

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930198-WU
certificate to provide water) ORDER NO. PSC-94-0804-FOF-WU
service in Putnam County for a) ISSUED: June 29, 1994
utility in existence and)
charging rates, by LANDIS)
ENTERPRISES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING APPLICATION FOR WATER CERTIFICATE
AND REQUIRING PAYMENT OF REGULATORY ASSESSMENT FEES AND
FILING OF ANNUAL REPORT
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is 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.

BACKGROUND

On February 26, 1993, P.B.V. Corporation (PBV) filed its application for a water certificate pursuant to Section 367.045, Florida Statutes. The Port Buena Vista system is a small Class C water utility serving approximately 58 residential customers and one clubhouse in Putnam County. The utility was constructed in 1969 and PBV began operation in March 1972. On October 27, 1992, prior to receiving the water certificate application, PBV filed notice of abandonment of the Port Buena Vista Water System in Putnam County. PBV withdrew the notice of abandonment but filed it again on January 14, 1993. The abandonment did not take place as Landis Enterprises, Inc. (Landis Enterprises or utility) became a receiver of the utility and ultimately purchased the utility on June 3, 1993. The official filing date of the application is March 18, 1994, the date final deficiencies were met.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

On April 28, 1993, Mr. Allen Himebaugh filed an objection to the application and the case was referred to the Department of Administrative Hearings (DOAH) for processing. The concerns noted in Mr. Himebaugh's objection related to the quality of the utility's service and the utility's compliance with the Department of Environmental Protection (DEP). Our Staff advised Mr. Himebaugh that as a certificated entity, the utility will be required to comply with DEP's rules and regulations and if it fails to do so, the Commission may impose fines or other penalties. With an understanding that the certification process requires that the applicant be financially and technically able to provide adequate utility service to its customers, Mr. Himebaugh withdrew his objection to the notice of application on March 31, 1994.

As mentioned previously, this system had been operating without a certificate and was in violation of Section 367.045, Florida Statutes. The utility's previous owner was not aware that a certificate was needed to provide water service to its small subdivision. Landis Enterprises has indicated that it fully intends to comply with all of the Commission's rules and regulations. The utility filed an application after being advised by staff of the necessity to obtain a certificate. Therefore, we do not find it appropriate to initiate a show cause proceeding against the utility, as the utility did not willfully and intentionally violate the Commission's rules and regulations.

As noted above, the previous owner of the utility, PBV, originally filed the application for original certificate. Before the application was processed, Landis Enterprises was appointed receiver and eventually purchased the utility. This docket has been processed under the name of Landis Enterprises. Given the circumstances of this matter, we do not find it appropriate to initiate a show cause proceeding against Landis Enterprises for failure to obtain Commission approval prior to the transfer.

APPLICATION FOR CERTIFICATE

Except as noted above, Landis Enterprises' application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for a certificate for an existing utility currently charging for service. The application contains a check in the amount of \$150, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. The utility 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 25-30.034(1) (e), Florida Administrative Code. The utility has provided adequate service territory and system maps and a territory description as prescribed by Rule 25-30.034(1) (h), (i) and (j), Florida Administrative Code. As noted above, Mr. Allen Himebaugh filed an objection to the application and the case was referred to DOAH for processing. Mr. Himebaugh withdrew his objection to the notice of application on March 31, 1994.

Under its former owner, the utility was in violation of DEP standards regarding water quality. According to DEP, Landis Enterprises has corrected all of the deficiencies except the problem of the high level of iron in the water. The utility's owner, Mr. Hank Landis, is in the process of changing the filter media to place the filter back in service. Once the filter is placed on line the iron problem should be resolved. Mr. Landis has over ten years experience in the water and wastewater industry. He has hired a certified operator to operate the system, and will hire a registered professional engineer when needed. A financial statement showing the utility can meet the major expenditures of the utility operation has been provided. In addition, the utility plans to file a request for a rate increase to make up revenue deficiencies.

Based upon this information, we find that it is in the public interest to grant the utility's application for an original certificate. Accordingly, Landis Enterprises, Inc. is hereby granted Certificate No. 558-W to serve the territory described in Attachment A of this Order.

RATES AND CHARGES

As stated earlier, after the former owner indicated that the Port Buena Vista water system would be abandoned, Landis Enterprises took over the utility as a received and ultimately purchased the utility. The utility is unable to supply a copy of the formal approval of rate schedules by the Putnam County Board of County Commissioners because the County never set rates. In addition, no billing records existed to verify the rates and charges. Instead, the utility submitted affidavits from the customers regarding the monthly water rate which indicate that the current rate for residential water service is a flat monthly charge of \$19.86. In addition to residential customers, the utility provides service to one general service customer at the same rate. We find it appropriate to allow the utility to continue to charge this rate for both the residential customers and general service customer until they are addressed in a rate proceeding.

The utility does not currently charge a plant capacity charge, meter installation charge, tap in charge or line extension charge. The utility has requested that it be allowed to implement a \$300 plant capacity charge and a meter installation fee of \$120 for a 5/8 x 3/4 inch meter. Where service is not presently provided, the utility has also requested a main extension charge of \$120 per ERC, a customer connection (tap-in) charge of \$120 for a 5/8 x 3/4 inch meter, actual costs for a back-flow preventor (when requested or required), an inspection fee for new construction, and a plan review charge for new construction. We find that these charges are reasonable and accordingly approve the charges as listed below:

SERVICE AVAILABILITY CHARGES - WATER

Plant Capacity Charge: \$300 per ERC

Meter Installation Fee:

5/8 x 3/4 inch meter : \$120
Larger meter size : Actual Cost

Back-Flow Preventor Installation Fee: Actual Cost

The Back-Flow Preventor will be installed as requested or required.

