

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in  
Highlands County by Country Club Utilities,  
Inc.

DOCKET NO. 120172-WS

In re: Notice of abandonment of water and  
wastewater systems in Highlands County by  
Country Club Utilities, Inc.

DOCKET NO. 140208-WS  
ORDER NO. PSC-15-0107-FOF-WS  
ISSUED: February 17, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
JULIE I. BROWN  
JIMMY PATRONIS

ORDER ACKNOWLEDGING ABANDONMENT  
AND DISMISSING STAFF-ASSISTED RATE CASE

BY THE COMMISSION:

BACKGROUND

Country Club Utilities, Inc. (Country Club or Utility) is a Class C utility serving approximately 404 water and 401 wastewater customers in Highlands County. The Utility's service territory is located in the Southern Water Use Caution Area of the Southwest Florida Water Management District. Water and wastewater rates were last established for this Utility in an original certificate case initiated in 1991. The Utility was granted Certificate Nos. 540-W and 468-S.<sup>1</sup>

Abandonment (Docket No. 140208-WS)

On October 22, 2014, Country Club gave notice, pursuant to Section 367.165, Florida Statutes (F.S.), that it would abandon the Utility sixty-five days from the date of its notice. On November 6, 2014, Highlands County petitioned the Tenth Judicial Court in Highlands County to appoint a receiver pursuant to Section 367.165, F.S. After a hearing, the Highlands County Circuit Court appointed the City of Sebring receiver of Country Club's utility systems on December 17, 2014.

<sup>1</sup> Order No. 25788, issued February 24, 1992, in Docket No. 910792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring.

Staff Assisted Rate Case (Docket No. 120172-WS)

On June 13, 2012, Country Club filed an application for a staff-assisted rate case (SARC) and Docket No. 120172-WS was opened to process the application. On July 13, 2012, the Utility was notified that it was eligible for a SARC, and August 11, 2012 was established as the official filing date. On March 6, 2013, the Utility requested a six-month abatement of the SARC and waiver of the statutory clock to allow the Utility and the City of Sebring time to complete due diligence and enter into a sale agreement. The agreement to sell the Utility to the City of Sebring subsequently fell through, and on August 13, 2013, our staff resumed processing Country Club's SARC. On March 20, 2014, Country Club formally waived the 15-month statutory deadline provided in Section 367.0814(2), F.S.

Show Cause Proceedings (Docket No. 140031-WS)

During the processing of Country Club's SARC application, our staff learned that Country Club failed to remit payment of its regulatory assessment fees (RAFs) for the years 2010, 2011, 2012, and 2013, as required by Sections 350.113 and 367.145, F.S., and Rule 25-30.120, Florida Administrative Code. (F.A.C.) On February 10, 2014, our staff opened Docket No. 140031-WS to initiate show cause proceedings against Country Club for apparent violations of Florida Statutes and Commission rules and regulations in failing to remit payment of its annual RAFs.

On May 12, 2014, we approved a Settlement Agreement proposed by Country Club that addressed the Utility's delinquent RAFs and finalized the show cause action.<sup>2</sup> Pursuant to the Settlement Agreement and Final Show Cause Order, Country Club made a one-time payment of \$19,517.27, by May 14, 2014, satisfying the principal balance of the delinquent RAF amounts it owed for 2010 and 2011. Additionally, beginning on September 15, 2014, Country Club began making monthly payments in the amount of \$1,000.00, by the fifteenth of each month, in an effort to pay off the balance of its delinquent 2012 and 2013 RAFs, as well as the penalties and interest for 2010, 2011, 2012, and 2013. The last payment we received from Country Club was on October 16, 2014.

We have jurisdiction pursuant to Chapters 367.0814 and 367.165, F.S.

DECISION

On October 22, 2014, pursuant to Section 367.165, F.S., and Rule 25-30.090, F.A.C., the Utility filed its Notice of Abandonment with Highlands County and this Commission effective sixty-five (65) days from the date of the notice. When a utility is abandoned, Section 367.165(2), F.S., requires the county in which the abandoned utility is located to petition the

---

<sup>2</sup> Order No. PSC-14-0225-AS-WS, issued May 12, 2014, in Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.



circuit court in that county to appoint a receiver. The responsibility of the receiver is to operate the utility efficiently and effectively from the date of abandonment until disposition of the property. By Order dated December 17, 2014, the Tenth Circuit Court acknowledged Highlands County's petition to appoint a receiver, and appointed the City of Sebring as receiver of the Utility in Case No. GC14-611. Highlands County notified us of the appointment of a receiver on December 19, 2014, and provided us with a copy of the Agreed Order Appointing Receiver and Authorized Sale.

Section 367.022(2), F.S., provides that utility systems owned, operated, managed, or controlled by governmental authorities are exempt from our regulation. Pursuant to Rule 25-30.110(3), F.A.C., a water or wastewater utility subject to our jurisdiction as of December 31 of that year, must file an annual report. Because Country Club was not jurisdictional as of December 31, 2014, it does not need to file an annual report for 2014. The abandonment and subsequent cancellation of Country Club's certificates, however, does not relieve Country Club of its obligation for delinquent RAFs or its obligation to remit RAFs for the period it operated in 2014 prior to its abandonment.<sup>3</sup>

As of January 20, 2015, Country Club owes a total of \$41,490.62 in delinquent RAFs, and statutory penalties and interest, for the years 2010, 2011, 2012, and 2013. In addition, because Country Club was a utility subject to our jurisdiction and operated more than six months during 2014, Country Club is obligated to submit RAFs based on its 2014 revenues, pursuant to Section 350.113, F.S., and Rule 25-30.120, F.A.C., by March 31, 2015. At this time, we estimate the amount of Country Club's 2014 RAFs to be approximately \$11,208.23.<sup>4</sup> In order to secure the financial obligation owed by Country Club to this Commission, our Office of the General Counsel filed a Motion to Intervene and a Petition For Enforcement of Agency Action, Declaratory Judgment, and For Relief of Judgment, in the receivership proceeding pending in the Highlands County Circuit Court on January 22, 2015, pursuant to Order No. PSC-14-0225-AS-WS.<sup>5</sup>

Therefore, pursuant to Section 367.022(2), F.S., we acknowledge the appointment of the City of Sebring as receiver for the Utility, and cancel Certificate Nos. 540-W and 468-S effective December 22, 2014.<sup>6</sup> The disposition of the outstanding RAFs, penalties, fees, and interest associated with Country Club are not the subject of either docket at issue here.

---

<sup>3</sup> Order No. PSC-12-0344-FOF-WS, issued July 5, 2012, in Docket Nos. 120042-WS, In re: Notice of abandonment of water and wastewater systems in Okeechobee County by Pine Ridge Management Corporation.; and Order No. PSC-10-0197-FOF-SU, issued March 30, 2010, in Docket Nos. 080236-SU, In re: Notice of abandonment of wastewater system in Highlands County by Landmark Utilities, Inc.

<sup>4</sup> Our estimate is based on an average of Country Club's reported revenues for the years 2011, 2012, and 2013.

<sup>5</sup> Order No. PSC-14-0225-AS-WS, issued May 12, 2014, in Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.

<sup>6</sup> On December 16, 2014 during its regularly scheduled council meeting, the City Council for the City of Sebring voted to approve the purchase of the Country Club Utilities, Inc. and assume operation of the utility systems effective December 22, 2014.

Additionally, with the abandonment of Country Club, and the subsequent appointment of the City of Sebring as receiver, we no longer retain jurisdiction over the Utility's rates. Therefore, Country Club's staff-assisted rate case is dismissed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Notice of Abandonment of Country Club Utilities, Inc. is hereby acknowledged. It is further

ORDERED that the appointment of the City of Sebring as the receiver for Country Club Utilities, Inc. is hereby acknowledged as a matter of right, pursuant to Section 367.022(2), Florida Statutes. It is further

ORDERED that Certificate Nos. 540-W and 468-S issued to Country Club Utilities, Inc. are hereby cancelled, effective December 22, 2014. It is further

ORDERED that Country Club Utilities, Inc.'s staff-assisted rate case is hereby dismissed. It is further

ORDERED that these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 17th day of February, 2015.



---

CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KRM/KFC



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 Office of Commission Clerk, 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 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 Office of Commission Clerk, 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.