

STATE OF FLORIDA

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER



STEVE TRIBBLE, DIRECTOR  
DIVISION OF ADMINISTRATION  
(850) 413-6330

Public Service Commission

June 12, 2000

Mr. Bob Joyce  
Bureau of Accounting  
Office of the Comptroller  
101 East Gaines Street  
Tallahassee, Florida 32399-0350

Dear Mr. Joyce:

The Public Service Commission has exercised reasonable efforts to collect regulatory assessment fees, penalties, and interest from the company referenced below. However, no responses have been received, and we believe that further collection efforts would not be cost effective.

DOCKET NUMBER	UTILITY NAME	AMOUNT
990558-WU	University Oaks Water Sys.	\$3,553.35

We respectfully submit the enclosed Delinquent Accounts Receivable Transmittal form, along with a memorandum from the Commission's Division of Legal Services and other supporting documentation. We request that, at your discretion, you either attempt further collection or grant this agency permission to write off the debt.

Sincerely,

*Steve Tribble*  
Steve Tribble

ST:EHS:RLM  
I:DELACT.EHS  
Enclosures

- ABIP
  - CAIF
  - CMB
  - COM
  - CTR
  - ECR
  - LEG
  - OPC
  - PAI
  - RGO
  - SEC
  - SER
  - OTH
- Division of Legal Services(R. Jaeger)  
 Division of Records and Reporting ✓  
 Division of Economic Regulation (Tiffany Davis)  
 Division of Administration (Sewell)

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07290 JUN 14 2000  
PSC-RECORDS/REPORTING



# Public Service Commission

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

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**DATE:** June 7, 2000  
**TO:** Steve Tribble, Director, Division of Administration  
**FROM:** Ralph R. Jaeger, Senior Attorney, Division of Legal Services  
**RE:** Docket No. 990558-WU - Petition by Levy County as receiver for University Oaks Water System for waiver of Rule 25-30.110, F.A.C., and to write off past due regulatory assessment fees.

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On July 26, 1999, the Commission issued Proposed Agency Order No. PSC-99-1452-PAA-WU, in which it established that University Oaks Water System (University Oaks), was responsible for payment of delinquent regulatory assessment fees (RAFs) due from 1994 through March 8, 1998. This Order was consummated by Order No. PSC-99-1620-CO-WU, issued August 18, 1999. The Commission determined that University Oaks, with Frank Woodward as receiver, had no money to pay the RAFs and that Mr. Woodward's whereabouts were unknown. The Commission further found that any attempt to collect the RAFs would almost certainly be a waste of time, money, and effort. The amount of the delinquent regulatory assessment fee (estimated) is \$2,254.80. As of June 30, 1999, the applicable penalties are \$559.16. As of the same date, the interest amount is \$739.39. Pursuant to Order No. PSC-99-1452-PAA-WU, the total amount calculated to be due as of June 30, 1999 is \$3,553.35.

University Oaks never paid this amount, and staff was never able to locate Mr. Woodward, the receiver. Staff believes that all reasonable collection efforts have been exhausted. Hence, we submit this matter to your office for approval to forward the account to the Department of Banking and Finance, Comptroller's Office, for permission to write-off the account.

The events leading to our determination are outlined below for your convenience.

1. On December 17, 1992, the Circuit Court in Levy County appointed Frank Woodward as receiver of University Oaks. By Order No. PSC-93-0369-FOF-WU, issued March 9, 1993, the Commission acknowledged the abandonment of University Oaks and the appointment of Mr. Woodward as receiver.
2. On August 15, 1997, the Commission received a notice of abandonment from the attorney for Mr. Woodward.
3. On December 9, 1997, the Commission received a letter from the attorney for Mr. Woodward stating that Mr. Woodward was taking

**Continuation of Memorandum to:**

Steve Tribble

June 7, 2000

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action relative to taking back University Oaks Utilities and rescinding the notice of abandonment.

