

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

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**DATE:** February 18, 2010

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

**FROM:** Division of Economic Regulation (Johnson)  
Office of the General Counsel (Holley)

**RE:** Docket No. 100035-WU – Application for transfer of water facilities to Florida Governmental Utility Authority, and cancellation of Certificate No. 139-W, by Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc. County: Pasco

**AGENDA:** 03/02/10 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** Related Docket Nos. 100033-WU, 100034-WU, 100036-WU, and 100037-WU should be considered sequentially

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\100035.RCM.DOC

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### Case Background

Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc. (Dixie Groves or utility) is a Class C water utility providing service to approximately 341 customers in Pasco County. The utility is located in the Tampa Bay Water-Use Caution Area of the Southwest Florida Water Management District (SWFWMD). The utility's 2008 annual report shows gross revenue of \$82,806 and net operating income of \$4,859.

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The utility was originally issued Certificate No. 139-W in 1973<sup>1</sup> and has been transferred twice.<sup>2</sup>

On January 20, 2010, Dixie Groves filed an application for transfer of the Dixie Groves system to the Florida Governmental Utility Authority (FGUA) and cancellation of Certificate No. 139-W. It should be noted that the agreement for purchase and sale of water assets submitted in this docket includes four utilities in addition to Dixie Groves. The other dockets regarding sale of assets to FGUA that should be considered sequentially with this docket are Docket Nos. 100033-WU, 100034-WU, 100036-WU, and 100037-WU. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

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<sup>1</sup> Order No. 5740, issued May 4, 1973, in Docket No. 73191-W, In Re: Application of Dixie Groves Estate, Inc. for certificate to operate an existing water system in Pasco County.

<sup>2</sup> Order No. PSC-04-0338-PAA-WU, issued March 31, 2004, in Docket No. 030656-WU, In re: Application for transfer of facilities and Certificate No. 139-W in Pasco County from Dixie Groves Estates, Inc. to Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc., and Order No. PSC-00-0914-FOF-WU, issued May 8, 2000, in Docket No. 990548-WU, In re: Application for transfer of majority organizational control of Dixie Groves Estates, Inc., holder of Certificate 139-W in Pasco County, from Frank W. Potter to Judson F. Potter and Matthew A. Potter.

### Discussion of Issues

**Issue 1:** Should the transfer of the water facilities of Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc. to the Florida Governmental Utility Authority be acknowledged, as a matter of right, and Certificate No. 139-W be cancelled?

**Recommendation:** Yes. The transfer of the Dixie Groves' water territory and facilities to the Florida Governmental Utility Authority should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 139-W should be cancelled effective December 23, 2009, which was the closing date of the sale. (Johnson, Holley)

**Staff Analysis:** Dixie Groves applied for a transfer of Dixie Groves facilities and territory to FGUA on January 20, 2010, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code, (F.A.C.) The FGUA has been determined to be a governmental authority in previous dockets.<sup>3</sup> The closing on the sale of the utility facilities took place on December 23, 2009. Therefore, December 23, 2009, is the effective date of the transfer.

Pursuant to Section 367.071(4)(a), F.S., the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contains a statement that FGUA obtained Dixie Groves' most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction. In addition, a statement was provided that customer deposits were transferred to FGUA and the interest on the deposits was distributed to the applicable customers.

The utility has filed all annual reports through 2008 and paid all regulatory assessment fees through December 23, 2009. Because the utility was not jurisdictional as of December 31, 2009, no annual report is required to be filed for 2009.

Staff recommends that the transfer of Dixie Groves water territory and facilities to FGUA should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 139-W should be cancelled effective December 23, 2009, which was the closing date of the sale.

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<sup>3</sup> See Order No. PSC-00-2351-FOF-WS, issued December 7, 2000, in Docket No. 990489-WS, In re: Application by Florida Cities Water Company, holder of Certificate Nos. 027-W and 024-S in Lee County and 0007-W and 0003-S in Brevard County, and Poinciana Utilities, Inc., holder of Certificate Nos. 146-W and 103-S in Polk and Osceola Counties, for transfer of facilities to Florida Governmental Utility Authority and Cancellation of Certificate Nos. 027-W, 024-S, 007-W, 003-S, 146-W, and 103-S; Order No. PSC-03-1284-FOF-WS, issued November 10, 2003, in Docket No. 030932-WS, In re: Joint application for acknowledgement of sale of land and facilities of Florida Water Services Corporation in Lee County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 306-W and 255-S; and Order No. PSC-09-0334-PAA-WS, issued May 14, 2009, in Docket No. 090120-WS, In re: Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary. (Holley, Johnson)

**Staff Analysis:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary.