

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 18, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (P. Buys) *DOB REG zmk DM*
Division of Economics (Hudson, Thompson) *GT PQ*
Office of the General Counsel (Mapp) *Kim JC*

RE: Docket No. 150230-WU – Application for amendment of Certificate of Authorization No. 247-W, to extend water service area to include land in Seminole County, by Sanlando Utilities Corporation.

AGENDA: 03/01/16 – Regular Agenda – Proposed Agency Action for Issue 2, Tariff Filing for Issue 3 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 03/27/16 – Statutory deadline for rule waiver
05/03/16 – Tariff deadline waived

SPECIAL INSTRUCTIONS: None

Case Background

On October 26, 2015, Sanlando Utilities Corporation (Sanlando or Utility) filed an application with the Florida Public Service Commission (Commission) to amend Certificate No. 247-W to add territory in Seminole County. The Utility plans to extend its service territory in order to provide water service to the Myrtle Lake Hills subdivision, which has 116 lots (5 of which are vacant).

Sanlando's original water certificate was granted in 1976. The Utility's territory has been amended 12 times and has had 4 territory deletions. There have been four transfers of majority control for this Utility. The Commission has jurisdiction pursuant to sections 120.542 and 367.045, Florida Statutes (F.S).

Discussion of Issues

Issue 1: Should the Commission approve Sanlando Utilities Corporation's application for amendment of Certificate No. 247-W to extend its water territory in Seminole County?

Recommendation: Yes. It is in the public interest to amend certificate No. 247-W to include the territory as described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Sanlando's amended certificate and should be retained by the Utility. The Utility should charge the customers in the territory added herein the rates and charges contained in its current tariff until a change is authorized by the Commission in a subsequent proceeding. (P. Buys)

Staff Analysis: The Utility's application to amend its authorized service territory is in compliance with the governing statute, Section 367.045, F.S., and Rule 25-30.036, Florida Administrative Code (F.A.C.), Application for Amendment to Certificate of Authorization to Extend or Delete Service Area. The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C, Notice of Application and of Customer Meeting. No objections to the application have been received and the time for filing such has expired. The application contains a warranty deed, evidence that the Utility owns the land upon which the Utility facilities are located. Adequate service territory maps and territory descriptions have also been provided.

The proposed service territory is intended to serve 116 lots in the Myrtle Lake Hills subdivision adjacent to the Utility's existing service area. The residents of the subdivision are experiencing deteriorating water quality from their individual wells, such as high iron content and wells drying up with limited areas to drill new wells. Sanlando already serves ten customers in the subdivision as a result of Dockets Nos.: 040384-WS and 080644-WS. Docket No. 040384-WS was an amendment to extend its water territory because Sanlando was serving outside its service area. There was a settlement agreement with Seminole County, which included eight residents of the Myrtle Lake Hills subdivision for Sanlando to serve. Docket No. 080644-WS was a quick take amendment in which two residents of the subdivision had wells that failed. The residents of the Myrtle Lake Hills subdivision developed a survey and provided Sanlando with the survey responses. Out of the 99 survey responses, 59 residents have expressed that they support the construction of the water system and wish to become customers of Sanlando. Of the same survey responses, 31 residents expressed that they support the construction and wish to become a customer of Sanlando at a later date. Nine residents did not support the construction and do not wish to become a customer of the Utility. Sanlando indicated to the residents that it is not mandatory to become a customer of the Utility.

In addition to the survey responses, there is one resident who spoke with Commission staff and expressed that she supported the construction and wishes to become a customer of Sanlando as soon as possible. This same resident also provided written comments on February 10, 2016, supporting the amendment request. Included in her comments is an explanation of Myrtle Lake Hills groundwater quality prepared by an engineer with the Florida Rural Water Association and lab results of the water from her well. The lab results show iron is at 7.00 milligram per liter (mg/L) when Florida Department of Environmental Protection's (DEP) maximum contaminant

level is 0.3 mg/L. On January 14, 2016, another resident of the subdivision provided the Commission with comments expressing his approval of the amendment request.

The residents of the Myrtle Lake Hills subdivision will be charged a main extension charge of \$5,526, plus a plant capacity fee of \$225 and a meter fee of \$150 at the time when service is requested. The plant capacity fee and meter fee are consistent with the Utility's current tariff. The main extension charge is addressed in Issue 3.

The Utility was granted a rate increase in 2015¹ and at that time, the Commission found the overall quality of service of Sanlando to be satisfactory. Based upon staff's review of the financial information provided in this docket, the Utility's financial ability to operate a utility has not diminished since that time. The Utility has filed its 2014 Annual Report and is current with the payment of its 2015 Regulatory Assessment Fees. The estimated additional water demand for the subdivision represents less than 1 percent of the current flows and the water treatment plant has sufficient capacity to support the extra flows. According to the application, the provision of water services in the proposed service territory is consistent with the Seminole County Comprehensive Plan and there are no outstanding Consent Orders or Notices of Violation from DEP. Therefore, staff recommends that Sanlando has the financial and technical ability to service the amended territory.

Conclusion

Based on the information above, staff recommends it is in the public interest to amend certificate No. 247-W to include the territory as described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Sanlando's amended certificates and should be retained by the Utility. The Utility should charge the customers in the territory added herein the rates and charges contained in its current tariffs until a change is authorized by the Commission in a subsequent proceeding.

¹Order No. PSC-15-0233-PAA-WS, issued June 3, 2015, in Docket No. 140060-WS, *In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation.*

Issue 2: Should the Commission approve Sanlando Utilities Corporations' request for waiver of Rule 25-30.565, Florida Administrative Code, Application for Approval of New or Revised Service Availability Policy or Charges?

Recommendation: Yes. If Issue 1 is approved, the Commission should approve Sanlando Utilities Corporation's Petition for waiver of Rule 25-30.565, F.A.C. (Mapp)

Staff Analysis: On December 28, 2015, Sanlando filed a Petition seeking a waiver of Rule 25-30.565, F.A.C. The waiver is sought in connection with Sanlando's Petition to amend its authorized service territory. Sanlando currently serves 10,172 water customers in Seminole County.² If Issue 1 is approved, Sanlando's service territory will include an additional 111 existing single family homes, and 5 vacant single family home lots.

Pursuant to Section 120.542(6), F.S., notice of the petition for variance or waiver was published in the Florida Administrative Register on January 7, 2016. No written comments were received, and the time for such has expired.

Section 120.542(2), F.S., authorizes the Commission to grant variances or waivers from agency rules where the person subject to the rule has demonstrated that the purpose of the underlying statute will be or has been achieved by other means, and strict application of the rule would cause the person substantial hardship or would violate principles of fairness. "Substantial hardship" as defined in the statute means demonstrated economic, technological, legal, or other hardship. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

The purpose of the underlying statute, Section 367.101(1), F.S., is to ensure that the Commission sets just and reasonable charges and conditions for service availability. A waiver of Rule 25-30.565, F.A.C., in the instant case will not prevent the Commission from meeting its statutory requirements under Section 367.101(1), F.S.

In its petition, Sanlando is not seeking to implement a service availability charge on the Utility's entire current customer base. The cost of construction of water lines and soft costs associated with the Commission proceeding, such as permitting costs and legal expenses, will be reimbursed by the 116 lots to be added to the system if Issue 1 is approved. The Utility's remaining 10,172 existing customers and any future customers of Sanlando added to the system outside this proceeding would remain unaffected. As explained in Issue 3, Sanlando has provided staff with the preliminary costs of the proposed main extension to serve the additional 116 lots, allowing staff to calculate a just and reasonable charge for the new customers to be added to the system, satisfying the purpose of Section 367.101(1), F.S.

Additionally, staff believes that Sanlando has demonstrated that application of the rule would create a substantial hardship and violate the principles of fairness. Sanlando asserts that application of the rule would create a substantial hardship to the Utility and its customers due to

²Order No. PSC-15-0233-PAA-WS, issued June 3, 2015, in Docket No. 140060-WS, *In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation.*

the substantial documentation required by the rule. The customers to be added to the system if Issue 1 is approved would only account for 1 percent of Sanlando's customer base. However, if the Utility were required to fulfill the filing requirements within Rule 25-30.565, F.A.C., the cost to satisfy the rule would reach \$10,000. Sanlando asserts, and staff agrees that this would place a financial burden on the Utility's customers. Staff believes that the strict application of Rule 25-30.565, F.A.C., in the instant docket would create a substantial hardship and violate the principles of fairness.

Conclusion

Based on the foregoing, staff believes that Sanlando has demonstrated that the purpose of the underlying statute will be achieved and that application of Rule 25-30.565, F.A.C., in the instant docket would both create a substantial hardship and violate the principles of fairness. Therefore, staff recommends that the requested waiver of Rule 25-30.565, F.A.C., be granted.

Issue 3: Should Sanlando Utilities Corporation's request to collect a main extension charge of \$5,526 per lot from the 116 property owners in the Myrtle Lake Hills subdivision be approved?

Recommendation: Yes. Sanlando should be authorized to collect a water main extension charge of \$5,526 per lot from the 116 property owners in the Myrtle Lake Hills subdivision. The recommended charge is reasonable and consistent with the guidelines set forth in Rule 25-30.580, F.A.C., and should be approved. The approved charge should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475, F.A.C. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Thompson)

Staff Analysis: In its filing, Sanlando proposed a water main extension charge of \$5,526 per lot for the 116 property owners in the Myrtle Lake Hills subdivision. The Utility does not currently have a specific water main extension charge; however, the Utility's service availability policy provides that customers should pay for the cost of main extensions, consistent with Rule 25-30.580, F.A.C. In support of the Utility's main extension charge for the Myrtle Lake Hills subdivision, the Utility provided the preliminary cost of the proposed main extension to serve the 116 lots. The cost estimate, totaling \$641,000, includes the projected construction costs, engineering design, permitting and bidding, legal expenses, survey and legal description expenses, and county right-of-way permitting. Staff believes this amount is a reasonable cost estimate to extend the Utility's lines to serve the Myrtle Lake Hills subdivision.

