

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: March 16, 2000

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

FROM: DIVISION OF WATER AND WASTEWATER (EDWARDS MESSER)
DIVISION OF LEGAL SERVICES (BRUBAKER)

RE: DOCKET NO. 980657-WS - APPLICATION FOR AMENDMENT OF CERTIFICATES NOS. 279-W AND 226-S TO ADD TERRITORY IN SEMINOLE COUNTY BY FLORIDA WATER SERVICES CORPORATION.
COUNTY: SEMINOLE

AGENDA: MARCH 28, 2000 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\980657.RCM

CASE BACKGROUND

Florida Water Services Corporation (FWSC or utility) provides water service to approximately 826 water customers and 151 wastewater customers in the Chuluota development of Seminole County. The majority of the residents' wastewater service is provided by septic tanks. FWSC provides service in about 24 counties regulated by the Commission. The utility's 1998 annual report shows a total annual operating revenue of \$47,407,245 and a net operating income of \$8,306,392. The utility is a Class A utility company.

Pursuant to Section 367.045, Florida Statutes, on May 15, 1998, Florida Water applied for an amendment of Certificates Nos. 279-W and 226-S to add territory in Seminole County. The utility proposes to provide service to the area surrounding the Chuluota development and restricted to the County. This amendment will add

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about 1,663 acres of additional water and wastewater service area to the utility's certificated area.

Pursuant to Rule 25-30.030, Florida Administrative Code, the utility provided copies of the notice of its application and notice by publication. Rule 25-30.030(6), Florida Administrative Code, requires that notice be given "to each customer, of the system to be certificated, transferred, acquired or deleted." The application contained proof of compliance with the noticing provision set forth in Rule 25-30.030, Florida Administrative Code.

Protests to the application were timely filed by the City of Oviedo on June 1, 1998; Mr. Stanley E. Stevens on June 4, 1998; Alafaya Utilities, Inc. on June 11, 1998; Seminole County on June 15, 1998; and the Coalition for Responsible Econlockhatchee Development, Inc. on June 24, 1998. Accordingly, pursuant to Order No. PSC-98-1051-PCO-WS, issued August 5, 1998, this matter was set for an administrative hearing. Subsequently, the protests were withdrawn, as more fully explained in Issue 1.

Staff has the authority to administratively approve applications for amendment when no objections have been filed and the application is without controversy. This recommendation is being brought to the attention of the Commission to address comments which were filed by the DCA with respect to FWSC's application, and because of the filing and subsequent withdrawal of a number of protests to FWSC's application, as discussed in greater detail in Issue 1.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the withdrawals of the protests to Florida Water Services Corporation's application for amendment of Certificates Nos. 279-W and 226-S to add territory in Seminole County?

RECOMMENDATION: Yes, the Commission should acknowledge the withdrawals of the protests to Florida Water Services Corporation's application for amendment of Certificates Nos. 279-W and 226-S to add territory in Seminole County. (BRUBAKER)

STAFF ANALYSIS: On May 15, 1998, Florida Water Services Corporation (FWSC or utility) filed an application for amendment of Certificates Nos. 279-W and 226-S to add territory in Seminole County.

As discussed in the case background, protests to the application were timely filed by the City of Oviedo (City) on June 1, 1998, Mr. Stanley E. Stevens on June 4, 1998, Alafaya Utilities, Inc. (Alafaya) on June 11, 1998, Seminole County (County) on June 15, 1998, and the Coalition for Responsible Econlockhatchee Development, Inc. (CRED) on June 24, 1998. Accordingly, pursuant to Order No. PSC-98-1051-PCO-WS, issued August 5, 1998, this matter was set for an administrative hearing.

During conversations with staff, Mr. Stevens clarified that he did not wish to pursue his objection to hearing. Accordingly, Mr. Stevens' comments were placed in the correspondence section of the docket file and his status was modified to reflect his position as an interested person, rather than as a full party to the case.

On June 19, 1998, the 1000 Friends of Florida (1000 Friends) filed a letter requesting that the organization be allowed to appear before the Public Service Commission regarding FWSC's application. In subsequent conversations with staff however, the 1000 Friends clarified that the organization wished to participate only in an advisory capacity, and did not intend to participate as a party to the proceeding. Accordingly, the 1000 Friend's status is that of an interested person rather than a party to the case.

Pursuant to the Memorandum of Understanding (MOU) between the Commission and the Florida Department of Community Affairs (DCA), which was entered into on June 5, 1998, the Commission provided the DCA a copy of the amendment application for review and comment. The DCA's response was received October 14, 1998.