Where service is not available at the present time:

Main Extension Charge: \$120 per ERC

Customer Connection (Tap-in) Charge:

5/8 x 3/4 inch meter : \$120
Larger meter size : Actual Cost

Inspection Fee: Actual Cost

Plan Review Charge: Actual Cost

The utility has requested our approval to implement a \$15 initial connection charge, a \$15 normal reconnection fee, a \$15 violation reconnection fee and a \$10 premises visit fee. These charges are consistent with the miscellaneous service charges recognized by this Commission and contained in the Staff Advisory Bulletin No. 13, Second Revised. We therefore find it appropriate to approve the utility's requested miscellaneous service charges as requested.

The utility has also requested approval to implement a late payment charge of \$3.00 as an incentive for customers to make timely payments. We find that this is a reasonable amount to charge as a late fee for water and wastewater utilities based on estimates of labor and administrative costs. The burden of processing such delinquent notices should be placed on the cost causers, rather than the general body of rate-payers. Therefore, the utility shall be allowed to charge a late fee of \$3.00. The following language shall be incorporated in the utility's tariff with the charge: This charge will be levied when a customer's billing account is not paid within 20 days and is therefore delinquent.

Landis Enterprise does not currently collect a residential deposit, but has requested our approval to collect a deposit in the amount of \$40.00. Because this is a reasonable amount, the utility shall be authorized to collect a \$40.00 deposit.

The utility shall be required to file tariff sheets consistent with the Commission's decision within thirty days of the effective date of the order if no timely protests are received. The effective date of the tariff shall be the stamped approval date.

REGULATORY ASSESSMENT FEES AND ANNUAL REPORTS

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of whether a certificate has been granted. This utility has been subject to this Commission's jurisdiction since 1969, although we did not learn of its existence until 1992. The utility was advised of the Commission's jurisdiction and its responsibility to obtain a certificate on October 27, 1992. Therefore, we find it appropriate to require the utility to remit regulatory assessment fees for 1992 and 1993 and to file an annual report for 1993. The utility shall file these items within 45 days of the issuance of this Order.

If no timely protests are filed to this Order, this docket may be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Landis Enterprises, Inc. is hereby granted Certificate No. 558-W to serve the territory reflected in Attachment A in Putnam County. It is further

ORDERED that Landis Enterprises, Inc. shall file tariff sheets which reflect the appropriate rates and charges as specified in the body of this Order. It is further

ORDERED that Landis Enterprises, Inc. shall be authorized to collect the appropriate rates and charges 30 days from the tariff's stamped approval date. It is further

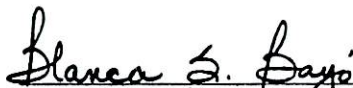
ORDERED that the tariffs will be approved upon our Staff's verification that they are consistent with our decision herein. It is further

ORDERED that within 45 days of the issuance of this Order, Landis Enterprises, Inc. shall remit regulatory assessment fees for 1992 and 1993 and file an annual report for 1993. It is further

ORDERED that the provisions of this Order establishing rates and charges are issued as proposed agency action and shall become final unless an appropriate petition is received by the Director of Records and Reporting at her office at 101 East Gaines Street, Tallahassee, Florida, 32399-0870, by the close of business on the date set forth in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that in the event that no timely protest is received, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 29th day of June, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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 granting rates and charges 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 July 20, 1994. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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 the date described above, 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 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 of the effective date 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.

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

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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 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.

ATTACHMENT A

LANDIS ENTERPRISES, INC.

SERVING THE PORT BUENA VISTA SUBDIVISION

TERRITORY DESCRIPTION - PUTNAM COUNTY

Township 9 South, Range 27 East

In Section 48

Begin in Township 10 South, Range 27 East, Section 8 at the intersection of U.S. Highway 17 (Also, known as State Road 15 and 20), and State Highway 207. Thence Northeasterly along the West Right-of-Way of said Road a distance of about 4.1 miles to the West Right-of-Way of a major road. Thence along said Right-of-Way North 25° 30' West a distance of about 350 feet. Thence leaving said Right-of-Way and continuing North 25° 30' West a distance of about 208 feet to the North Right-of-Way of Federal Point Road. Also the East Right-of-Way of Dancy Avenue. Thence continue along said East Right-of-Way North 23° West a distance of about 910 feet to the Point of Beginning (P.O.B.). Thence continue North 23° West a distance of about 1,300 feet. Thence North 46° 37' East a distance of about 333.5 feet. Thence North 9° 10' West a distance of about 147 feet. Thence North 23° West a distance of about 330 feet to the shoreline of the St. Johns River. Thence meander around Dancy Point going first in a Northeasterly then Southeasterly direction a distance of about 485 feet to the inlet of a manmade Marina. Thence crossing said inlet going South 62° East a distance of about 40 feet. Thence meander along the shore line of the St. Johns River first in a Easterly then Southwesterly direction a distance of about 290 feet. Thence leaving the St. Johns River going South 20° East a distance of about 530 feet. Thence South 4° East a distance of about 233.5 feet. Thence South 30° West a distance of about 275 feet. Thence South 15° 30' East a distance of about 836 feet. Thence South 9° East a distance of about 90 feet. Thence South 81° West a distance of about 525 feet to the P.O.B.