

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Holmes Creek
Water Utilities for cancellation
of Certificate No. 538-W in
Washington County.

DOCKET NO. 990618-WU
ORDER NO. PSC-99-1935-FOF-WU
ISSUED: September 29, 1999

ORDER CANCELING CERTIFICATE NO. 538-W AND CLOSING DOCKET

BY THE COMMISSION:

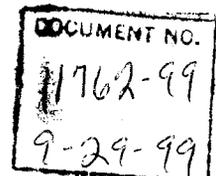
BACKGROUND

Holmes Creek Water Utilities (Holmes Creek or utility), is a Class C utility currently providing water service to approximately 12 year-round lots and 21 camp sites in the Holmes Creek Camp Site located in Washington County. Wastewater service is provided by septic systems. According to its 1998 Annual Report, the utility's operating revenues were \$8,485.25 with a net operating loss of \$2,497.71.

The utility has recently informed us that it is now exempt from Commission regulation pursuant to Section 367.022(6), Florida Statutes, and Rule 25-30.055, Florida Administrative Code, as a small system. By letter dated April 6, 1999, Mr. Richard Peterson, Sr., owner of Holmes Creek, confirmed a phone conversation he had with our staff pertaining to the Florida Department of Environmental Protection's (FDEP) reclassification of Holmes Creek to a non-community system. In his letter, Mr. Peterson requested that the utility be reclassified by the Commission since it has been reclassified by FDEP and the total number of hook-ups being served has dropped to 33 over the past few years. Consequently, on May 13, 1999, the request for cancellation of Certificate No. 538-W held by Holmes Creek was filed with our Division of Records and Reporting.

Pursuant to Rule 25-30.055, Florida Administrative Code, which implements Section 367.022(6), Florida Statutes, capacity has two components: (1) treatment facilities and (2) distribution or collection system. This Rule provides:

A water or wastewater system is exempt under Section 367.022(6), Florida Statutes, if its current or proposed water or wastewater treatment facilities and distribution



or collection system have and will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day or if the entire system is designed to serve no greater than 40 equivalent residential connections (ERCs).

If either facility capacity or line design capacity meet the limitations of this rule, then the system is exempt from our regulation as a small system pursuant Section 367.022(6), Florida Statutes. According to its request, Holmes Creek currently has two water wells with the combined treatment capacity of 36,000 gallons per day (gpd); however, Holmes Creek states that it is subject to capacity limitations on its distribution lines such that the entire system is now designed to serve no greater than 40 ERCs.

When Holmes Creek was originally certified by Order No. 25786, issued February 24, 1992, in Docket No. 910979-WU, the camp site was designed to provide service to 181 mobile home lots or 144.8 ERCs. Twenty-six of the lots were permanent mobile home sites, 74 were camp sites and 81 were vacant. At the time of the staff-assisted rate case, which was approved by Order No. PSC-96-1262-WU, issued October 8, 1996, in Docket No. 960145-WU, the utility was providing water service to 26 permanent mobile home sites, 56 camp sites, and billing 25 vacant lots. This order required the utility to eliminate vacant lot billing and only charge where there was an active connection. Also, during the test year, two lots were condemned as a result of severe storm damage, further reducing the utility's potential customer base. Finally, this order declined to approve service availability charges due to the fact that the utility was built in 1969 and almost fully depreciated, as well as the fact that it was losing service area each year due to severe flooding. Consequently, the utility was not experiencing any growth.

According to the utility, since that time, a number of additional storms have further reduced the utility's service area by about 25 percent due to designation as a flood zone by the Federal Emergency Management Agency (FEMA). The utility states that FEMA required the permanent residents to move out of the flood zone and is only allowing recreational vehicles, and that FEMA has also begun restricting new septic systems in that zone. As a result, the utility indicates there are now only 12 year-round units and 21 camp sites, totaling 33 connections or 26.4 ERCs. The remainder of the territory is either vacant or is located in the FEMA-designated flood zone. Production records provided by the

utility for the twelve-month period from June of 1998 through May of 1999 indicate an average daily water production of 2,537 gallons with an average maximum daily production of 4,631 gallons.

Based on the maps provided by the utility, there appear to be approximately 50 vacant lots outside of the FEMA-designated flood zone. However, as indicated in rate Order No. PSC-96-1262-WU and, as attested to by the utility owner, development has been stagnant. As a result, the utility advises that distribution line connections will remain well under 40 ERCs or 10,000 gallons per day.

The utility's Annual Reports and Regulatory Assessment Fees (RAFs) are current through 1998 and there are no penalties, interest or refunds due. Rule 25-30.110, Florida Administrative Code provides, "The obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year." Because Holmes Creek will not be jurisdictional as of December 31, 1999, it is not necessary for Holmes Creek to complete an Annual Report for the portion of 1999 in which it was regulated by the Commission. Pursuant to Section 367.145, Florida Statutes, the utility shall remit RAFs on the appropriate RAF forms for the period beginning January 1, 1999, up until the date of issuance of this Order. In addition, the utility shall return its original certificate for cancellation.

Based on the facts as represented, Certificate No. 538-W is hereby canceled and shall be returned to this Commission. In addition, the owner of Holmes Creek or any successors in interest are put on notice that if there is any change in circumstances or method of operation that causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it shall inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Certificate No. 538-W, held by Holmes Creek Water Utilities, 4930 Sugardoll Road, Vernon, Florida 32462, is hereby canceled and shall be returned to this Commission. It is further

ORDERED that Holmes Creek Water Utilities shall file an affidavit certifying 1999 revenues up to date of the issuance of

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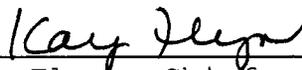
this Order and remit the associated RAFs within the time limits prescribed by Commission rules. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Holmes Creek Water Utilities, or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Holmes Creek Water Utilities' exempt status. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 29th day of September, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn, Chief
Bureau of Records

(S E A L)

SAC

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida

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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 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.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 10/7/99
Number of Originals 5 Copies Per Original 19
Requested By [Signature]

Item Presented 99-1435
Agenda For (Date) _____ Order No. _____ In Docket No. 990618
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions

Distribution/Mailing

Number 10 Distributed/Mailed To
Commission Offices
Docket Mailing List - Mailed
Docket Mailing List - Faxed

Number _____ Distribution/Mailed To
Washington
Cambridge

Note: Items must be mailed and/or returned within one working day after issue unless specified here.

Print Shop Verification

Job Number 73 Verified By [Signature]
Date and Time Completed 10/12 Job Checked For Correctness and Quality (Initial) [Initials]

Mail Room Verification

Date Mailed 10/12 Verified by [Signature]

M E M O R A N D U M

September 28, 1999

RECEIVED-FPSC

99 SEP 29 AM 10:38

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSSMAN) *RC*

RE: DOCKET NO. 990618-WU - REQUEST BY HOLMES CREEK WATER UTILITIES FOR CANCELLATION OF CERTIFICATE NO. 538-W IN WASHINGTON COUNTY.

1935-FOF

Attached is an ORDER CANCELING CERTIFICATE NO. 538-W AND CLOSING DOCKET to be issued in the above-referenced docket.

(Number of pages in order - 6)

SAC/lw

Attachment

cc: Division of Water and Wastewater (Brady)

I:990618OR.SAC

*boxed
printed - 0/1*