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On January 12, 1999, Alafaya filed a Notice of Withdrawal of its protest of FWSC's amendment application.

On February 17, 1999, the City filed a Notice of Withdrawal of its objection, conditioned upon FWSC removing from the territory requested in its application all areas which lie within the City's limits. On March 3, 1999, FWSC filed the revisions to its requested territory, thereby removing the areas of concern to the City from FWSC's amendment application.

On August 16, 1999, the County filed its Notice of Withdrawal of its protests to FWSC's amendment application. In its notice, the County noted that on June 16, 1999, FWSC amended its application so as to remove from its request the areas to which the County had objected.

CRED filed a Notice of Withdrawal of its protest on August 23, 1999. In its notice, CRED also cited to the fact that FWSC's application had been amended so as to remove from its request the areas in the County which were the subject of CRED's objection.

Staff believes that the concerns expressed in the DCA's comments are eliminated by changes implemented to the County's Comprehensive Plan (SCCP). The DCA's comments were largely in response to the fact that the area requested in FWSC's original amendment application was located in a region designated as rural in the SCCP. The County subsequently changed the urban/rural boundary and FWSC amended its application to withdraw its request for areas outside of the boundary, which effectively render the DCA's original comments moot. In fact, on June 23, 1999, the DCA published its Notice of Intent to find the SCCP amendments in compliance with applicable rules and laws. No objection to the notice was filed, and the SCCP amendments became effective on July 14, 1999.

Therefore, staff recommends that the Commission acknowledge the withdrawals of the protests to FWSC's amendment application. No other protests were filed in this docket, and the withdrawal of the protests discussed above obviate the need for any hearing.

ISSUE 2: Should Florida Water Services Corporation's amended application for amendment of Water Certificate No. 279-W and Wastewater Certificate No. 226-S be approved?

RECOMMENDATION: Yes. The Commission should approve Florida Water Services Corporation's amended application for the additional territory described in Attachment A. Florida Water Services Corporation should charge these customers its approved rates and charges until authorized to change by this Commission in a subsequent proceeding. (EDWARDS, MESSER)

STAFF ANALYSIS: As stated previously, on May 15, 1998, Florida Water Services Corporation (FWSC or utility) filed an application for amendment of Certificates Nos. 279-W and 226-S to add territory in Seminole County, pursuant to Rule 25-30.036(3), Florida Administrative Code. As noted in issue 1, the utility amended its application on March 3, 1999 (by removing area of concern to the City), and on August 16, 1999 (by removing areas of concern to the County). The application is 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 contains a check in the amount of \$4,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided copies of warranty deeds which provide 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 has been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. Objections to the application were filed; however, they have been resolved, as addressed in the Case Background and in Issue 1.

FWSC has been regulated by the Commission since 1964 and currently owns and operates more than one hundred water and wastewater facilities throughout the state which are under the Commission's jurisdiction. The utility has a staff of engineers, scientists, accountants, and other professionals based in its Orlando headquarters, as well as, licensed operators that operate

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and maintain facilities located throughout the state. At year-end 1998, FWSC's capital structure consisted of more than \$205 million in total capital, including more than \$117 million in long-term debt and more than \$86 million in equity capital.

The water treatment system consists of three supply wells. The water treatment system can deliver a maximum daily demand of about 2,088,000 gallons per day (gpd), and a peak instantaneous demand of more than 3,000 gallons per minute. FWSC has sufficient capacity in the near future and will expand its water treatment system as required when additional facilities are needed.

The wastewater system currently serves less than one-half of the development's existing residents. In addition, the majority of water customers are served by septic tanks. The current permitted capacity is 100,000 gallons per day on a three-month average basis. The wastewater treatment plant and effluent disposal system are not currently scheduled to be expanded. However, the applicant acknowledges that the expansion of its service area initiates the future expansion of its wastewater treatment plant capacity. The Department of Environmental Protection (DEP) has no outstanding notices of violation against this system.

Based on the above information, staff believes that the utility has the capacity and the technical expertise to serve these customers in the future.

The Department of Community Affairs (DCA) reviewed the initial application and provided comments that indicated an unfavorable recommendation on the entire land area issue. The DCA noted that the County had raised a general objection that the requested amendment areas were inconsistent with Seminole County's Comprehensive Plan (SCCP) and had the potential for the promotion of urban sprawl. A copy of the DCA comments was forwarded to FWSC, and a response to the comments by FWSC was received on December 17, 1998.

At some point after this date, the County pursued changing the SCCP with the DCA, specifically with respect to the designated urban/rural boundaries. On June 23, 1999, the DCA issued its Notice of Intent to find the SCCP amendments in compliance with applicable rules and laws. No objection was filed to the DCA notice, and the SCCP amendments became effective on July 14, 1999.

During the time of the SCCP amendment, FWSC and Seminole County were in settlement negotiations, and in fact, reached an agreement on August 11, 1999. As a result of the agreement, and as

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previously noted, FWSC amended its application by eliminating the area previously at issue with the County (and also the DCA).

With respect to the original concerns of the DCA, these were eliminated by the changes implemented by the SCCP. As noted in issue 1, the DCA's comments were largely in response to the fact that the area requested in Florida Water's original amendment application was located in a region designated as rural in the SCCP. Since the County changed the urban/rural boundary and FWSC amended its application to withdraw its request for areas outside of the boundary, the DCA's original comments became moot.

FWSC's rates were approved in Docket No. 950495-WS. Final Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, was affirmed in part, and reversed in part on appeal. The Commission disposed of the pending issues on remand by Order No. PSC-99-1794-FOF-WS, issued September 14, 1999. FWSC should charge the customers in the territory added herein its approved rates and charges until authorized to change by this Commission in a subsequent proceeding.

The utility has returned the certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

Based on the above information, staff recommends that it is in the public interest to approve Florida Water Services Corporation's amended application for the additional territory described in Attachment A, and that the application as amended should be granted. Attachment B is the composite territory description that includes all previously granted territory and the additional water and wastewater service area. Florida Water should charge the customers in the territory added herein (Attachment A) its approved rates and charges until authorized to change by this Commission in a subsequent proceeding.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issues 1 and 2, no further action is necessary and the docket should be closed. (BRUBAKER, EDWARDS)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issues 1 and 2, no further action is necessary and the docket should be closed.

FLORIDA WATER SERVICES CORPORATION

SEMINOLE COUNTY

ADDITIONAL TERRITORY

Additional Water and Wastewater Territory

Township 21 South, Range 32 East, Seminole County, Florida.

Sections 16 and 17

Beginning at the Southeast corner of the Southwest 1/4 of said Section 16, run North to the Northeast corner of the South 1/2 of the Northeast 1/4 of the Southwest 1/4 of said Section 16, thence run West 721 feet, thence South 54 degrees 30 minutes West 2693 feet to the Easterly Right -of -Way of F.E.C.R.R., thence Southeast along said Right -of-Way to the South line of said Section 17, thence East, to the Point of Beginning.

Section 21

The North 1/2 of the Northwest 1/4 of said Section 21; the Northwest 1/4 of the Northeast 1/4 of said Section 21; the South 1/2 of the North 1/2 less the Lake Crescent Subdivision and less the East 200 feet of said Section 21; and the North 1/2 of the Northeast 1/4 of the Southeast 1/4 less the East 200 feet of said Section 21.

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Section 28

The Southwest 1/4 of said Section 28.

Section 29

The Southeast 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 29; the Southwest 1/4 of the Northeast 1/4 of said Section 29; the Southeast 1/4 of said Section 29; and the East 1/2 of the Southwest 1/4 of said Section 29.

FLORIDA WATER SERVICES CORPORATION

CHULUOTA

SEMINOLE COUNTY

COMPOSITE WATER AND WASTEWATER TERRITORY DESCRIPTION

The following territory description is the composite territory description that includes all previously granted territory and the additional water and wastewater.

Township 21 South, Range 32 East, Seminole County, Florida.

Sections 16 and 17

Beginning at the Southeast corner of the of the Southwest 1/4 of said Section 16, run North to the Northeast corner of the South 1/2 of the Northeast 1/4 of the Southwest 1/4 of said Section 16, thence run West 721 feet, thence South 54 degrees 30 minutes West 2693 feet to Easterly Right-of-Way of F.E.C.R.R., thence Southeast along said Right-of-Way to the South line of said Section 17, East, to the Point of Beginning.

Section 20

The East 1/2 of said Section 20.

Section 21

The West 3/4 of said Section 21; the Southeast 1/4 of the Northeast 1/4 less the East 200 feet of said Section 21; and the North 1/2 of the Northeast 1/4 of the Southeast 1/4 less the East 200 feet of said Section 21.

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Section 28

The West 1/2 of said Section 28 and the West 1/2 of the Northeast 1/4 of said Section 28

Section 29

The East 1/2 of the Northeast 1/4 of said Section 29; the Southeast 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 29; the Southwest 1/4 of the Northeast 1/4 of said Section 29; the Southeast 1/4 of said Section 29; and the East 1/2 of the Southwest 1/4 of said Section 29.