

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-**

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**DATE:** April 22, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Engineering (M. Watts, Doehling) *TB*  
Division of Accounting and Finance (Norris) *ALM*  
Division of Economics (Sibley) *JGH*  
Office of the General Counsel (DuVal) *JSC*

**RE:** Docket No. 20170114-WU – Application for transfer of facilities and water Certificate No. 165-W in Pasco County from Allen LaFortune and Otis Fonder to A Utility Inc.

**AGENDA:** 05/04/21 – Regular Agenda – Proposed Agency Action for Issue 2 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

On May 16, 2017, A Utility Inc. (Buyer or Utility) filed an application for the transfer of Certificate No. 165-W from Allen LaFortune and Otis Fonder (ALOF or Seller) in Pasco County, Florida. According to ALOF's 2020 Annual Report, the water system is a Class C utility serving 119 residential water customers.

The water system was initially built in 1963 to serve the residents of Tropical Trailer Park in Zephyrhills, Florida. The Utility was granted an original certificate in 1974, and was subsequently transferred four times, ultimately to the current certificate holder, ALOF.<sup>1</sup>

The Utility's application, filed on May 16, 2017, was deficient and the Utility cured its deficiencies on May 9, 2019. On February 20, 2020, staff filed its recommendation for the March 3, 2020 Commission Conference.<sup>2</sup> On February 25, 2020, the Utility verbally notified Commission staff of its intent to file a request for a positive acquisition adjustment; therefore, staff withdrew its recommendation.<sup>3</sup> On November 19, 2020, the Utility filed a study performed by the Florida Rural Water Association (FRWA) estimating the current remaining value of the water system.<sup>4</sup> Staff sent a data request to the Utility on January 27, 2021, and subsequently met telephonically with the Utility and FRWA to discuss staff's data request which sought additional clarification of the study.<sup>5</sup> Based on the findings of the FRWA and discussions with staff, the Utility ultimately decided to withdraw its request for a positive acquisition adjustment and requested the application be approved based on staff's February 20, 2020 recommendation.<sup>6</sup> However, staff updated its February 20, 2020 recommendation to reflect a subsequent price index and the resulting updated rates.

This recommendation addresses the transfer of the water system, the net book value (NBV) of the water system at the time of transfer, and the appropriateness of an acquisition adjustment. The Commission has jurisdiction pursuant to Sections 367.071 and 367.091, Florida Statutes (F.S.).

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<sup>1</sup>Order No. 6020, issued February 4, 1974, in Docket No. 1974037-W, *In re: Application of John W. Beeman for a certificate to operate a water utility in Pasco County, Florida*; Order No. 6998, issued November 14, 1975, in Docket No. 1974544-W, *In re: Application for transfer of water utility d/b/a Tropical Utilities and Certificate No. 165-W from John W. Beeman to Fisher Ames and his wife, Helen Ames, in Pasco County, Florida*; Order No. 10151, issued July 21, 1981, in Docket No. 19800253-W, *In re: Application for the transfer of Certificate No. 165-W from Fisher Ames and His Wife, Helen Ames, to Dale Hendryx, in Pasco County*; Order No. 11946, issued May 19, 1983, in Docket No. 19830048-W, *In re: Application for transfer of Certificate No. 165-W from Dale Hendryx to Barbara Cobb in Pasco County, Florida*; Order No. 19163, issued April 18, 1988, in Docket No. 19871156-WU, *In re: Application for transfer of Certificate No. 165-W from Melvin Cobb to Allen LaFortune and Otis Fonder (Tropical Park Water System) in Pasco County*.

<sup>2</sup>Document No. 01008-2020

<sup>3</sup>Document No. 01360-2020

<sup>4</sup>Document No. 12536-2020

<sup>5</sup>Document No. 01635-2021

<sup>6</sup>Document No. 02720-2021

## Discussion of Issues

**Issue 1:** Should the application for transfer of Certificate No. 165-W in Pasco County, from Allen LaFortune and Otis Fonder to A Utility Inc. be approved?

**Recommendation:** Yes, the transfer of Certificate No. 165-W in Pasco County is in the public interest and should be approved effective the date of the Commission's vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.). The Buyer should be responsible for filing annual reports and paying Regulatory Assessment Fees (RAFs) for 2021 and all future years. (M. Watts, Doehling, Sibley, Norris)

**Staff Analysis:** On May 16, 2017, A Utility Inc. filed an application for the transfer of Certificate No. 165-W from ALOF in Pasco County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale occurred on January 1, 2017, contingent upon Commission approval, pursuant to Section 367.071(1), F.S.

### Noticing, Territory, and Land Ownership

The application contains a description of the water service territory, which is appended to this recommendation as Attachment A. The application also contains a copy of the Warranty Deed to Trustee Under Land Trust and a Land Trust Agreement as evidence that the Buyer has access to the land upon which the water treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C. A Utility Inc. provided notice as required by Rule 25-30.030(5), F.A.C., on April 11, 2019. No objections to the transfer were filed, and the time for doing so has expired.

### Purchase and Financing

Pursuant to Rule 25-30.037(2)(j), F.A.C., the application contains a statement regarding financing and documentation of the terms of the transfer, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, leases, or debt of ALOF that must be disposed of with regard to the transfer. According to the Buyer, there was no closing contract involved.<sup>7</sup> However, all information regarding the terms of the transfer were provided, along with supplemental documentation. According to the Warranty Deed, the total purchase price for the assets is \$117,000. The Buyer also provided a statement acknowledging that the sale is subject to Commission approval.

### Facility Description and Compliance

The water treatment system consists of two wells, a bladder tank rated at 220 gallons, and a hypochlorination process for disinfection. The Florida Department of Environmental Protection (DEP) conducted the most recent sanitary survey of the facility on December 12, 2019. Based on observations made and the information provided during the inspection, the system was

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<sup>7</sup>Document No. 01552-2018

determined to be in compliance with the DEP's rules and regulations. In addition, the Utility was found to be in compliance with all secondary water quality standards in the last test performed on May 1, 2018. Additionally, the Utility stated that it received no customer complaints regarding the DEP secondary water quality standards in the previous five years. No customer complaints have been received by the Commission for the Utility.

### **Technical and Financial Ability**

Pursuant to Rule 25-30.037(2), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. The Buyer stated that its President is the current manager of the system, and has been managing it for approximately 30 years. To ensure continued operation of the Utility, the operator and all personnel will be retained in their current roles.

Pursuant to Rule 25-30.037(2)(1), F.A.C., the application contains statements describing the financial ability of the Buyer to provide service to the proposed service area. According to the application, the Buyer has acquired the assets of the Utility. Staff also reviewed the financial statements of the Buyer. Based on the above, staff believes the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

### **Rates and Charges**

The Utility currently has a flat rate of \$14.73 per month. The Utility's rates and charges were approved in a staff-assisted rate case in 1989.<sup>8</sup> The rates were subsequently amended through eleven price index and pass through rate adjustments. The Utility is built out and has no approved service availability charges. The Utility's existing rates and charges are shown on Schedule No. 2. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by the Commission. Therefore, staff recommends that the Utility's existing rates and charges remain in effect until a change is authorized by the Commission in a subsequent proceeding.

### **Regulatory Assessment Fees and Annual Reports**

Staff has verified that ALOF is current with respect to annual reports and RAFs through December 31, 2017. The Buyer has paid the RAFs for 2018, 2019, and 2020, and will be responsible for future RAFs. The Buyer has also filed the 2018, 2019, and 2020 Annual Reports and will likewise be responsible for future annual reports.

### **Conclusion**

Based on the foregoing, staff recommends that the transfer of Certificate No. 165-W in Pasco County is in the public interest and should be approved effective the date of the Commission's vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs,

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<sup>8</sup>Order No. 21652, issued August 2, 1989, in Docket No. 19881601-WU, *In re: Application of Allen LaFortune and Otis Fonder for staff-assisted rate case in Pasco County.*

pursuant to Rule 25-30.475, F.A.C. The Buyer should be responsible for filing annual reports and paying RAFs for 2021 and all future years.

**Issue 2:** What is the appropriate net book value for A Utility Inc.'s water system for transfer purposes and should an acquisition adjustment be approved?

**Recommendation:** The NBV of the water system for transfer purposes is \$9,367 as of January 1, 2017. An acquisition adjustment should not be included in rate base. Within 90 days of the date of the final order, A Utility Inc. should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in A Utility Inc.'s 2021 Annual Report when filed. (Norris)

**Staff Analysis:** Rate base was last established as of December 31, 1989.<sup>9</sup> The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment should be approved. The NBV does not include normal ratemaking adjustments for used and useful plant or working capital. The Utility's NBV has been updated to reflect balances as of January 1, 2017. Staff's recommended NBV, as described below, is shown on Schedule No. 1.

### **Utility Plant in Service (UPIS)**

The Utility's general ledger reflected a UPIS balance of \$97,700 as of January 1, 2017. Staff reviewed UPIS additions since the last rate case proceeding, including additional documentation provided after the audit, and has decreased UPIS by \$43,107. Staff notes that subsequent to the staff audit report, the Buyer provided a breakdown of NBV which included a component of plant based on customer value. The Buyer assigned a value of approximately \$300 to each customer using a calculation that applied a 10 percent rate of return, as reflected in the Utility's last rate case, to the flat rate charge as of January 1, 2017, and creating an amortization schedule over ten years. The customer value calculation totals \$35,100 (\$300 x 117 customers). Staff did not include this valuation in the calculation in NBV because customer value is not an asset considered in rate base. Therefore, staff recommends that the Utility's UPIS balance as of January 1, 2017, is \$54,593.

### **Land**

The Utility's general ledger reflected a land balance of \$19,300. The Commission's previous order, mentioned above, reflected the original cost of land at \$1,000. There have been no additions to land since the last rate case. As such, land should be decreased by \$18,300. Therefore, staff recommends a balance for land of \$1,000 as of January 1, 2017.

### **Accumulated Depreciation**

The Utility's NBV calculation did not reflect accumulated depreciation. Staff calculated accumulated depreciation of plant since 1990 to reflect accumulated depreciation as of January 1, 2017. Staff calculated the appropriate accumulated depreciation balance to be \$46,226. As a result, accumulated depreciation should be increased by \$46,226 to reflect an accumulated depreciation balance of \$46,226 as of January 1, 2017.

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<sup>9</sup>Order No. 21652, issued August 2, 1989, in Docket No. 19881601-WU, *In re: Application of Allen LaFortune and Otis Fonder for a staff-assisted rate case in Pasco County.*

### **Contributions-in-Aid-of-Construction (CIAC) and Accumulated Amortization of CIAC**

As of January 1, 2017, the Utility's general ledger reflected a fully amortized CIAC balance of \$26,625 for the water plant. Staff reviewed the CIAC balance and has no adjustments. Therefore, staff recommends a CIAC balance of \$26,625 and accumulated amortization of CIAC balance of \$26,625 as of January 1, 2017.

### **Net Book Value**

The Utility's application reflected a NBV of \$117,000. Based on the adjustments described above, staff recommends a NBV of \$9,367 as of January 1, 2017. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation as of January 1, 2017, are shown on Schedule No. 1.

### **Acquisition Adjustment**

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. The Utility and its assets were purchased for \$117,000. As stated above, staff recommends the appropriate NBV is \$9,367. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment may be appropriate when the purchase price is greater than the NBV, and a negative acquisition adjustment may be appropriate when the purchase price is less than NBV. However, pursuant to Rule 25-30.0371(2), F.A.C., a positive acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances. The Buyer did not request a positive acquisition adjustment. As such, staff recommends that no positive acquisition adjustment be approved.

### **Conclusion**

Based on the above, staff recommends that the NBV of A Utility Inc. for transfer purposes is \$9,367 as of January 1, 2017. No acquisition adjustment should be included in rate base. Within 90 days of the date of the final order, the Buyer should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in A Utility Inc.'s 2021 Annual Report when filed.

**Issue 3:** Should this docket be closed?

**Recommendation:** If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed and the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision. (DuVal)

**Staff Analysis:** If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed and the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision.

