

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment of )  
 Certificates Nos. 15-W and 76-S in )  
 Orange County by PARK MANOR )  
 WATERWORKS, INC. )

DOCKET NO. 900697-WS

ORDER NO. 24058

ISSUED: 2/4/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 BETTY EASLEY  
 GERALD L. GUNTER  
 FRANK S. MESSERSMITH  
 MICHAEL MCK. WILSON

ORDER GRANTING EXTENSION OF  
TIME IN WHICH TO FILE  
APPLICATION, GRANTING AMENDMENT  
OF CERTIFICATES AND CLOSING DOCKET

BY THE COMMISSION:

EXTENSION OF TIME TO FILE APPLICATION

Park Manor Waterworks, Inc. (Park Manor or Utility) is a Class B utility, serving approximately 1,200 water and wastewater customers in Orange County, Florida.

On May 21, 1989, Park Manor completed its required notices prerequisite to amending its certificates numbered 15-W and 76-S. The controlling statute, subsection 367.061(4), Florida Statutes, reads: "An application to amend a certificate shall be made at any time within 1 year following notice . . . , unless for good cause the Commission extends such time for application." Section 367.061, Florida Statutes, was repealed on October 1, 1989. However, it applies to this notice and application because Park Manor's notice commenced prior to the repeal.

Orange County timely objected to Park Manor's notice. The objection was settled on December 6, 1989, and Order No. 22344, regarding the settlement, was issued on December 26, 1989 in Docket No. 890656-WS. The order contains no reference to an extension of time and closed the docket.

DOCUMENT NUMBER-DATE

01086 FEB -4 1991

FOR RECORDS/REPORTING

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In the instant case, Park Manor had until May 21, 1990, or almost five months from the issuance of Order No. 22344 in which to file its application within the one year deadline. In December of 1989, Park Manor's attorney was misinformed by a staff member that the protest by Orange County caused an automatic extension of time and, therefore, the utility had until December 26, 1990 to file its application. Based on that advice, the Utility did not file for an extension of time.

Park Manor filed its application on August 16, 1990. The Utility was advised by staff assigned to this docket that it would have to renotece. The Utility disagreed and requested an extension of time to file its application pursuant to Section 367.061(4), Florida Statutes.

In the past, the Commission has granted extensions of time for filing applications. Such extensions were always addressed in an order and were usually granted during the one year statutory period. However, in Order No. 22648, in Docket No. 891381-WU, issued on March 8, 1990, the Commission granted an extension of time under Section 367.061(4), Florida Statutes, pursuant to a request that was filed twenty-seven days after the one year deadline had expired. Therefore, the Commission has construed the statute to authorize an extension "retroactively" when the request for extension is filed after the deadline. While Park Manor's application was filed a considerable time period after the deadline had expired, we believe the misinformation relied upon by the utility is an extenuating circumstance. Although the misinformation is not binding on the Commission, it and the Utility's reliance thereon are a valid basis for a finding of "good cause" to grant the utility's request.

Section 367.061(4), Florida Statutes, provides the one year deadline between the notice and application filing date so that the notice does not become stale. We have no evidence that any third party will be harmed if we grant the Utility an extension. The requested extension is therefore granted.

AMENDMENT OF CERTIFICATES NOS. 15-W AND 76-S

The application is in compliance with the governing statute, Section 367.061, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for an amendment of certificate. In particular, the notarized application contains:

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- (1) A check in the amount of \$300.00, which upon calculation, equates to the correct filing fee as prescribed by Rule 25-30.020, Florida Administrative Code.
- (2) Proof of notice of application to all interested governmental/regulatory agencies and all utilities within a four-mile radius of the territory, and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030, Florida Administrative Code.
- (3) Adequate maps (territory and system) and a legal description pursuant to Rule 25-30.035, Florida Administrative Code. Said territory that is being served is described as being in Orange County and more particularly as described in Attachment A.

An objection to the utility serving this territory was filed, but as mentioned previously, it has been settled. The Utility has installed the lines in the territory proposed to be served and is ready, willing and able to provide service. Also, Park Manor has recently rebuilt its wastewater treatment plant, has refurbished one of its water plants, and added an automatic emergency generator to one water plant. The Utility has demonstrated its financial and technical ability to provide safe and reliable service to its customers and to comply with the rules and regulations of the Commission. In addition, the Department of Environmental Regulation has no outstanding citations or violations against the Utility system at this time. Accordingly, we find it is in the public interest to amend Park Manor's Certificates Nos. 15-W and 76-S to include in each certificate the territory listed on Attachment A to this Order. The Utility is directed to file the certificates for updating, and to file revised tariff sheets reflecting the additional territory, both within 30 days of the date of this Order. Park Manor shall charge the customers in the territory to be added the rates and charges currently approved in its tariffs.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that the application of Park Manor Waterworks, Inc., 1527 Park Manor Drive, Orlando, Florida 32817, for an extension of time to file its application to amend Certificates Nos. 15-W and 76-S is hereby granted. It is further

ORDERED that Certificates Nos. 15-W and 76-S held by Park Manor Waterworks, Inc. are hereby amended to include the territory described in Appendix A to this Order which by reference is incorporated herein. The Utility is directed to return Certificates Nos. 15-W and 76-S to this Commission within 30 days of the date of this Order for appropriate entry. It is further

ORDERED that the Utility shall submit revised tariff sheet reflecting the additional territory within 30 days of the date of this Order. It is further

ORDERED that the customers in the territory to be added shall be charged the same water and wastewater rates and charges approved in the Utility's tariffs. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 4th  
day of FEBRUARY, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

TCP

by: Kay Flynn  
Chief, Bureau of Records

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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.

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.

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Attachment "A"

PARK MANOR WATERWORKS, INC.  
SERVICE TERRITORY DESCRIPTION  
IN ORANGE COUNTY

Township 22 South, Range 31 East

Section 19

The South 1/2 of the Southeast 1/4 of the Southeast 1/4 less the North 196 feet, less the South 158 feet and less the West 774 feet.

Township 22 South, Range 31 East

Section 20

The South 1/2 of the Southwest 1/4 of the Southwest 1/4

The South 1/4 of the North 1/2 of the Southwest 1/4 of the southwest 1/4 less the west 400 feet.

The North 3/4 of the North 1/2 of the Southwest 1/4 of the Southwest 1/4, less the South 300 feet of the North 1/4 of the Southwest 1/4 of the Southwest 1/4.

Township 22 South, Range 31 East

Section 29

The South 1/4 of the Northwest 1/4 of the Northwest 1/4. Less the right-of-way for Dean Road.