

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 20, 2020
TO: Docket No. 20190122-WU
FROM: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk *AT*
RE: Rescheduled Commission Conference Agenda Item

Staffs memorandum assigned DN 00495-2020 was filed on January 23, 2020, for the February 4, 2020 Commission Conference. As the vote sheet reflects, this item was deferred. This item has been placed on the March 3, 2020 Commission Conference Agenda.

/ajt

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: January 23, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts) *MT 24*
Office of the General Counsel (Schrader) *KS JSC*

RE: Docket No. 20190122-WU – Request for cancellation of Certificate No. 626-W by B&C Water Resources, L.L.C.

AGENDA: 02/04/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

B&C Water Resources, L.L.C. (B&C) was granted water Certificate No. 626-W in 2004.¹ B&C is a Class C utility that provides water service to five customers in Baker and Union Counties through wells located in areas leased by individual hunt clubs.

In 2017, the Commission approved B&C's application for the transfer of majority organizational control of B&C in Baker and Union Counties on the parent level from Plum Creek Manufacturing Holding Company (Plum Creek) to Weyerhaeuser NR Company (WNR).² The

¹Order No. PSC-04-1256-PAA-WU, issued on December 20, 2004, in Docket No. 20041040-WU, *In re: Application for certificate to operate water utility in Baker and Union Counties by B&C Water Resources, L.L.C.*

²Order No. PSC-17-0225-FOF-WS, issued on June 14, 2017, in Docket No. 20170238-WU, *In re: Application of B&C Water Resources, L.L.C. and D&E Water Resources, L.L.C. for transfer of majority organizational control.*

transfer of majority organization control occurred pursuant to the merger of Plum Creek, of which B&C was a wholly-owned subsidiary, into WNR.

On May 31, 2019, WNR filed a request to cancel Certificate No. 626-W, stating that B&C does not currently provide water service to customers for compensation, and has no plans for doing so in the future. WNR believes that, under the circumstances which it currently operates, described in Issue 1, it does not meet the definition of a utility given in Section 367.021, Florida Statutes (F.S.).

In its 2018 annual report, B&C reported providing service to one residential and six general service customers. In its response to staff's July 18, 2019 data request, B&C reported that the reference to a residential customer in its annual report was erroneous, and that it now provides water for only five hunt clubs. B&C also reported in its 2018 annual report that it received water revenues of \$0. The net loss for 2018 was \$23,877. This recommendation addresses the cancellation of Certificate No. 626-W since B&C is no longer operating as a utility as defined by Section 367.021(12), F.S. The Commission has jurisdiction over this matter pursuant to Section 367.011, F.S.

Discussion of Issues

Issue 1: Should Certificate No. 626-W, held by B&C Water Resources, L.L.C. be canceled?

Recommendation: Yes. Certificate No. 626-W should be canceled effective the date the order becomes final. (M. Watts)

Staff Analysis: B&C was originally organized to provide water service to future customers created by prospective real estate development in the service area. Initially, B&C only provided water through individual wells to hunting lodges located on its property. The hunting lodges were leased by individual hunt clubs. Due to the economic downturn in 2008, the real estate development never materialized. Thus, the hunt clubs remain the only users of the water from B&C's wells. B&C stated in its request for cancellation that it has determined that there are no realistic market objectives supporting the purpose for which B&C was originally organized as a utility.

Section 367.021(12), F.S., defines a utility as,

...a water or wastewater utility and, except as provided in Section 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.

Currently, the hunt clubs lease land from WNR's parent company, Weyerhaeuser Company. Since the hunt clubs exist within discrete areas of Weyerhaeuser Company's land, the members of each hunt club use a single well for small-volume, infrequent cleaning associated with their seasonal hunting activities. The water is accessed at the well through the pump and is only used for cleaning animals. There is no distribution system providing water to the lodges, and the hunters do not use the water for personal consumption. The hunt clubs are currently not charged for the use of the water, either directly or indirectly through their leases.

The Utility is current with filing its annual reports and has no outstanding fines. B&C has remitted its 2019 and 2020 regulatory assessment fees.

Since B&C receives no compensation for the water it provides, it no longer meets the definition of a utility as provided in Section 367.021(12), F.S. Therefore, Certificate No. 626-W should be canceled effective the date the order becomes final.

Issue 2: Should this docket be closed?

Recommendation: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed. (Schrader)

Staff Analysis: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed.