

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of wastewater facilities to City of Avon Park, in Highlands County, and cancellation of Certificate No. 423-S, by C & H Utilities, Inc.	DOCKET NO. 100387-SU ORDER NO. PSC-10-0693-FOF-SU ISSUED: November 18, 2010
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The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
RONALD A. BRISÉ

FINAL ORDER APPROVING TRANSFER TO THE CITY OF AVON PARK
AND CANCELLING CERTIFICATE NO. 423-S

BY THE COMMISSION:

Background

C & H Utilities, Inc. (C & H or Utility) is a Class C Utility providing service to approximately 54 water customers and 93 wastewater customers in Highlands County. The Utility is within the South Florida Water Management District in the Southern Water Use Caution Area. C & H's 2009 annual report indicates that the Utility's water system had gross revenues of \$7,356 and a net operating loss of (\$2,260), and the wastewater system had gross revenues of \$12,984 and a net operating loss of (\$4,711).

C & H was originally granted Certificate No. 423-S in 1987 to provide wastewater service in the Valencia Acres Subdivision of Highlands County.¹ In 1991, the Utility was issued Certificate No. 536-W to provide water service in the Hickory Ridge Subdivision of Highlands County.² The Utility has had one transfer and no amendments since it was certificated.³ On August 27, 2010, the Utility filed an application for transfer of its wastewater facilities and territory to the City of Avon Park (the City) and cancellation of Certificate No. 423-S. C & H will continue to operate its water system under Certificate No. 536-W.

¹ Order No. 17538, issued May 11, 1987, in Docket No. 861567-SU, In re: Application of C&H UTILITIES CORPORATION for transfer of facilities from HIGHLANDS UTILITIES CORPORATION in Highlands County, Florida.

² Order No. 25201, issued October 11, 1991, in Docket No. 910600-WU, In re: Application of C & H Utilities, Inc. for a water certificate in Highlands County.

³ Order No. PSC-95-1505-FOF-WS, issued December 5, 1995, in Docket No. 941037-WS, In re: Application for transfer of facilities and control of Certificates Nos. 536-W and 423-S issued to C & H Utilities, Inc. in Highlands County from Howard E. and Coleen C. Short to Wendell L. and Mary Jane Faircloth.

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FPSC-COMMISSION CLEAR

This order acknowledges the transfer of C & H's wastewater system to the City of Avon Park as a matter of right and cancels Certificate No. 423-S to reflect the deletion of the Valencia Acres Subdivision territory. We have jurisdiction, pursuant to Sections 367.071 and 367.022(2), Florida Statutes (F.S.).

Transfer to the City of Avon Park

On August 27, 2010, C & H filed an application to transfer its wastewater service territory and facilities to the City and cancel Certificate No. 423-S. Pursuant to Section 367.071(4)(a), F.S., the sale of facilities to a governmental authority shall be acknowledged as a matter of right. As such, no notice of the transfer is required and no filing fees apply. In addition, the City is exempt from regulation by this Commission as a governmental authority, in accordance with Section 367.022(2), F.S. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.).

On June 28, 2010, C & H and the City executed an Asset Purchase Agreement (Agreement). A copy of this contract was included in the application. The application indicates a proposed transfer date of September 27, 2010. However, our staff has confirmed that the City officially assumed responsibility over the wastewater system on September 28, 2010. The effective date of the transfer, therefore, is September 28, 2010. Subsequently, the sale of the system closed on September 30, 2010.

In accordance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4)(e), F.A.C., the application states that the City has obtained the Utility's most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction. The application also includes a statement that C & H did not collect deposits and, therefore, does not owe refunds or interest to any customers, pursuant to Rule 25-30.037(4)(g), F.A.C. Additionally, pursuant to Rule 25-30.037(4)(d), F.A.C., the Agreement states that the Utility's wastewater treatment plant and the property associated with the plant are specifically excluded from the sale. However, the collection facilities will be transferred to the City. The Agreement notes that the Utility intends to decommission the plant, and our staff has confirmed with a Utility representative that it intends to dismantle the plant.

In accordance with Rule 25-30.120, F.A.C., C & H has paid regulatory assessment fees (RAFs) for 2009 and all prior periods. The Utility has committed that it will pay all outstanding wastewater RAFs accrued through the transfer date of September 28, 2010, by November 4, 2010. C & H has also filed its annual reports for 2009 and all prior years. Since the Utility will continue to be jurisdictional with respect to its water facilities and territory, it is required to file a 2010 annual report, pursuant to Rule 25-30.110(3), F.A.C., and pay RAFs, pursuant to Rule 25-30.120, for its water system. In accordance with Section 367.022(2), F.S., the Utility's wastewater system will be exempt from regulation by this Commission.

We find that the transfer of C & H's wastewater facilities and territory to the City of Avon Park is hereby acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 423-S is cancelled effective September 28, 2010. A description of the territory deleted as a result of this transfer is appended hereto as Attachment A.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of the wastewater facilities and territory from C & H Utilities, Inc. to the City of Avon Park is hereby acknowledged as a matter of right as set forth herein. It is further

ORDERED that Certificate No. 423-S shall be cancelled effective September 28, 2010. It is further

ORDERED that Attachment A appended hereto are incorporated herein by reference. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 18th day of November, 2010.



ANN COLE
Commission Clerk

(S E A L)

KEF

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.

C & H Utilities, Inc.
Highlands County
Description of Deleted Wastewater Territory

Township 35 South, Range 28 East, Section 21; the Northwest 1/4 of the Southeast 1/4 of Section 21 known as Valencia Acres.