**TERRITORY DESCRIPTION**

**A Utility Inc.**

**Pasco County**

**Water Service**

**In Section 15, Township 26 South, Range 21 East, Pasco County, Florida:**

Commence at the Northeast corner of the Northwest  $\frac{1}{4}$  of said Section 15; thence run West along said North Section line 300 feet for a Point of Beginning; thence South 230 feet more or less; thence East 300 feet more or less to the East line of said Northwest  $\frac{1}{4}$ ; thence South along said East line of the Northwest  $\frac{1}{4}$  400 feet; thence West 650 feet; thence South 350 feet more or less; thence West 650 feet to the West line of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$ ; thence North along said line 650 feet; thence East 650 feet; thence North 100 feet; thence East 200 feet; thence North 230 feet more or less to the North line of said Section 15; thence East along said section line 150 feet more or less to the point of Beginning.

**FLORIDA PUBLIC SERVICE COMMISSION**

**Authorizes**

**A Utility Inc.**

**Pursuant to**

**Certificate Number 165-W**

to provide water service in Pasco County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
6020	02/04/1974	1974037-W	Original Certificate
6998	11/14/1975	1974544-W	Transfer
10151	07/21/1981	19800253-W	Transfer
11946	05/19/1983	19830048-W	Transfer
19163	04/18/1988	19871156-WU	Transfer
*	*	20170114-WU	Transfer

**\*Order Number and date to be provided at time of issuance**

**Allen LaFortune and Otis Fonder Water System  
Schedule of Net Book Value as of January 1, 2017**

<b>Description</b>	<b>Balance Per Utility</b>	<b>Adjustments</b>	<b>Staff Recommended</b>
Utility Plant in Service	\$97,700	(\$43,107) A	\$54,593
Land & Land Rights	19,300	(18,300) B	1,000
Accumulated Depreciation	0	(46,226) C	(46,226)
CIAC	(26,625)	0	(26,625)
Amortization of CIAC	<u>26,625</u>	<u>0</u>	<u>26,625</u>
Total	<u>\$117,000</u>	<u>(\$107,633)</u>	<u>\$9,367</u>

**Allen LaFortune and Otis Fonder Water System  
Explanation of Staff's Recommended  
Adjustments to Net Book Value as of January 1, 2017**

<b>Explanation</b>	<b>Amount</b>
A. Utility Plant in Service To reflect appropriate amount of UPIS.	<u>(\$43,107)</u>
B. Land and Land Rights To reflect appropriate amount of land.	<u>(\$18,300)</u>
C. Accumulated Depreciation To reflect appropriate amount of accumulated depreciation.	<u>(\$46,226)</u>
Total Adjustments to Net Book Value as of January 1, 2017.	<u>(\$107,633)</u>

**Allen LaFortune and Otis Fonder Water System**  
**Schedule of Staff Recommended Account Balances as of January 1, 2017**

<b>Account</b>			<b>Accumulated</b>
<b>No.</b>	<b>Description</b>	<b>UPIS</b>	<b>Depreciation</b>
304	Structures and Improvements	\$1,200	(\$1,200)
307	Wells & Springs	1,674	(1,674)
309	Supply Mains	19,981	(11,851)
311	Pumping Equipment	14,998	(14,922)
320	Water Treatment Equipment	2,792	(2,651)
330	Distribution Reservoirs	153	(133)
333	Services	4,640	(4,640)
339	Other Plant & Miscellaneous	365	(365)
343	Tools, Shop, & Garage Equipment	51	(51)
348	Other Tangible Plant	<u>8,739</u>	<u>(8,739)</u>
	Total	<u>\$54,593</u>	<u>(\$46,226)</u>

**A Utility Inc.  
Monthly Water Rates**

**Residential Service**

Base Facility Charge by Meter Size  
Flat Rate

\$14.73

**Miscellaneous Service Charges**

Normal hours

Initial Connection Charge	\$15.00
Normal Reconnection Charge	\$15.00
Violation Reconnection Charge	\$15.00
Premises Visit Charge (in lieu of disconnection)	\$10.00