

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 18, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Johnson)
Office of the General Counsel (Holley) *OPR SA W*
JMH JSB

RE: Docket No. 100036-WU – Application for transfer of water facilities to Florida Governmental Utility Authority, and cancellation of Certificate No. 168-W, by Pasco Utilities, Inc.
County: Pasco

AGENDA: 03/02/10 -- Regular Agenda -- Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Related Docket Nos. 100033-WU, 100034-WU, 100035-WU, and 100037-WU should be considered sequentially

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100036.RCM.DOC

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Case Background

Pasco Utilities, Inc. (Pasco Utilities or utility) is a Class C water utility providing service to approximately 698 customers in Pasco County. The utility is located in the Northern Tampa Bay Water-Use Caution Area of the Southwest Florida Water Management District (SWFWMD). The utility's 2008 annual report shows gross revenue of \$148,408 and a net operating loss of \$4,641.

DOCUMENT NUMBER DATE

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The utility system was originally issued Certificate No. 168-W in 1974.¹ Since then the utility has been transferred once and its certificate has been amended once to include additional service territory.²

On January 20, 2010, Pasco Utilities filed an application for transfer of the Pasco Utilities water system to the Florida Governmental Utility Authority (FGUA) and cancellation of Certificate No. 168-W. It should be noted that the agreement for purchase and sale of water assets submitted in this docket includes four utilities in addition to Pasco Utilities. The other dockets regarding sale of assets to FGUA that should be considered sequentially with this docket are Docket Nos. 100033-WU, 100034-WU, 100035-WU, and 100037-WU. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

¹ Order No. 6078, issued March 20, 1974, in Docket No. 73625-W, In Re: Application of Pasco Utilities, Inc., for a certificate to operate water system in Pasco County, Florida.

² Order No. PSC-08-0626-FOF-WU, issued September 24, 2008, in Docket No. 080180-WU, In re: Application for transfer of majority organization control of Pasco Utilities, Inc. holder of Certificate No. 168-W in Pasco County to Gary Deremer and Cecil Delcher and Order No. 14518, issued June 27, 1985, in Docket No. 840385-WU, In re: Application of Pasco Utilities, Inc. for amendment of water Certificate No. 168-W to include additional territory in Pasco County, Florida.

Discussion of Issues

Issue 1: Should the transfer of the water facilities of Pasco Utilities, Inc. to the Florida Governmental Utility Authority be acknowledged, as a matter of right, and Certificate No. 168-W be cancelled?

Recommendation: Yes. The transfer of the Pasco Utilities water territory and facilities to FGUA should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 168-W should be cancelled effective December 23, 2009, which was the closing date of the sale. (Johnson, Holley)

Staff Analysis: Pasco Utilities applied for a transfer of the Pasco Utilities water facilities and territory to FGUA on January 20, 2010, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code, (F.A.C.) The FGUA has been determined to be a governmental authority in previous dockets.³ The closing on the sale of the utility facilities took place on December 23, 2009. Therefore, December 23, 2009, is the effective date of the transfer.

Pursuant to Section 367.071(4)(a), F.S., the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contains a statement that FGUA obtained Pasco Utilities' most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction. In addition, a statement was provided that all customer deposits were transferred to FGUA and the accumulated interest on the deposits was distributed to the applicable customers.

The utility has filed all annual reports through 2008 and paid all regulatory assessment fees through December 23, 2009. Because the utility was not jurisdictional as of December 31, 2009, no annual report is required to be filed for 2009.

Staff recommends that the transfer of the Pasco Utilities' water territory and facilities to FGUA should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 168-W should be cancelled effective December 23, 2009, which was the closing date of the sale.

³ See Order No. PSC-00-2351-FOF-WS, issued December 7, 2000, in Docket No. 990489-WS, In re: Application by Florida Cities Water Company, holder of Certificate Nos. 027-W and 024-S in Lee County and 0007-W and 0003-S in Brevard County, and Poinciana Utilities, Inc., holder of Certificate Nos. 146-W and 103-S in Polk and Osceola Counties, for transfer of facilities to Florida Governmental Utility Authority and Cancellation of Certificate Nos. 027-W, 024-S, 007-W, 003-S, 146-W, and 103-S; Order No. PSC-03-1284-FOF-WS, issued November 10, 2003, in Docket No. 030932-WS, In re: Joint application for acknowledgement of sale of land and facilities of Florida Water Services Corporation in Lee County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 306-W and 255-S; and Order No. PSC-09-0334-PAA-WS, issued May 14, 2009, in Docket No. 090120-WS, In re: Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

Docket No. 100036-WU
Date: February 18, 2010

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary. (Holley, Johnson)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary.