

ORDINANCE NO. 78-5

AN ORDINANCE REGULATING PUBLIC UTILITIES AS DEFINED HEREIN; PROVIDING FOR GENERAL DUTIES OF PUBLIC UTILITIES; PROVIDING FOR BOARD OF COUNTY COMMISSION JURISDICTION; FIXING RATES; FIXING POWERS; PROVIDING FOR PROCEDURES FOR CHANGE AND FIXING OF RATES; PROVIDING FOR RATES ADJUSTMENT; PROVIDING FOR INVESTIGATIONS, INSPECTIONS, AND POWER OF COMMISSION; IMPOSING PENALTY; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR AN EFFECTIVE DATE

SECTION 1. LEGISLATIVE DELEGATION

The regulation of public utilities as defined herein is declared to be in the public interest and this chapter shall be deemed to be an exercise of the police power of the state for the protection of the public welfare and all the provisions hereof shall be liberally construed for the accomplishment of that purpose.

SECTION 2. DEFINITIONS

(1) The term "public utility" as used herein means and includes every person, corporation, partnership, association or other legal entity and their lessees, trustees, or receivers, now or hereafter either owning, operating, managing or controlling any plant or other facility supplying water, sewer, street lighting or electricity to or for the public within this county directly or indirectly for compensation.

(2) "Commission" shall mean the Hernando County Board of County Commissioners.

SECTION 3. GENERAL DUTIES OF PUBLIC UTILITY

Each public utility shall furnish to each person applying therefor reasonably sufficient, adequate and efficient service upon terms as required by the Commission. All rates and charges made, demanded or received by any public utility for any service rendered, or to be rendered by it, and each rule and regulation of such public utility, shall be fair and reasonable. No public utility shall make or give any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

SECTION 4. BOARD OF COUNTY COMMISSION; JURISDICTION

In addition to its existing functions, the Commission

shall have jurisdiction to regulate and supervise each public utility with respect to its rates and services.

SECTION 5. RATE FIXING; ADEQUACY OF FACILITIES AS CRITERION

In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be observed and charged for service within the County by any and all public utilities under its jurisdiction, the Commission is authorized to give consideration among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered, the value of such service to the public, and the ability of the utility to improve such service and facilities, provided that no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings. In its consideration thereof, the Commission shall have authority, and it shall be the Commission's duty, to hear service complaints, if any, that may be presented by subscribers and the public during any proceedings involving such rates, charges, fares, tolls, or rentals.

(2) The power and authority herein conferred upon the Commission shall not cancel or amend any existing punitive powers of the Commission but shall be supplementary thereto and shall be construed liberally to further the legislative intent that adequate service shall be rendered by public utilities in the county in consideration for the rates, charges, fares, tolls, and rentals fixed by said Commission and observed by said utilities under its jurisdiction.

SECTION 6. POWERS

(1) In the exercise of such jurisdiction, the Commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility; to prescribe uniform system and classification of accounts for all public utilities, which among other things shall set up adequate, fair and reasonable depreciation rates and charges; to require the filing by each public utility of periodic reports and all other

reasonably necessary data; to require repairs, improvements, additions and extensions to the plant and equipment of any public utility reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this ordinance and to exercise all judicial powers, issue all writs and do all things, necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements customarily allowed for such appliances, or as may be provided for in rules and regulations of the Commission.

(2) In the exercise of its jurisdiction, the Commission shall have the power to:

a. prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each utility;

b. prescribe uniform system and classification of accounts for all utilities, which among other things, shall establish adequate, fair, and reasonable depreciation rates and charges;

c. require the filing by each utility of periodic reports and all other reasonably necessary information;

d. require repairs, improvements, additions, and extensions, to the plant and equipment of any utility reasonably necessary to promote the convenience and welfare of the public and secure sufficient service or facilities for those reasonably entitled thereto in the territory, except that no utility shall be required to extend its service outside its territory, or make additions to its plant or equipment to service outside its territory, unless the Commission shall first, after a hearing, enter an order based upon findings establishing the financial ability of the utility to serve its existing customers and its ability to operate efficiently;

e. employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provision of this Ordinance.

f. prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this Ordinance;

g. exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements.

(3) The Commission or its duly authorized representatives may, during all reasonable hours, enter upon any premises occupied by any utility and set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations, and tests and exercising any power conferred by this Ordinance.

SECTION 7. RATES; PROCEDURE FOR FIXING AND CHANGING

(1) All rates being charged and collected by a public utility on August 1, 1978, shall be the lawful rates until changed in accordance with the rules, regulations or orders of the Commission or court decree. Every public utility shall, within 90 days after the effective date of this Ordinance file with the Commission schedules showing all rates, classifications and charges for service of every kind furnished by it, and all rules and regulations relating thereto in effect on August 1, 1978. Thereafter current schedules shall be maintained on file with the Commission on such forms and under such rules and regulations as the Commission may prescribe.

(2) A public utility shall not, directly or indirectly, charge or receive any rate not on file with the commission for the particular class of service involved, and no charges shall be made to the Commission in writing under rules and regulations prescribed, and the Commission shall have the authority to determine and fix fair, just and reasonable rates that may be requested, demanded, charged or collected by any public utility for its service. The Commission shall investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in public service, and shall keep a current record of the net investment of each public utility company in such property which

value, as determined by the Commission, shall be used for rate-making purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation, and shall not include any goodwill or going concern value or franchise value in excess of payment made therefor.

(3) Whenever the Commission shall find, upon request made or upon its own motion, that the rates demanded, charged or collected by any public utility company for public utility service, or that the rules, regulations or practices of any public utility company affecting such rates are unjust, unreasonable, unjustly discriminatory, or in anywise in violation of law, or that such rates are insufficient to yield reasonable compensation for the services rendered, or that such service is inadequate or cannot be obtained, the Commission shall order and hold a public hearing, giving notice to the public and to the utility company, and shall thereafter determine just and reasonable rates to be thereafter charged for such service and to promulgate rules and regulations affecting equipment, facilities and service to be thereafter installed, furnished, and used.

SECTION 8. RATES; ADJUSTMENT

Whenever the Commission, after public hearing either upon its own motion or upon complaint shall find the rates, rentals, charges or classifications, or any of them, proposed, demanded, observed, charged or collected by any public utility for any service, or in connection therewith, or the rules, regulations, measurements, practices or contracts, or any of them relating thereto, are unjustly unreasonable, insufficient, or unjustly discriminatory or preferential, or in anywise in violation of the law, or any service is inadequate or cannot be obtained, the Commission shall determine and by order fix the fair and reasonable rates, rentals, charges or classifications, and reasonable rules, regulations, measurements, practices, contracts or service, to be imposed, observed, furnished or followed in the future.

SECTION 9. INVESTIGATIONS, INSPECTIONS, POWER OF COMMISSIONS

The Commission or its duly authorized representatives may during all reasonable hours enter upon any premises occupied by any public utility and may set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations, and tests, and exercising any power conferred by this Ordinance; provided, such public utility shall have the right to be notified of and be represented at the making of such investigations, inspections, examinations, and tests.

SECTION 10. SCOPE OF APPLICABILITY

No provision of this Ordinance shall apply to any public utility under the jurisdiction of the Public Service Commission, or to any public utility owned and operated by any governmental entity, or cooperatives providing services to their members.

SECTION 11. CERTIFICATE

Each public utility shall obtain a written certificate from the Commission authorizing it to provide service.

SECTION 12. TRANSFER

No utility shall sell, assign or transfer its certificate, facilities or any portion thereof, or majority of organization control without determination and approval of the Commission that the proposed sale, assignment, or transfer is in the public interest.

SECTION 13. PENALTY

If any public utility, by any authorized officer, agent, or employee, shall knowingly refuse to comply with or willfully violate any provision of this Ordinance or any lawful rate, rule or regulation, order, direction, demand or requirement prescribed by the Commission hereunder, such public utility shall incur a penalty for each such offense of not more than \$5,000 to be fixed, imposed and collected by the Commission. Each day that said refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property

of the public utility, enforceable by the Commission as statutory liens under Chapter 85, the proceeds of which shall be deposited to the credit of the general revenue fund of the State.

SECTION 14. EFFECTIVE DATE

This Ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Tallahassee, Florida.

ADOPTED in Regular Session this 11th day of July, 1978, A.D.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

By *Marvin E. Hunt*
MARVIN E. HUNT, CHAIRMAN

Attest *Harold William Brown*
HAROLD WILLIAM BROWN, CLERK

I hereby certify that the foregoing is a true and correct copy of the original.
Harold William Brown, Clerk Circuit Court Hernando County, Florida

By: *Brenda Inayzer* D. C.
7-11-78.