4. However, Levy County petitioned the Circuit Court to appoint a new receiver, and on March 6, 1998, the Circuit Court appointed Levy County as receiver, effective March 9, 1998.
5. The last annual report was filed for the year 1993 and showed a net operating loss of \$5,761.
6. The last RAF payment was in the amount of \$26.50 for 1994. However, because no annual report was filed for this year, staff could not determine if this was the correct amount.
7. The County requested exempt status pursuant to Section 367.022(2), Florida Statutes. The Commission acknowledged the County's exempt status in Proposed Agency Action Order No. PSC-99-1452-PAA-WU, in Docket No. 990558-WU.
8. By that same Order, the Commission found that University Oaks owed \$3,550.35 in past due RAFs, penalties, and interest. However, the Commission further found that neither University Oaks nor Frank Woodward, as the former receiver, had the money to pay the \$3,550.35. Also, Mr. Woodward could not be located. The Commission, therefore, determined that it would not be cost effective to pursue any further collection efforts and directed staff to refer University Oaks' unpaid RAFs, plus associated penalties and interest, to the Department of Banking and Finance's Office of the Comptroller for permission to write off the account as uncollectible.
9. Proposed Agency Action Order No. PSC-99-1452-PAA-WU was consummated by Order No. PSC-99-1620-CO-WU, issued August 18, 1999.

Please find the following attached hereto:

- (a) Order No. PSC-93-0369-FOF-WU

**Continuation of Memorandum to:**

Steve Tribble

June 7, 2000

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- (b) Order No. PSC-99-1452-PAA-WU
- (c) Order No. PSC-99-1620-CO-WU
- (d) State of Florida Office of the Comptroller Bureau of Auditing Delinquent  
Accounts Receivable Transmittal

No mailing address is known for University Oaks or its former receiver, Frank Woodward.

RRJ/lw

cc: Division of Records and Reporting  
Division of Economic Regulation (Tiffany Davis)

**STATE OF FLORIDA  
OFFICE OF THE COMPTROLLER  
BUREAU OF AUDITING  
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: 6/7/00

CONTACT: EVELYN H. SEWELL, CHIEF, BUREAU OF FISCAL SERVICES

PHONE NUMBER: 413-6263

SAMAS ACCOUNT CODE: 61 20 2 573003 610000 00 000300  
61 74 1 000331 610000 00 001200

990558-WU

UNIVERSITY OAKS WATER SYSTEM

AGENCY REFERENCE #	LAST NAME	FIRST	MIDDLE	SOCIAL SECURITY NUMBER	COMPTROLLER USE ONLY
LAST KNOWN ADDRESS (INCLUDE ZIP)					
				\$2,254.80	\$559.16/\$739.39
					\$3,553.35
HOME TELEPHONE	WORK TELEPHONE	PRINCIPLE AMOUNT		PENALTY/INTEREST AMOUNT	TOTAL
				06/30/99	8
§ 367.145, F.S.					
§ 350.113, F.S. Rule 25-30.120, F.A.C.					
PENALTY/INTEREST AUTHORITY				DATE DEBT INCURRED	DEBT TYPE

1994 through March 8, 1998 REGULATORY ASSESSMENT FEES

DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Levy County  
as receiver for University Oaks  
Water System for waiver of Rule  
25-30.110, F.A.C., and to write  
off past due regulatory  
assessment fees.

DOCKET NO. 990558-WU  
ORDER NO. PSC-99-1452-PAA-WU  
ISSUED: July 26, 1999

The following Commissioners participated in the disposition of  
this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING WAIVER OF RULE  
AND  
FINAL ORDER DECLINING TO INITIATE SHOW CAUSE PROCEEDINGS AND  
REFERRING UNPAID REGULATORY ASSESSMENT FEES AND ASSOCIATED PENALTY  
AND INTEREST TO THE OFFICE OF THE COMPTROLLER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the action concerning the waiver of Rule 25-30.110,  
Florida Administrative Code, 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

University Oaks Water System (University Oaks or utility) is  
a Class C utility located in Levy County. The system was initially  
granted Water Certificate No. 438-W in Docket No. 840008-WU, by  
Order No. 13712, issued September 15, 1984. According to the most  
recent annual report filed by the utility, it served 98 water  
customers in 1993. Wastewater service is provided by septic tanks.  
The 1993 annual report indicated that the system received gross  
revenues of \$12,024 and a net operating loss of \$5,761.

ORDER NO. PSC-99-1452-PAA-WU  
DOCKET NO. 990558-WU  
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The Circuit Court in Levy County appointed Mr. Frank Woodward receiver of University Oaks on December 17, 1992. By Order No. PSC-93-0369-FOF-WU, issued March 9, 1993, we acknowledged the abandonment of University Oaks and the appointment of Mr. Woodward as receiver.

Mr. Woodward filed an application for a transfer of majority organizational control of University Oaks, from Lake Crescent Development Corporation to Mr. Frank Woodward on July 7, 1994. However, the application was never completed.

On August 15, 1997, we received a letter from an attorney representing Mr. Frank Woodward, as President of University Oaks, which stated that Mr. Woodward was being forced to abandon the utility due to financial problems with the mortgage holder and also with Central Florida Electric Cooperative, and that the Levy County Board of County Commissioners had been notified. The attorney subsequently sent a second letter on December 9, 1997, stating that Mr. Woodward was taking action relative to "taking back the University Oaks utilities," and rescinding the notice of abandonment.

However, in March 1998, Levy County (County) filed a Motion to Appoint New Receiver with the Circuit Court. This motion was granted on March 6, 1998, by the Eighth Judicial Circuit Court, in Case No. 92-607-CA. On that date, the Court removed Mr. Woodward as receiver and appointed Levy County as the new receiver of University Oaks, effective March 9, 1998. Therefore, Mr. Woodward was the appointed receiver for University Oaks from December 17, 1992 until March 9, 1998.

Pursuant to Section 367.022(2), Florida Statutes, a utility system that is operated, managed and controlled by a governmental entity is not subject to our regulation. In Docket No. 940714-WU, the County requested that it be exempt from our regulation.

By Order No. PSC-98-0920-FOF-WU, issued July 7, 1998, we acknowledged the appointment of Levy County as receiver and its exempt status pursuant to Section 367.022(2), Florida Statutes. By that Order, we also denied the incomplete transfer application of Mr. Woodward, canceled Certificate Number 438-W, and closed the docket.

However, we also recognized that, pursuant to Rule 25-30.110, Florida Administrative Code, the utility was responsible for filing

annual reports while operating under our regulation, and that pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, the utility was responsible for paying regulatory assessment fees during that period. University Oaks failed to file annual reports for 1994 through March 8, 1998. Also, except for paying \$26.50 in regulatory assessment fees for 1994, Mr. Woodward, as receiver for the utility, never made another payment. Because no annual report was filed for 1994, our staff could not determine whether the \$26.50 paid was correct.

Based upon the foregoing, we found University Oaks, with Levy County as receiver, to be responsible for filing annual reports and paying regulatory assessment fees, from December 17, 1992 through March 8, 1998. Subsequently, we directed our staff to address the filing of these reports and collection of the fees, including appropriate penalties and interest, in a separate docket after internal collection efforts were attempted.

By letter dated April 5, 1999, staff requested that the County, as receiver, pay the outstanding regulatory assessment fees and file the appropriate annual reports. By letter dated April 30, 1999 and filed May 6, 1999, the County responded to that request. In that letter, the County requested a waiver of the requirements for the filing of annual reports and the payment of past due regulatory assessment fees.

REQUEST FOR WAIVER OF RULE 25-30.110

On April 30, 1999, the County, as receiver for University Oaks, filed its request for waiver of the rules requiring the filing of annual reports (plus delinquent penalties) and regulatory assessment fees, plus penalty and interest. The County sought relief from the requirement to file annual reports arising from the failure of the previous receiver to file the utility's 1994-1998 annual reports.

Rule 25-30.110(3), Florida Administrative Code, requires utilities subject to our jurisdiction as of December 31 of any year to file an annual report for that year. The report is due by March 31 for the preceding year ending December 31.

Rule 25-30.110(6), Florida Administrative Code, provides, in part, that a penalty shall be assessed against any utility that fails to file an annual report or request for an extension. Rule



25-30.110(7), Florida Administrative Code, sets forth the calculation of the penalty. For Class C utilities, the rule provides that we may assess a penalty of \$3 per day for each day the report is delinquent. Starting with 1994, Mr. Woodward, the prior receiver, failed to file annual reports for all subsequent years. Therefore, for each of the annual reports, from the time of their delinquency, a \$3 per day penalty would be applicable.

In its petition, the County states that, with this second abandonment, the County was unable, despite diligent effort, to obtain the records, and that, therefore, there are no records available to prepare and file the annual reports. Further, the County states that there were no funds to pay the past due regulatory assessment fees, and that the County had invested substantial work and money just to make the system operable.

The County initially claimed that this situation met the conditions for a waiver under Section 120.542(2), Florida Statutes, and requested we waive both the rules requiring the filing of annual reports plus penalties, and regulatory assessment fees, plus penalty and interest. However, after discussions with staff, the County realized that the requirement for the payment of regulatory assessment fees was statutory, and thus not appropriate for waiver. Although not appropriate for a waiver, the County states that there are no funds to pay these past due regulatory assessment fees and requests that we write off those fees as uncollectible.

