectively, for accumulated depreciation and amortization of CIAC.

CIAC has been increased by \$213,222 to reflect the inclusion of CIAC as stated in Order No. 16145 and not recognized in the utility's proposed rate base. CIAC has also been increased by \$6,000 as a result of the donated land for the Hawks Point system. CIAC was imputed as \$46,750 for 187 single family residential connections since the last rate case in accordance with the approved tariff charge at \$250 per connection.

The rate base calculations do not include any ratemaking adjustments normally performed in rate cases, such as used and useful adjustments and working capital calculations. The rate base calculations are used purely to establish the book value of the property being transferred. Therefore, for purposes of this transfer, rate base is \$168,414, as shown on Schedule 1, with the adjustments shown on Schedule 2.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the utility's rate base at the date of transfer. According to the application, ACUI requested an acquisition adjustment "because principals of the transferor are primarily developers, not interested in remaining in the utility business, and are encountering financial difficulties."

It is the policy of this Commission not to allow a subsequent purchase of a utility at a premium or discount to affect the rate base calculation in the absence of extraordinary circumstances. A transfer due to financial difficulties is not sufficient reason to include an acquisition adjustment in rate base. Further, we have analyzed the circumstances surrounding the transfer and have found no unusual circumstances, either financial or system related, that would justify an acquisition adjustment for reasons other than those offered by the applicants. Therefore, ACUI's request for an acquisition adjustment is denied.

Rates and Charges

Rule 25-9.044(1), Florida Administrative Code, governs rates charged when ownership of a regulated utility changes. This rule states that the new owner must adopt and use the rates, classification and regulations of the former operating company unless authorized to change by the Commission. We see no reason to change the rates at this time. Therefore, ACUI is directed to continue charging the rates and charges authorized in NCFU's existing tariff. Further, ACUI is directed to file a revised tariff reflecting the change in ownership.

It is, therefore,

ORDERED by the Florida Public Service Commission that the application for the transfer of Certificate No. 380-W and utility assets from North Central Florida Utilities, Inc., North Side Plaza, Highway 441 and 110 Streets, Post Office Box 2700, Belleview, Florida 32620, to A. P. Utilities, Inc., State Road 40 East, Post Office Drawer 280, Silver Springs, Florida 32688, is hereby granted. It is further

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ORDERED that rate base, which for transfer purposes reflects the net book value, is \$168,414. It is further

ORDERED that A. P. Utilities, Inc.'s request that an acquisition adjustment be included in rate base is hereby denied. It is further

ORDERED that A. P. Utilities, Inc. shall continue to charge the rates and charges previously approved for North Central Florida Utilities, Inc. It is further

ORDERED that the Utility shall submit a revised tariff reflecting the change in ownership. It is further

ORDERED that the provisions of this Order, issued as Proposed Agency Action, shall become final unless an appropriate petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on September 11, 1989. 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 21st day of AUGUST, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

by: Kay Flynn
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 establishing rate base and denying an acquisition adjustment is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on September 11, 1989. In the absence of such a petition, this order shall become effective September 12, 1989, as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent 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.

If the relevant portion of this order becomes final and effective on September 12, 1989, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date of this order, pursuant to Rule 9.110,

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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.

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 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 sewer 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.

LEGAL DESCRIPTIONS

SOUTH OAK - The West 3/4 of the S.E. 1/4, of said Section 34; EXCEPT the South 445.00 feet, AND EXCEPT the North 1326.14 feet, AND INCLUDING the East 890.00 feet of the North 210.00 feet of the South 445.00 feet; AND the East 260.00 feet of the North 210.00 feet of the South 235.00 feet; AND THE FOLLOWING DESCRIBED PROPERTY.

Commence at the N.E. corner of Lot 185 of Florida Orange Grove Corporation Subdivision as recorded in Plat Book "B", page 222, Public Records Marion County Florida; thence N.89 degrees 59' 28" E. parallel to the North boundary of the S.E. 1/4 of said Section 34, 1210.00 feet to the point of beginning; thence S.00 degrees 02'49"E., 660.00 feet; thence S.89 degrees 59'28"W., 300.00feet; thence S.00 degrees 02'49"E., 656.14 feet; thence N.89 degrees 59'28"E., 340.00 feet; thence N. 00 degrees 02'49"W., 1326.14 feet to the North boundary of the S.E. 1/4 of said Section 34, thence S. 89 degrees 59'28"W. along the said North boundary 40.00 feet; thence S.00 degrees, 02'49"E., 10.00 feet to the point of beginning, EXCEPT the North 10.00 feet for roadway.

SILVER OAKS - The East 1/4 of the S.E. 1/4 of said Section 34.

