

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM

OCTOBER 23, 1997

RECEIVED

OCT 22 1997

4:15

FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (WALKER, REDEMANN) *COM New [initials]*
DIVISION OF LEGAL SERVICES (REYES) *BR*

RE: DOCKET NO. 970459-WS - APPLICATION FOR GRANDFATHER
CERTIFICATE TO OPERATE A WATER AND WASTEWATER UTILITY IN
POLK COUNTY BY SKYVIEW UTILITIES RECEIVERSHIP
COUNTY: POLK

AGENDA: NOVEMBER 4, 1997 - REGULAR AGENDA - INTERESTED PERSONS
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

LOCATION OF FILE: S:\PSC\WAW\WP\970459.RCM

DOCUMENT NUMBER-DATE

10857 OCT 22 97

FPSC RECORDS/REPORTING

CASE BACKGROUND

On May 14, 1996, the Board of County Commissioners of Polk County adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring that privately owned water and wastewater utilities in that county were subject to the provisions of Chapter 367, Florida Statutes. The resolution was acknowledged by this Commission on July 11, 1996, by Order No. PSC-96-0896-FOF-WS. Pursuant to Section 367.171, Florida Statutes, any utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day Chapter 367 becomes applicable to it.

In 1994, Skyview Utilities, Ltd. (Skyview or utility) was serving about 824 water and 1,262 wastewater customers in Polk County. On September 1, 1994, Skyview notified Polk County of its intent to abandon service in its service area by November 30, 1994. However, on November 16, 1994, the Circuit Court of the Tenth Judicial Circuit in Polk County granted a motion filed by Skyview and its general partner, Capital Sunbelt Investments, Incorporated, for appointment of a receiver to manage the utility's affairs. These were culminating events in a case brought by the Florida Department of Environmental Protection (DEP) and other agencies against Skyview for violation of rules and regulations concerning unlawful discharge of wastewater effluent. The Court approved a stipulated agreement among several government agencies and investors to appoint Andrew R. Reilly, Esquire, to serve as receiver for Skyview. His duties included any actions needed to retire Skyview's wastewater plant and to interconnect Skyview's collection system with the City of Lakeland's treatment plant. The City of Lakeland already provides Skyview with potable water for resale to customers and plans to treat Skyview's wastewater once the interconnection is complete. Thereafter, Skyview will purchase and resell both bulk water and bulk wastewater services.

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of when the certificate is granted. Skyview has been subject to this Commission's jurisdiction since May 14, 1996. Although Skyview paid its regulatory assessment fees for 1996, an annual report for 1996 has not been received.

This recommendation addresses Skyview's application for a grandfather certificate and its duty to file an annual report for 1996.

DOCKET NO. 970459-WS
OCTOBER 23, 1997

ISSUE 1: Should the application of Skyview Utilities for grandfather certificates in Polk County be granted?

RECOMMENDATION: Yes, Water Certificate No. 596-W and Wastewater Certificate No. 511-S should be issued to Skyview Utilities, with Andrew R. Reilly as Receiver, for the Skyview utility system. (WALKER, REDEMANN)

STAFF ANALYSIS: As discussed in the case background, the Board of County Commissioners of Polk County transferred jurisdiction of the privately owned water and wastewater utilities in Polk County to this Commission on May 14, 1996. On April 15, 1997, Andrew R. Reilly, in his capacity as receiver for Skyview, applied for grandfather certificates to provide service in Polk County in accordance with Section 367.171(2)(b), Florida Statutes. Additional information to complete the minimum filing requirements for a grandfather application was filed on June 30, 1997.

The application is in compliance with the governing statute, Section 367.171, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for a grandfather certificate. The rules and statutes do not require noticing for grandfather certificate applications. The application contains a check in the amount of \$2,000, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Rule 25-30.035(6), Florida Administrative Code, requires a utility to provide proof that it owns the land or has continued use of the land upon which its facilities are located. The applicant filed appropriate warranty deeds for the treatment plant sites.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.035(9), (10), and (11), Florida Administrative Code. A description of the territory requested by the applicant is appended to this memorandum as Attachment A.

