

State of Florida



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COMMISSIONER  
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**DATE:** January 27, 2011

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Jones-Alexis, Hillier, Marsh, Slemkewicz) PA  
Office of the General Counsel (Klancke)

**RE:** Docket No. 100456-WS – Application for transfer of water and wastewater facilities to North Sumter County Utility Dependent District, and cancellation of Certificate Nos. 618-W and 532-S, by North Sumter Utility Company, L.L.C.  
County(ies): Sumter

**AGENDA:** 02/08/11 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\100456.RCM.DOC

**Case Background**

North Sumter Utility Company, L.L.C. (NSU or Utility), is a Class A water and wastewater utility established by The Villages of Lake-Sumter, Inc. (Developer), to serve a portion of The Villages, a planned unit development (Development) in Sumter County. NSU provides residential and general service to approximately 18,281 water customers and 18,199 wastewater customers. The Utility is within the Southwest Florida Water Management District (District) and is under the District's Phase I Water Shortage Restrictions and the Development's water restrictions. NSU's 2009 annual report indicates that the Utility had combined gross operating revenues of \$7,386,319 and net operating income of \$1,916,772.

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NSU was issued water Certificate No. 618-W and wastewater Certificate No. 532-S in 2002,<sup>1</sup> and it has since had three amendments to expand its service territory within the Development.<sup>2</sup> On December 10, 2010, the Utility filed an application for transfer of its water and wastewater facilities and territory to North Sumter County Utility Dependent District (NSCUDD) and cancellation of its Certificate Nos. 618-W and 532-S.

The purpose of this recommendation is to acknowledge the transfer of NSU's water and wastewater systems to NSCUDD as a matter of right and to cancel Certificate Nos. 618-W and 532-S. The Commission has jurisdiction, pursuant to Sections 367.071 and 367.022, Florida Statutes (F.S.).

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<sup>1</sup> Order No. PSC-02-0179-FOF-WS, issued February 11, 2002, in Docket No. 010859-WS, In re: Application for original certificate to operate water and wastewater utility in Sumter County by North Sumter Utility Company, L.L.C.

<sup>2</sup> Order No. PSC-03-0768-FOF-WS, issued June 27, 2003, in Docket No. 021036-WS, In re: Application for amendment of Certificates 618-W and 532-S to extend water and wastewater service area in Sumter County by North Sumter Utility Company, L.L.C.; Order No. PSC-04-1123-FOF-WS, issued November 15, 2004, in Docket No. 040704-WS, In re: Application for amendment of Certificates 532-S and 618-W to extend water and wastewater service areas to include certain land in Sumter County by North Sumter Utility Company, L.L.C.; Order No. PSC-05-0794-FOF-WS, issued August 1, 2005, in Docket No. 050211-WS, In re: Application for amendment of Certificates 618-W and 532-S to extend water and wastewater service areas to include certain land in Sumter County by North Sumter Utility Company, L.L.C.

### **Discussion of Issues**

**Issue 1:** Should the transfer of NSU's water and wastewater facilities and territory to NSCUDD be acknowledged as a matter of right and Certificate Nos. 618-W and 532-S be cancelled?

**Recommendation:** Yes. The transfer of NSU's water and wastewater facilities and territory to NSCUDD should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 618-W and 532-S should be cancelled effective December 7, 2010. (Jones-Alexis, Hillier, Marsh, Klancke)

**Staff Analysis:** NSU applied for a transfer of its water and wastewater facilities and territory to NSCUDD on December 10, 2010, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.). The application included a copy of the Offer to Sell and Agreement for Purchase and Sale (Agreement). The closing on the sale of the Utility's facilities took place on December 7, 2010.

NSCUDD is a dependent district of Sumter County authorized by Chapters 125 and 189, F.S., and established pursuant to Ordinance No. 2010-10, which was adopted by Sumter County's Board of County Commissioners on July 13, 2010. It is, therefore, a governmental authority. 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 contained a statement that NSCUDD obtained NSU's most recent available income and expense statements, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction prior to purchase, pursuant to Section 367.071(4)(a), F.S., and Rule 25-30.037(4)(e), F.A.C. At closing, NSU was paid its accounts receivable balance as well as its unbilled revenues for all services provided prior to closing. In accordance with Rule 25-30.037(4)(g), F.A.C., the application specified that there were no customer deposits; therefore, no refunds or transfer of deposits were required at closing.

The application affirmed that there were no fines owed relative to NSU's facilities as of the closing date. Pursuant to Rule 25-30.120, F.A.C., NSU has paid regulatory assessment fees (RAFs) for the period ended June 30, 2010, and all prior periods. The Utility committed in its application to file a final Regulatory Assessment Fee Return and pay RAFs due through the December 7, 2010, transfer date prior to the required deadline of January 30, 2011. Such payment was made by the Utility on January 19, 2011.

NSU has filed its annual reports for all prior years, in accordance with Rule 25-30.110(3), F.A.C. Because NSCUDD is exempt from Commission regulation, pursuant to Section 367.022(7), F.S., the Utility will no longer be jurisdictional and no further annual reports will be due following the Commission's approval of the transfer. Therefore, the Utility is not required to file a 2010 annual report since it was not jurisdictional on December 31, 2010.

The application indicated that after closing, NSU would retain no assets that would constitute a system providing or proposing to provide water or wastewater service to the public

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for compensation, in accordance with Rule 25-30.037(4)(d), F.A.C. Further, the list of purchased assets provided in the Agreement specifically included all of NSU's utility-related assets, business properties, and rights. The application stated that the Utility is currently unable to locate its original Certificate Nos. 618-W and 532-S for cancellation.

Staff recommends that the transfer of NSU's water and wastewater facilities and territory to NSCUDD be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 618-W and 532-S be cancelled effective December 7, 2010, the closing date of the sale.

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**Issue 2:** Should this docket be closed?

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

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