#### Statutory Requirements For Waiver

Pursuant to Section 120.542(6), Florida Statutes, on May 12, 1999 (an amendatory notice was also provided on May 26, 1999), our staff provided notice to the Department of State, which published notice of the waiver request for Rule 25-30.110, Florida Administrative Code (filing of annual reports and penalty), in the Florida Administrative Weekly. There appear to be no deficiencies in the petition, and we received no comments regarding the utility's petition. Pursuant to Section 120.542(8), Florida Statutes, we are required to issue an order in writing granting or denying the petition for waiver, stating the relevant facts and reasons supporting our decision within 90 days after receipt of the original petition. Because the letter was filed on May 6, 1999, we must issue our Order by August 4, 1999.

Section 120.542(2), Florida Statutes, provides, in pertinent part, that:

variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and that application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, substantial hardship means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.

#### The Underlying Statutes

The underlying statutes pertaining to the rules in this instance are Sections 367.121 and 367.161, Florida Statutes. Section 367.121(1)(c), Florida Statutes, grants us the authority to require such regular or emergency reports from a utility as we deem necessary. The purpose, in part, for requiring annual reports is to determine whether the utility is overearning and whether the utility is paying the proper regulatory assessment fees. These reports also allow us to monitor the continued operations of any utility that we regulate.

With the County now operating the utility, the operations are exempt from our regulation, and there is no longer any need for our continued monitoring. Therefore, we find that the purpose of Section 367.121, Florida Statutes, was negated when the County took over operation of the utility.

Section 367.161(1), Florida Statutes, authorizes us to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have wilfully violated, any provision of Chapter 367, Florida Statutes, or any of our lawful rules or orders. As noted by Proposed Agency Action Order No. PSC-98-0798-FOF-SU, issued June 8, 1998 in Docket No. 980442-SU, the purpose of penalizing utilities for violating our rules is to encourage compliance with those rules. Following the County's appointment as receiver and our recognition of its exempt status, there was no longer any need for the County to file the past due annual reports. Therefore, we find that the purpose of Section 367.161, Florida Statutes, has been achieved.

Substantial Hardship and Principles of Fairness

According to the County, it could not obtain the records that would allow it to submit appropriate annual reports for the years 1994-1998. Also, the County states that there were no funds, and that it had made a substantial investment of its own money just to make the system operable.

Based on the foregoing, the County's petition for waiver for the filing of annual reports shall be granted. The County has met the requirements of Section 120.542, Florida Statutes, by demonstrating that a waiver of Rule 25-30.110, Florida Administrative Code, would serve the purpose of Sections 367.121 and 367.161, Florida Statutes. Further, as required by Section 120.542, Florida Statutes, the County has demonstrated that application of the rules would create a substantial hardship in attempting to prepare any annual reports, and would violate principles of fairness for the County.

SHOW CAUSE PROCEEDING AND WRITE OFF OF REGULATORY ASSESSMENT  
FEES, PLUS PENALTY AND INTEREST

The County also requested that we write off the outstanding regulatory assessment fees plus associated penalty and interest due from University Oaks. However, payment of regulatory assessment fees, plus penalty and interest, is required by Sections 367.145(1), and 350.113(3) and (4), Florida Statutes. Therefore, we do not have the power to waive the requirement for payment of regulatory assessment fees, plus penalty and interest.

Regulatory assessment fees are intended to cover the costs incurred in our regulation of utilities, and Section 367.145, Florida Statutes, requires water and wastewater utilities to remit regulatory assessment fees to this Commission. Pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(7)(a), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its regulatory assessment fees, in the following manner:

1. 5 percent of the fee if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.

2. The amount of interest to be charged is 1% for each 30 days or fraction thereof, not to exceed a total of 12% annum.

In addition, pursuant to Sections 367.145(1)(b) and 367.161, Florida Statutes, and Rule 25-30.120(7)(b), Florida Administrative Code, we may impose an additional penalty upon a utility for failure to pay regulatory assessment fees in a timely manner.

Neither University Oaks nor Frank Woodward, as receiver, has paid regulatory assessment fees since the \$26.50 that was paid in 1994. Section 367.161(1), Florida Statutes, authorizes us to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes.

Utilities are charged with the knowledge of our rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to pay regulatory assessment fees, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., we, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Failure to pay regulatory assessment fees is an apparent violation of Section 367.145(1)(b), Florida Statutes. As discussed above, by Order No. PSC-98-0920-FOF-WS, issued July 7, 1998, we ordered the utility, with Levy County as receiver, to pay the outstanding regulatory assessment fees due from 1994 through March 8, 1998. Our staff followed up on enforcement of this Order by letter dated April 5, 1999, to the County.

As stated previously, the County responded to this letter with a request for waiver of the requirement to pay outstanding regulatory assessment fees. Using the revenue reported by the utility in the 1993 annual report, our staff estimates that the

ORDER NO. PSC-99-1452-PAA-WU  
DOCKET NO. 990558-WU  
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amount of outstanding regulatory assessment fees for this period totals \$2,254.80. In addition, the utility has accumulated \$1,295.55 in penalties and interest through June 30, 1999, on this delinquent amount (\$559.16 in penalties and \$739.39 in interest). Therefore, the total amount due is \$3,550.35.

The law, as indicated above, is clear that regulatory assessment fees, plus penalties and interest for the delinquent regulatory assessment fees, must be assessed. The law is also clear that we lack the statutory authority to grant a waiver of the requirement to pay regulatory assessment fees, plus penalties and interest. See Order No. PSC-96-0834-FOF-WS, issued July 1, 1996, in Docket No. 960540-WS; Order No. 24290, issued March 26, 1991, in Docket No. 900961-SU; and Order No. PSC-97-0767-FOF-FU, issued June 30, 1997, in Docket No. 970360-GU. In this last Order, wherein we discussed our lack of authority to waive the statutory penalty and interest assessments on late regulatory assessment fees, we specifically stated:

It is the function of the legislature and not the courts or administrative agencies to change the law. 1 Fla. Jur. 2d, Administrative Law, Section 32. The grant of a waiver of the regulatory assessment fee penalty statute, in the absence of any waiver provisions, express or implied, contained in the statute, would be a modification of the statute. This is a function reserved solely for the legislature. In addition, there is no basis for interpretation of Section 350.113(4), F.S. The statute is clear and unambiguous on its face. If the terms and provisions of a statute are plain, there is no room for administrative interpretation. Southeastern Utilities Service Co. v. Redding, 131 So. 2d 1 (Fla. 1950).

Therefore, we do not have the power to grant any request of the County for waiving the requirement to pay regulatory assessment fees plus associated penalty and interest. The County understands that the requirement for regulatory assessment fees, plus penalty and interest, is by statute, and not by rule, and that a waiver is therefore not appropriate.

However, we note that it is the utility that is liable for these payments, and that the utility accumulated losses during the prior receiver's tenure. The County also states that there were no utility funds to pay either the regulatory assessment fees, or the

associated penalties and interest, and that the County did not want to nor was required to use its own funds to pay the outstanding penalties and interest. Further, it appears that the County has invested substantial work and money just to make the system operable. There appear to be no funds whatsoever within the utility to pay any past due regulatory assessment fees or penalty and interest.

Our staff has been unable to contact the former receiver, Mr. Frank Woodward, and his whereabouts remain unknown. The utility, with Mr. Woodward as receiver, has continued to have problems with meeting its financial obligations. This led at one point to Mr. Woodward issuing a notice of abandonment. Also, the last annual report filed (in 1993) indicated that the system received gross revenues of \$12,024 and a net operating loss of \$5,761. Thus, the utility has had a history of financial problems. All indications are that the utility accumulated losses during Mr. Woodward's receivership, and that, therefore, there are no funds available from which the utility may pay outstanding regulatory assessment fees, penalties and interest.

In consideration of the foregoing, we find that any attempt to collect the regulatory assessment fees, plus penalty and interest, through a show cause proceeding would almost certainly be a waste of time, money and effort. It appears that further collection efforts would not be cost effective and that collection of any fees is highly unrealistic. Therefore, we decline to initiate show cause proceedings, and direct our staff to refer University Oaks' unpaid regulatory assessment fees for 1994 through March 8, 1998, plus associated penalty and interest, to the Department of Banking and Finance's Office of the Comptroller (Comptroller's Office) for permission to write off the account as uncollectible.