As stated in the application, Skyview's wastewater treatment plant does have an operating permit and its effluent disposal practice is not permitted. However, Skyview's treatment plant will be retired when an interconnection with the City of Lakeland's wastewater collection system is completed. The presently scheduled date for this interconnection is July 31, 1998. Because of funding complications, additional time may be needed.

Based on the above information, staff recommends that Water and Wastewater Certificate Nos. 596-W and 511-S be issued to Skyview Utilities, with Andrew R. Reilly as Receiver, for the territory described in Attachment A.

SKYVIEW UTILITIES
WATER AND WASTEWATER SERVICE AREA

POLK COUNTY

PARCEL 1

Township 28 South, Range 24 East, Section 27

Beginning at the Northwest corner of the NE 1/4 of the NW 1/4 of Section 27, Township 28 South, Range 24 East, also the Point of Beginning, run thence South along the West boundary of the NE 1/4 of the NW 1/4 948.68 feet, thence approximately South 44° 30' East 785.44 feet, thence South 74.86 feet, thence East 71 feet, thence South 94 feet, East 100 feet, thence South 921.55 feet, thence East 125 feet, South 65 feet, East 40 feet, South 95 feet, East 360 feet, North 95 feet, East 50 feet, North 40 feet, East 95 feet, North 100 feet, East 115 feet, North 41.55 feet, East 210 feet, South 450 feet, East 325 feet, North 190 feet, East 120 feet North 225 feet, West 220 feet, North 170 feet, West 250 feet, North 130 feet, West 360 feet, South 81.55 feet, West 310 feet, North 741.55 feet, West 160 feet, North to the North boundary of the SE 1/4 of the NW 1/4 of said Section 27, thence East 10 feet to centerline of Goodyear Avenue, thence North 384.9 feet along said centerline to the North boundary of Fernwood Apartments, thence West 211 feet, North 750 feet, thence East 201 feet thence North 172.5 feet to the centerline of Skyview Drive, thence West along said centerline 337 feet, thence South 345 feet, West 136 feet, North 345 feet to the North boundary of said Section 27, thence West 390.53 feet along said North boundary to the Point of Beginning.

PARCEL 2

Township 28 South, Range 24 East, Section 27

The West 1,660 feet of the North 1,261.18 feet of the Southeast 1/4, less the East 830 feet of the West 1,660 feet of the North 651.18 feet of the Southeast 1/4.

PARCEL 3

Township 28 South, Range 24 East, Section 26,

The North 1/2 of the NW 1/4 serving the Subdivisions of Citrus Woods Estates, Units 1, 2, 3 and 4.

DOCKET NO. S70459-WS
OCTOBER 23, 1997

PARCEL 4

Township 28 South, Range 24 East, Section 23

Beginning at the Northwest corner of the SW 1/4 of the SW 1/4 of Section 23, Township 28 South, Range 24 East, thence East to the Northeast corner of said SW 1/4 of the SW 1/4, thence North along the West boundary of the NE 1/4 of the SW 1/4 of said Section 23, 750.46 feet, North 85° 56' 05" East 204.07 feet, South 51° 04' 05" East 38.51 feet, North 73° 58' 03" East 193.06 feet, East 72.56 feet, North 236.03 feet, East 335.54 feet, South 500 feet, East 180 feet, South 600 feet, East 100 feet, South 1247.05 feet to the South boundary of said Section 23, thence West along said South boundary 673.71 feet, thence approximately North 5° West to an old phosphate pit, thence East 160 feet, thence South 54° 22' 42" West 31.07 feet, thence South 110 feet to the South boundary of said Section 23, thence West 1235 feet along said South boundary, thence North 155 feet, thence East 315 feet to the West boundary of said Section 23, thence North approximately 1175 feet along said West boundary to the Point of Beginning. All being in the SW 1/4 of Section 23, Township 28 South, Range 24 East.

PARCEL 5

Township 28 South, Range 24 East, Section 22

Beginning at the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of Section 22, Township 28 South, Range 24 East, run thence North 383.75 feet, East 324.9 feet, North 10° 44' East 253.17 feet, North 17° 21' 20" East 470.3 feet, North 65° East 65.35 feet, North 22° 47' 20" East 262.4 feet, South 85° 16' 20" East 403.39 feet, South 200.69 feet, North 85° 16' 20" West 305.38 feet, South 18° 09' 30" East 475.94 feet, South 279.12 feet, South 45° East 344.73 feet, thence, thence East 607 feet along a line parallel with and 250 feet North of the South boundary of said Section 22 to the South boundary of Skyview Lake, thence East 440 feet along the South boundary of said Lake to a point, said point being 822 feet East of the West Boundary of the Southwest 1/4 of the Southeast 1/4 of said Section 22, thence North 800 feet to a point 1050 feet North of the South boundary of said Section 22, East 320 feet, South 800 feet, East 80 feet, North 250 feet, East 100 feet, South 250 feet, East 250 feet to Skyview, Phase V, a subdivision recorded in Plat Book 68, Page 27 of the Public Records of Polk County, Florida, thence along the boundaries of said Skyview, Phase V along the following courses: Northerly 170 feet more or less, N 60° W 360 feet more or less, North 310 feet, North 30° West 225 feet, West 170 feet, North 830 feet, East 360 feet, South 745 feet, South 60° East 30 feet, North 30° East 290 feet to Unrecorded Secret Cove, thence along the boundaries of said Secret

DOCKET NO. 970459-WS
OCTOBER 23, 1997

Cove along the following courses: North 60° West 80 feet, North 750 feet, West 260 feet, North 400 feet, East 300 feet South 22° 27' East 429.12 feet, North 84° 04' 40" East 270.91 feet, North 333.58 feet, Northeasterly 85.69 feet, East 50 feet, South 660.78 feet, East 256.88 feet, South 434.88 feet, East 196.55 feet, North 104.29 feet, East 182 feet, South 164.29 feet, West 378.65 feet, South 165.29 feet, West 256.88 feet, South 1322 feet to the South boundary of said Section 22, thence West 3,235 feet to the Point of Beginning.

PARCEL 6

Township 28 South, Range 24 East, Section 22

Commencing at a point 148 feet East of the Southwest corner of the SE 1/4 of Section 22, Township 28 South, Range 24 East, run North 300 feet, North 2° 54' 10" East 300.17 feet, North 24° 35' 50' West 41.42 feet to the Point of Beginning, thence along the following courses: North 85° 16' 20" West 204.22 feet, thence North 26° West 515 feet, thence North 200.69 feet, thence North 10° East 637.95 feet, thence North 28° East 144.49 feet, East 108.35 feet, East 403.82 feet, South 993.39 feet, North 85° 16' 20" West 91.09 feet, South 515 feet, North 85° 16' 20" West 200.54 feet to the Point of Beginning. All being in Section 22, Township 28 South, Range 24 East.

DOCKET NO. 970459-WS
OCTOBER 23, 1997

ISSUE 2: What rates and charges should be approved for this utility?

RECOMMENDATION: The rates and charges that are detailed in the staff analysis should be approved. The tariff should be effective for services rendered or connections made on or after the stamped approval date of the tariff. (WALKER)

STAFF ANALYSIS: The rates Skyview had in effect on the date the Commission received jurisdiction should be approved as the appropriate rates and charges for Skyview. On January 12, 1988, Polk County approved Skyview's initial rates and charges. These included base and gallonage charges for water and wastewater service, customer connection and tap-in charges, and assorted miscellaneous service fees. On July 16, 1996, Polk County approved an emergency \$5.72 rate increase for wastewater service to fund assorted improvements to Skyview's collection system. Those improvements include construction of a lift station so that Skyview may pump its wastewater to the City of Lakeland's treatment plant. Additional expenditures, as yet unfunded, are expected to install transmission lines and pay prescribed tap-in charges. Polk County also granted increased security deposits for water and wastewater service. The utility's rates and charges are as follows:

Monthly Service Rates

Water:

Residential Service:

Minimum Charge:	\$ 8.50 for first 3,000 gallons
Gallonage Charge:	\$ 2.26 per thousand over 3,000

General Service:

Minimum Charge:	\$34.00 for first 3,000 gallons
Gallonage Charge:	\$ 2.26 per thousand over 3,000

Wastewater:

Residential Service:

Flat Rate per Unit:	\$16.66
Emergency Repair Surcharge:	\$ 5.72
Total	\$22.38

General Service:

Minimum Charge:	140% of Water Rate
Plus Surcharge:	\$ 5.72

DOCKET NO. 970459-WS
OCTOBER 23, 1997

Customer Deposits

<u>Water</u> <u>Meter Size:</u>	<u>Residential</u>	<u>General Service</u>
5/8 x 3/4"	\$30.00	\$30.00
1"	\$30.00	\$30.00
1 1/2"	\$30.00	\$30.00
Over 2"	\$30.00	\$30.00

<u>Wastewater</u> <u>Meter Size:</u>	<u>Residential</u>	<u>General Service</u>
5/8 x 3/4"	\$40.00	\$40.00
1"	\$40.00	\$40.00
1 1/2"	\$40.00	\$40.00
Over 2"	\$40.00	\$40.00

Meter Test Deposits

<u>Meter Size:</u>	<u>Charge</u>
5/8 x 3/4"	\$20.00
1" and 1 1/2"	\$25.00
2" and over	Actual Cost

Miscellaneous Service Charges

Vacation Lock Fee:	\$20.00
Late Payment Fee:	\$ 5.00
Violation Reconnection Fee:	\$20.00 (or Actual Cost)

Meter Installation Fee

2" meters and below	\$125.00
Larger than 2"	Actual Cost

Service Availability Charges

Water: Customer Connection (Tap-in) Charge

5/8" X 3/4" metered service	\$ 1,000.00
1" metered service	\$ 2,300.00
1 1/2" metered service	\$ 5,300.00
2" metered service	\$14,620.00
Over 2" metered service	\$44,340.00

Wastewater: Customer Connection (Tap-in) Charge

Single Family - per unit	\$1,200.00
Multi-Family - per unit	\$ 800.00
Recreation Vehicle - per unit	\$ 600.00

Non-Residential Wastewater Connection Charge

Meter Size	
3/4"	\$ 1,200.00
1"	\$ 3,000.00
1 1/2"	\$ 6,000.00
2"	\$ 9,600.00
3"	\$19,200.00
4"	\$30,000.00
6"	\$60,000.00

Skyview initially filed tariff schedules stating that DEP has prohibited further extensions of water and wastewater service until the utility's effluent disposal problems are resolved. Accordingly, customer connection and tap-in charges are not being collected while those restrictions continue. However, staff believes that the utility's tariff should reflect the charges that Polk County approved. Those charges will then be collected if the moratorium on connections is subsequently lifted. The utility has filed revised tariff schedules that correctly identify its authorized connection charges.

The utility has filed a tariff that reflects the above rates and charges. Staff recommends that they be approved as submitted. Staff further recommends that Skyview be required to continue to charge these rates and charges until authorized to change by this Commission. The tariff should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

DOCKET NO. 970459-WS
OCTOBER 23, 1997

ISSUE 3: Should Skyview be required to file a 1996 Annual Report with the Commission?

RECOMMENDATION: Yes, Skyview should be required to file an Annual Report for 1996 pursuant to Rule 25-30.110, Florida Administrative Code. (WALKER)

STAFF ANALYSIS: Rule 25-30.110(3), Florida Administrative Code, states that "(t)he 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, whether or not the utility has actually applied for or has been issued a certificate." Skyview has not yet filed an annual report for 1996, but Skyview's receiver was not informed of this filing obligation as Skyview's mailing address was apparently unknown. However, that filing obligation still remains. Therefore, staff recommends that Skyview be ordered to file its 1996 annual report within 45 days of the Commission's order in this case. The report should include financial data for service rendered on and after the May 14, 1996 jurisdictional date.

DOCKET NO. 970459-WS
OCTOBER 23, 1997

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. (REYES)

STAFF ANALYSIS: Since no additional action is required in this docket, Staff recommends this docket be closed.