WILLOW OAKS - The West 1/4 of the N.E. 1/4 of the S.W. 1/4, and the N.W. 1/4 of the S.W. 1/4, and the N.E. 1/4 of the S.W. 1/4 of the S.W. 1/4 of said Section 34.

BILLY D. CORDREY, TRUSTEE - The West 1/2 of S.W. 1/4 of S.W. 1/4 of said Section 35.

RAVEN HILL - East 2/3 of South 24 chains of West 25.72 chains, Section 27, Township 15 South, Range 22 East.

SHADY WOOD UNIT I - Lot 16 and the South 50.70 feet of Lot 9 of Davis-Tillson Subdivision as per plat thereof recorded in Plat Book "E", Page 47, of the Public Records of Marion County, Florida, And the South 710.70 feet of the South 24 chains of the West 25.74 chains of Section 27, Township 15 South, Range 22 East, Except the East 2/3 thereof.

SHADY WOOD UNIT II - Commencing at the Southeast corner of Section 28, Township 15 South, Range 22 East; Thence West along the South Boundary line of said section 28,660.44'; Thence N 00 degrees 06' 18" W 587.59' to the Northwest corner of Lot 10, Block "A", "Shady Wood Unit No. 1" as recorded in Plat Book "T", Page 43 of the Public Records of Marion County, Florida for the Point-of-Beginning; Thence continue N 00 degrees 06' 18" W 729.81'; Thence S 89 degrees 59' 16" E 661.24'; Thence N 00 degrees 04' 16" W 1317.27'; Thence N 89 degrees 45' 31" E 848.77'; Thence S 00 degrees 05' 18" E 1021.25'; Thence S 89 degrees 46' 57" W 283.17'; Thence S 00 degrees 04' 16" E 696.30' to the Northeast corner of Lot 16, Block "C" of the aforesaid "Shady Wood Unit 1"; Thence S 89 degrees 55' 44" W 335.50'; Thence S 00 degrees 04' 16" E 180.00'; Thence S 89 degrees 56' 44" E 220.00'; Thence S 00 degrees 04' 16" E 100.00'; Thence S 89 degrees 55' 44" W 197.75'; Thence S 00 degrees 04' 16" E 20.00'; Thence S 89 degrees 55' 44" W 473.38' to the Point of Beginning.

QUAIL CREEK - Lots 3, 4, 5 & 6 of "Tillson's Subdivision" as recorded in Plat Book "E", Page 47 of the Public Records of Marion County, Florida.

HAWKS POINT - The S.E. 1/4 of Section 26, Township 16 South, Range 22 East, Marion County, Florida; Less and except the East 12 1/2 Chains thereof, and Less the North 10 Chains thereof; and Except the West 1/2 of the S.W. 1/4, of the S.E. 1/4, and Except the S.E. 1/4 of the S.W. 1/4 of the S.E. 1/4 Except the East 30 feet.

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SCHEDULE 1

NORTH CENTRAL FLORIDA UTILITIES TRANSFER TO A. P. UTILITIES, INC.
SCHEDULE OF WATER RATE BASE
PER STAFF CALCULATION AS OF MAY 6, 1988

| Description | Balance Per Filing | Staff Adjustments | Balance Per Staff |
|--------------------------|-----------------------|----------------------|----------------------|
| Utility Plant in Service | \$221,710 | \$295,537 | \$517,247 |
| Land | 0 | 12,966 | 12,966 |
| Accumulated Depreciation | (51,318) | (25,311) | (76,629) |
| CIAC | (62,370) | (265,972) | (328,342) |
| CIAC Amortization | 3,225 | 39,947 | 43,172 |
| Acquisition Adjustment | 342,630 | (342,630) | |
| TOTAL | \$453,877 | (\$285,463) | \$168,414 |

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SCHEDULE 2

NORTH CENTRAL FLORIDA UTILITIES TRANSFER TO A. P. UTILITIES, INC.
RATE BASE ADJUSTMENTS

| Explanation | Amount |
|--|------------------------------|
| 1) Depreciable Plant | |
| To reflect the inclusion of depreciable plant per Commission Order No. 16145 | \$189,939 |
| To reflect the inclusion of depreciable plant for the Hawks Point system. | 105,598 |
| Total Adjustment to Depreciable Plant | ----- \$295,537 ===== |
| 2) Land | |
| To reflect the inclusion of land per Commission Order No. 16145. | \$6,966 |
| To reflect the inclusion of contributed land for the Hawks Point system. | 6,000 |
| Total Adjustment to Land | ----- \$12,966 ===== |
| 3) Accumulated Depreciation | |
| To reflect accumulated depreciation at the depreciation rate of 3.21% as authorized in Commission Order No. 16145. | (\$25,311) |
| Total Adjustment to Accumulated Depreciation | ----- (\$25,311) ===== |

