

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for amendment of Certificate No. 379-S for extension of wastewater service area in Seminole County, by Alafaya Utilities, Inc.

DOCKET NO. 030957-SU
ORDER NO. PSC-04-0149-FOF-SU
ISSUED: February 11, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER GRANTING AMENDMENT OF CERTIFICATE NO. 379-S TO EXTEND WASTEWATER SERVICE AREA IN SEMINOLE COUNTY BY ALAFAYA UTILITIES, INC. AND DECLINING TO INITIATE A SHOW CAUSE PROCEEDING

BY THE COMMISSION:

Case Background

Alafaya Utilities, Inc. (Alafaya or utility) is a Class A wastewater utility with its head quarters located in Altamonte Springs, Florida. Alafaya provides wastewater and reuse service in Seminole County. Water is provided by the City of Oviedo. The area subject to this amendment is in the St. Johns River Water Management District, which has declared its entire district as a water use caution area.

Utilities, Inc. is the parent company of Alafaya. Utilities, Inc. provides water and/or wastewater service in Florida via nineteen affiliated companies. Alafaya serves about 5,676 residential and 92 general service wastewater customers as well as 55 residential and one general service reuse customers. For the year ended December 31, 2002, the utility reported wastewater operating revenues of \$1,912,970, and a net operating income of \$308,915.

During our investigation in Docket No. 020408-SU, In Re: Application for Rate Increase in Seminole County by Alafaya Utilities, Inc., the territory map provided by the utility indicated that there was one customer, the Oviedo Presbyterian Church, that was outside the utility's service area. On April 8, 2003, the utility indicated that it would file an amendment application to correct the problem by October 1, 2003. This Order addresses the amendment as well as a show cause for serving outside its certificated area. We have jurisdiction pursuant to Section 367.045, Florida Statutes.

DOCUMENT NUMBER-DATE

01957 FEB 11 3

Fpsc-COMMISSION CLERK

Amendment to Certificate No. 379-S

On October 1, 2003, Alafaya filed an application for an amendment to include the Oviedo Presbyterian Church within its certificated territory. Except as noted in the show cause section above, the application was in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The application contained a check in the amount of \$100, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided a copy of a warranty deed which provides for the continued use of the land as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3) (e), (f) and (i), Florida Administrative Code. A description of the territory is appended to this Order as Attachment A. The utility has submitted an affidavit, consistent with Section 367.045(2)(d), Florida Statutes, stating that it has tariffs and annual reports on file with the Commission.

In addition, the application contained proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. The local planning agency was provided notice of the application and did not file a protest to the amendment. No objections were filed and the time for filing such has expired. The Department of Community Affairs has identified no growth management concerns with the expansion of the utility. The utility stated that the provision of service will be consistent with the utility section of the local comprehensive plan.

The Alafaya wastewater treatment plant consists of two 1.2 million gallons per day (mgd) Annual Average Daily Flow (AADF) extended aeration treatment plants operating in parallel with three common influent surge tanks with manual screening and grit removal, aeration, secondary clarification, and chlorination with a splitter box side stream from each plant. The effluent either goes to the 1.0 mgd cloth filter and chlorination system for public reuse, or is chlorinated and sent to the percolation/evaporation ponds. The utility has sufficient capacity to serve this customer. The Department of Environmental Protection has not issued any outstanding notices of violation for this system. The utility utilizes licensed operators to operate the system.

Regarding the financial impact of this customer to the utility, the customer is already being served; as a result, this extension is not expected to have any impact on the rates or service availability charges of the utility.

Therefore, we believe the utility has demonstrated the financial and technical ability to provide quality service to this customer. The rates and charges previously approved for this utility shall be applied to customers in the new service territory. The utility has filed revised

tariff sheets incorporating the additional territory into its tariff and returned its certificate for entry reflecting the additional territory.

Based on the above information, we hereby grant Alafaya's amendment application to expand its territory. The approved territory amendment is described in Attachment A to this Order. Alafaya shall charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Show Cause

The utility is currently serving one customer outside of its certificated territory, the Oviedo Presbyterian Church. The connection to the church was made sometime between December 1, 1994, and February 21, 1995. The utility is not certain of the time frame because at that point in time the purchase of the system by the current owners was being finalized. The utility believes that service to the church was either overlooked, or was anticipated by the previous owners. In any event, the amendment to the service territory was never accomplished. As a result, Alafaya is in apparent violation of Section 367.045(2), Florida Statutes.

Pursuant to Section 367.045(2), Florida Statutes, a utility may not delete or extend its service area outside the area described in its certificate of authorization until it has obtained an amended certificate of authorization from the Commission. However, in this instance, we decline to take further action for the utility's apparent violation of Section 367.045(2), Florida Statutes. It appears that since the service to the church began around the same time that the utility was sold, the new owners simply overlooked the service outside of its certificated territory, possibly because the previous owners actually authorized the church's connection, and failed to file an amendment application. In consideration of the foregoing, the utility's violation of Section 367.045(2), Florida Statutes, does not rise to a level warranting the initiation of show cause proceedings. Therefore, Alafaya shall not be required to show cause why it should not be fined for failing to obtain the Commission's approval to extend its service area prior to serving that area.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Alafaya Utilities, Inc.'s Application for Amendment of Certificate No. 379-S for Extension of Wastewater Service Area in Seminole County is hereby granted. It is further

ORDERED that the utility shall charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDER NO. PSC-04-0149-FOF-SU
DOCKET NO. 030957-SU
PAGE 4

ORDERED that Attachment A to this Order is incorporated herein by reference. It is further

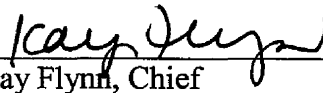
ORDERED that no show cause proceedings shall be initiated for the utility failing to obtain approval to extend its service area prior to serving that area, in apparent violation of Section 367.045(2), Florida Statutes. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 11th day of February, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

(S E A L)

AEV

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 Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the

ORDER NO. PSC-04-0149-FOF-SU
DOCKET NO. 030957-SU
PAGE 5

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 Director, Division of the Commission Clerk and Administrative Services 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.

Alafaya Utilities, Inc.

Wastewater Service Area

Serving the Oviedo Presbyterian Church

Seminole County

Commence at the Northeast corner of the Northwest 1/4 of Section 25, Township 21 South, Range 31 East, Seminole County, Florida; thence run West, a distance of 668 feet; thence South, a distance of 1,280 feet to the POINT OF BEGINNING; thence South 49° East, a distance of 436 feet; thence South 34° West, a distance of 704 feet; thence North 50° West, a distance of 424 feet; thence North 35° East, a distance of 279 feet; thence North 14° East, a distance of 257 feet; thence North 56° East, a distance of 208 feet to the POINT OF BEGINNING.