This request is consistent with Sanlando's tariff in that it results in the cost causer paying the cost of this expansion. Normally, the main extension charge is paid by the developer at the time the line is constructed; however, in this instance it may take several years for all 116 property owners to connect to the system. This charge is only applicable to the 116 property owners in the Myrtle Lake Hills subdivision.

Conclusion

Staff recommends that Sanlando should be authorized to collect a water main extension charge of \$5,526 per lot from the 116 property owners in the Myrtle Lake Hills subdivision. The recommended charge is reasonable and consistent with the guidelines set forth in Rule 25-30.580, F.A.C., and should be approved. The approved charge should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475, F.A.C. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 4: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action or tariff issues files a protest within 21 days of the issuance of the order, a consummating order should be issued, and the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. If a protest is filed within 21 days of the issuance of the Order, the tariff should remain in effect subject to refund pending the resolution of the protest, and the docket should remain open. (Mapp)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action or tariff issues files a protest within 21 days of the issuance of the order, a consummating order should be issued, and the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. If a protest is filed within 21 days of the issuance of the Order, the tariff should remain in effect subject to refund pending the resolution of the protest, and the docket should remain open.

Sanlando Utilities Corporation

Description of Proposed Service Territory

Current Territory:

That portion of Section 25, Township 20 South, Range 29 East, Seminole County, Florida, being more particularly described as follows:

Commence from the Northeast corner of Section 25, Township 01 South, Range 29 East and run 1,868.2 feet North 89°28'20" West; thence run South 0°31'40" West a distance of 1,790.9 feet to the Point of Beginning, thence run East 188 feet; thence run South 210 feet; thence run West 188 feet; thence run North 208 feet to the Point of Beginning.

Myrtle Lake Hill Subdivision:

A tract of land lying in section 25, Township 20 South, Range 29 East, Seminole County, Florida, being more particularly described as follows:

Commencing at the intersection of West Right-of-Way line of Interstate No. 4 with the North line of said Section 25, Township 20 South, Range 29 East; thence East 2550 feet, thence South 500 feet to the POINT of BEGINNING; thence South 45° West 600 feet, thence West 160 feet, thence South 150 feet, thence East 140 feet, thence South 110 feet, thence West 150 feet, thence South 75 feet, thence West 125 feet, thence South 755 feet, thence East 275 feet, thence South 160 feet, thence West 350 feet, thence South 150 feet, thence East 1800 feet to the East line of Section 25, Township 20 South, Range 29 East, thence North 1010 feet, thence North 22° West 878.2 feet, thence West 676.75 feet to the POINT of BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION

**authorizes
Sanlando Utilities Corporation
pursuant to
Certificate Number 247-W**

to provide water service in Seminole County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
7128	02/26/1976	750737-WS	Original Certificate
8354	06/12/1978	780097-W	Amendment
9843	03/03/1981	780727-W	Territory Deletion
		780813-WS	Territory Deletion
		780952-W	Territory Deletion
9846	03/03/1981	800643-WS	Amendment
10084	06/19/1981	810179-WS	Amendment
10326	10/07/1981	810362-WS	Amendment
12567	09/30/1983	830237-WS	Amendment
14180	03/14/1985	840436-WS	Amendment
15331	11/04/1985	850551-WS	Amendment
15750	02/26/1986	860066-WS	Amendment
16748	10/20/1986	861178-WU	Amendment
PSC-99-0152-FOF-WS	01/25/1999	980957-WS	Transfer of Majority Control
PSC-01-2316-FOF-WS	11/27/2001	010887-WS	Transfer of Majority Control
PSC-04-0532-AS-WS	05/25/2004	030667-WS	Territory Amendment and Deletion
PSC-04-0782-FOF-WS	08/10/2004	030667-WS	Reconsideration and Clarification
PSC-06-0094-FOF-WS	02/09/2006	050499-WS	Transfer of Majority Control
PSC-06-0752-FOF-WS	09/05/2006	040384-WS	Amendment
PSC-09-0093-FOF-WU	02/13/2009	080644-WU	Amendment
PSC-12-0497-FOF-WS	09/27/2012	120084-WS	Transfer of Majority Control
*	*	150230-WU	Amendment

*** Order Numbers and dates to be provided at time of issuance**

**Sanlando Utilities Corp. – Myrtle Lake Hills Subdivision
Service Availability Charges**

Main Extension Charge
per Residential Lot

\$5,526