If no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period, the proposed action shall become final and effective upon the issuance of a Consummating Order. However, this docket shall remain open until the Comptroller's Office gives permission to write off the account as uncollectible.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request of Levy County, as receiver for University Oaks Water System, for waiver of Rule 25-30.110, Florida Administrative Code,

ORDER NO. PSC-99-1452-PAA-WU  
DOCKET NO. 990558-WU  
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is granted. The County shall neither be required to file annual reports starting with the year 1994 through March 8, 1999, nor be required to pay any delinquent penalties for failure to timely file the annual reports. It is further

ORDERED that the provisions of this Order, 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 Records and Reporting, 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 no show cause proceeding shall be initiated against University Oaks Water System for its failure to remit regulatory assessment fees in the amount of \$2,254.80, plus penalties in the amount of \$559.16 and interest in the amount of \$739.39, for a total amount due of \$3,550.35. It is further

ORDERED that the unpaid regulatory assessment fees, plus penalties and interest, in the total amount of \$3,550.35 shall be referred to the Department of Banking and Finance's Office of the Comptroller for permission to write off the account as uncollectible. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open pending permission of the Department of Banking and Finance's Office of the Comptroller to write off the account in the total amount of \$3,550.35 as uncollectible.

By ORDER of the Florida Public Service Commission this 26th day of July, 1999.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( 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.

As identified in the body of this order, our action concerning waiver of Rule 25-30.110, Florida Administrative Code, 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 Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 16, 1999. 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 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 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.



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Levy County  
as receiver for University Oaks  
Water System for waiver of Rule  
25-30.110, F.A.C., and to write  
off past due regulatory  
assessment fees.

DOCKET NO. 990558-WU  
ORDER NO. PSC-99-1620-CO-WU  
ISSUED: August 18, 1999

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-99-1452-PAA-WU, issued July 26, 1999, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-99-1452-PAA-WU has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 18th day of August, 1999.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( S E A L )

RRJ

ORDER NO. PSC-99-1620-CO-WU  
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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 judicial review of Commission orders that is available pursuant to Section 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 judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request 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 and/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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of abandonment of ) DOCKET NO. 921103-WU  
water system in Levy County by ) ORDER NO. PSC-93-0369-FOF-WU  
University Oaks Water System. ) ISSUED: 03/09/93  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
LUIS J. LAUREDO

ORDER ACKNOWLEDGING ABANDONMENT OF  
UNIVERSITY OAKS WATER SYSTEM AND  
ACKNOWLEDGING APPOINTMENT OF RECEIVER

BY THE COMMISSION:

University Oaks Water System (University Oaks or utility) is a class C utility presently serving 89 customers in Levy County. On October 19, 1992, University Oaks filed a notice of abandonment pursuant to Section 367.165, Florida Statutes. According to the utility's 1990 annual report, the most current report on file with this Commission, the utility earned revenues of \$6,236.00 in 1989, while the operating income for the utility was a loss of \$2,489.00.

On December 17, 1992, Judge Stan R. Morris of the Circuit Court of the Eighth Circuit in and for Levy County, Florida, issued an Order in Case No. 92-607-CA appointing Mr. Frank E. Woodward receiver of University Oaks. Mr. Woodward is a water plant operator who resides in the development and has expressed interest in purchasing the system.

Among other provisions, the Circuit Court Order appointing Mr. Woodward receiver requires the owner to surrender all property, assets, documents, and facilities pertaining to University Oaks Water System to the receiver. The Order requires the receiver to operate and maintain the utility, collect all revenues, and provide adequate and uninterrupted service to customers, as well as pay all operating expenses from the revenues received. The Order also

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directs the receiver to make extensions, expansions, repairs, replacements, and improvements to University Oaks as necessary.

University Oaks is currently the subject of an enforcement action brought against it by the Department of Environmental Regulation (DER) for past violations. Additionally, in the course of this docket, a question has arisen regarding compliance with this Commission's annual reporting requirement and regulatory assessment fee requirement for 1991. The utility owner shall be responsible for the delinquent annual report and regulatory fees for 1991, and any fines or penalties thereof, if so imposed. We will address these matters in separate dockets.

However, as of December 17, 1992, the receiver shall be responsible for filing the 1992 annual report pursuant to Rule 25-30.110, Florida Administrative Code, and Sections 367.021(12) and 367.165(3), Florida Statutes, and filing the 1992 regulatory assessment fees pursuant to Rule 25-30.120, Florida Administrative Code. Furthermore, as the temporary holder of the certificate of authorization of the utility, the receiver, in addition to filing the annual report and paying regulatory assessment fees, is required to do all things required of a regulated utility. Therefore, no further action is required in this docket, and it shall be closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that the abandonment of University Oaks Water System is hereby acknowledged. It is further

ORDERED that the appointment of Frank E. Woodward as receiver of University Oaks Water System is hereby acknowledged. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 9th day of March, 1993.

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STEVE TRIBBLE, Director

Division of Records and Reporting

( S E A L )

LK

by: \_\_\_\_\_  
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.

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.