

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for water) DOCKET NO. 910646-WS
and wastewater certificates in) ORDER NO. PSC-92-0330-FOF-WS
Putnam County by BUFFALO BLUFF) ISSUED: 05/11/92
UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING MOTION TO DISMISS,
GRANTING CERTIFICATES, SETTING RATES AND CHARGES,
REQUIRING THE PAYMENT OF REGULATORY ASSESSMENT FEES FOR 1991,
AND REQUIRING THE FILING OF A 1991 ANNUAL REPORT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Buffalo Bluff Utilities, Inc. (Buffalo Bluff or utility) is a Class C water and wastewater utility serving approximately 55 lots in the Bayou Club subdivision in Putnam County. The utility was formed in 1984 and was operating without Commission approval under the assumption that it was exempt from our jurisdiction pursuant to Section 367.022(6), Florida Statutes, the small system exemption.

An application for a certificate was filed on June 3, 1991, in the name of Satsuma Utilities, Inc. (Satsuma), a corporation formed to purchase the utility assets serving the Bayou Club development. Satsuma's initial application for a certificate included a request for a rate increase. Five objections to the request for the rate increase were filed. On September 26, 1991, Satsuma withdrew its request for a rate increase and renoticed in accordance with Section 367.045, Florida Statutes. This renotice included a joint

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application in the name of Satsuma Utilities and Buffalo Bluff Utilities, Inc. Since the sale of the utility from Buffalo Bluff to Satsuma never transpired, on December 17, 1991, Buffalo Bluff amended the application to change the name of the applicant from Satsuma to Buffalo Bluff. On February 20, 1992, the final deficiencies were met, thus establishing the official filing date. Two objections were voluntarily withdrawn. On January 2, 1992, the utility filed a motion to dismiss the three remaining objections.

Although the utility is in violation of Section 367.031, Florida Statutes, we will not penalize it for operating without a certificate. The utility was operating under the false assumption that it was exempt from our jurisdiction pursuant to the small system exemption. It is clear that the utility does not qualify for a small system exemption based on its capacity. However, it does, in fact, serve only 55 customers.

MOTION TO DISMISS

On January 2, 1992, Buffalo Bluff filed a Motion to Dismiss objections filed by three of the utility's customers. In its motion, the utility seeks to dismiss the objections and asserts that the customers' concerns are no longer valid because the request for a rate increase was withdrawn on September 26, 1991. It does appear the objections received from the customers are related to the portion of the application requesting a rate increase. Specifically, the customers state that Satsuma's proposed rates would more than double Buffalo's established rates. Therefore, based on the facts as stated above, we find it appropriate to grant the Motion to Dismiss.

APPLICATION

Except as discussed previously, the application is in compliance Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for an original certificate for an existing utility currently charging for service. The application contains a check in the amount of \$300.00, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility also provided evidence, in the form of a warranty deed, that it owns the land upon which its facilities are located as required by Rule 25-30.034(1)(e), Florida Administrative Code.

Buffalo Bluff provided adequate service territory and system maps and a territory description, pursuant to Rule 25-30.034(1)(h), (i) and (j), Florida Administrative Code. The territory which the utility has requested to serve is described in Attachment A of this Order.

The utility also provided proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed territory.

The utility employs Mr. William McGowan, a Department of Environmental Regulation (DER) certified plant operator with over 18 years of experience in water and wastewater operations. Mr. McGowan has provided operational, supervisory, and consultant services for the applicant since June, 1987. According to DER, a correctable contaminant violation has been identified. DER intends to work with the utility and Mr. McGowan to correct this water problem.

Further, one of the shareholders and officers, Pierre Thompson, has provided us with personal financial statements which indicate that he has the financial ability to provide sufficient funding to the utility. Mr. Thompson has indicated a willingness to provide any necessary financial backing to make the appropriate improvements to the system. Additionally, Mr. Thompson provided us with a signed statement that he has provided, and will continue to provide, financial backing to the utility so that it may continue its operations in accordance with sound engineering practices and the rules and policies of the Commission. Based on the information as represented to us, it appears that the utility has adequate technical and financial ability.

Based on the facts as stated above, we find that it is in the public interest to grant Buffalo Bluff Utilities, Inc., Water Certificate No. 542-W and Wastewater Certificate No. 470-S to serve the territory described in Attachment A of this Order, which by reference is incorporated herein.

RATES AND CHARGES

The rates and charges currently charged by the utility are set forth below. We find these rates to be reasonable and they are hereby approved.

Water Rates
(Monthly)

Residential Service

\$ 6.00 for the first 3,000 gallons
\$ 1.50 per 1,000 gallons over 3,000 gallons

Minimum Charge - \$6.00

Wastewater Rates
(Monthly)

Residential Service

\$10.00 - flat rate

Service Availability

Plant Capacity Charge

Water Service	\$400
Wastewater Service	\$400

The utility currently collects a customer deposit of \$25.00 from each customer for both water and wastewater services. The utility has also requested the approval of miscellaneous service charges, consistent with Staff Advisory Bulletin No. 13, Second Revised. These charges shall be approved administratively upon the approval of the utility's tariff.

The utility has filed tariffs which reflect the above rates and charges. The effective date of the tariff shall be the stamped approval date.

1991 REGULATORY ASSESSMENT FEES AND ANNUAL REPORT

Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, require utilities in counties over which the Commission has jurisdiction, to file annual reports and pay regulatory assessment fees regardless of whether a certificate has been granted. Buffalo Bluff has been subject to this Commission's jurisdiction since at least August, 1990. At such time, the utility was advised of the Commission's jurisdiction and its responsibility to obtain a certificate. Therefore, we find it appropriate to require the

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utility to remit regulatory assessment fees for 1991, and to file an annual report for 1991. The regulatory assessment fees shall be paid and the annual report filed within 45 days of the effective date of this Order.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Buffalo Bluff Utilities, Inc., Star Route 1, Box 450-218, SR 309B, Satsuma, Florida 32189, is hereby granted Water Certificate No. 542-W and Wastewater Certificate No. 470-S to serve the territory described in Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that Buffalo Bluff Utilities, Inc. shall charge the customers in its territory the rates and charges approved in its tariff, as set forth herein. It is further

ORDERED that Buffalo Bluff Utilities, Inc. shall pay 1991 regulatory assessment fees and file a 1991 Annual Report. The regulatory assessment fees shall be paid and the Annual Report filed with the Commission within 45 days of the date of this Order. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further proceedings below. It is further

ORDERED that this docket shall be closed upon expiration of the protest period, if no protest is received.

By ORDER of the Florida Public Service Commission, this 11th day of May, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LAJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 1, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.

ATTACHMENT A

Buffalo Bluff Utilities, Inc.

WASTEWATER UTILITY TERRITORY DESCRIPTION

The following described lands located in a part of Sections 33 and 34, Township 10 South, Range 26 East and a part of Section 39, Township 10 South, Range 26 East and part of Section 39, Township 11 South, Range 26 East, Putnam County, Florida being more particularly described as follows:

For a point of reference commence at the point of intersection of the northerly line of said Section 39, Township 10 South, Range 26 East, said point being 100.00 feet easterly of as measured at right angles to the center line of the CSX Transportation right of way as now established; thence S 28°27'00" E, a distance of 1226.87 feet to the northeasterly right of way of County Road 309-B as now established to the POINT OF BEGINNING; thence northwesterly along said northeasterly right of way line, along the arc of a curve concave northeasterly and having a radius of 1860.08 feet, a chord bearing of N 53°28'26" W and a chord distance of 118.36 feet; thence N 28°27'00" W, a distance of 1281.54 feet; thence N 61°33'00" E, a distance of 50.00 feet; thence N 28°27'00" W, along the easterly right of way line of the CSX Transportation right-of-way, said right of way line being 100.00 feet easterly of as measured at right angles to said center line as now established, a distance of 1404.97 feet; thence N 73°28'46" E, a distance of 478.55 feet; thence N 01°09'00" W, a distance of 210.00 feet; thence N 88°51'00" E, a distance of 210.00 feet; thence N 01°09'00" W, a distance of 600 feet more or less to the waters of Murphy Creek; thence southeasterly along said waters of Murphy Creek a distance of approximately 4700 feet to the easterly line of Section 39, Township 10 South, Range 26 East; thence S 26°14'14" E, along said easterly line of said Section 39, Township 10 South, Range 26 East and the easterly line of said Section 39, Township 11 South, Range 26 East, a distance of 1447 feet more or less; thence S 74°31'16" W, a distance of 1674.27 feet, to the northeasterly right of way line of County Road 309-B as now established; thence N 59°08'00" W along said northeasterly right of way line a distance of 203.67 feet; thence northwesterly along the northeasterly right of way line, along the arc of a curve concave northeasterly and having a radius of 1860.08 feet, a chord bearing of N 57°11'47" W and a chord distance of 125.6 feet to the POINT OF BEGINNING.

ATTACHMENT A

Buffalo Bluff Utilities, Inc.

WATER UTILITY TERRITORY DESCRIPTION

The following described lands located in part of Sections 33 and 34, Township 10 South, Range 26 East and a part of the Joseph M. Hernandez Grant, Section 39, Township 10 South, Range 26 East and part of the Joseph M. Hernandez Grant, Section 39, Township 11 South, Range 26 East, Putnam County, Florida being more particularly described as follows:

For a point of reference commence at the point of intersection of the northerly line of said Section 39, Township 10 South, Range 26 East, said point being 100.00 feet easterly of as measured at right angles to the center line of the CSX Transportation right of way as now established; thence S 28°27'00" E, a distance of 1226.87 feet to the northeasterly right of way of County Road 309-B as now established to the POINT OF BEGINNING; thence northwesterly along said northeasterly right of way, along the arc of a curve concave northeasterly and having a radius of 1860.08 feet, a chord bearing of N 53°28'26" W and a chord distance of 118.36 feet; thence N 28°27'00" W, a distance of 1281.54 feet; thence N 61°33'00" E, a distance of 50.00 feet; thence N 28°27'00" W, along the easterly right of way line of the CSX Transportation right-of-way, said right of way line being 100.00 feet easterly of as measured at right angles to said center line as now established, a distance of 1404.97 feet; thence N 73°28'46" E, a distance of 478.55 feet; thence N 01°09'00" W, a distance of 210.00 feet; thence N 88°51'00" E, a distance of 210.00 feet; thence N 01°09'00" W, a distance of 600 feet more or less to the waters of Murphy Creek; thence southeasterly along said waters of Murphy Creek a distance of approximately 4700 feet to the easterly line of Section 39, Township 10 South, Range 26 East; thence S 26°14'14" E, along said easterly line of said Section 39, Township 10 South, Range 26 East and the easterly line of said Section 39, Township 11 South, Range 26 East, a distance of 1447 feet more or less; thence S 74°31'16" W, a distance of 1674.27 feet, to the northeasterly right of way line of County Road 309-B as now established; thence N 59°08'00" W along said northeasterly right of way line a distance of 203.67 feet; thence northwesterly along the northeasterly right of way line, along the arc of a curve concave northeasterly and having a radius of 1860.08 feet, a chord bearing of N 57°11'47" W and a chord distance of 125.6 feet to the POINT OF BEGINNING.