

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 920273-SU
amendment of Certificate No.)
247-S in Lee County to include)
Forest Park Mobile Home Park)
by NORTH FORT MYERS UTILITY,)
INC. and cancellation of)
Certificate No. 175-S by)
FOREST PARK PROPERTY OWNER'S)
ASSOCIATION, INC.)
_____)

In re: Application for) DOCKET NO. 920379-SU
limited proceeding for) ORDER NO. PSC-92-0588-FOF-SU
approval of current wastewater) ISSUED: 06/30/92
rates, charges,)
classifications, rules and)
regulations, and service)
availability policies to)
Forest Park Mobile Home)
Subdivision in Lee County by)
NORTH FORT MYERS UTILITY, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER GRANTING TEMPORARY RATES AND CHARGES FOR
NORTH FORT MYERS UTILITY, INC.,
SUSPENDING RATES AND CHARGES FOR
FOREST PARK PROPERTY OWNER'S ASSOCIATION, INC. AND
FINAL ORDER GRANTING AMENDMENT OF CERTIFICATE,

BY THE COMMISSION:

BACKGROUND

North Fort Myers Utility, Inc. (NFMU) is a Class B utility which provides wastewater service to approximately 2,000 customers in Lee County. The utility's 1990 annual report shows annual operating revenue of \$550,839, with a net operating loss of \$111,469.

DOCUMENT NUMBER-DATE

06966 JUN 30 1992

FPSC-RECORDS/REPORTING

On March 26, 1992, NFMU filed an application for amendment of its wastewater certificate to provide service to the Forest Park Mobile Home Subdivision (Forest Park), which is presently served by Forest Park Property Owner's Association, Inc. (association). On April 10, 1992, the association joined in the application for amendment in Docket No. 920273-SU. On April 30, 1992, NFMU filed an application for limited proceeding for the application of its current wastewater service rates, charges and service availability charges to residents of Forest Park which was assigned Docket No. 920379-SU.

The association obtained ownership of the utility in 1990 and operates under Certificate No. 175-S transferred to it by Order No. PSC-92-0193-FOF-SU, issued April 13, 1992. The association has entered into a Consent Order with the Department of Environmental Regulation (DER) which requires abandonment of the existing wastewater treatment and disposal system, and interconnection of its wastewater system with NFMU. NFMU and the association entered into an agreement on March 3, 1992, which provides for the interconnection of Forest Park and NFMU, as well as the payment of certain connection charges by the customers and the implementation of NFMU's monthly rates for service within Forest Park. On May 22, 1992, NFMU filed a petition for interim relief requesting that it be authorized to change the rates to the residents of Forest Park and collect service availability charges on an interim basis, subject to refund with interest, upon interconnection with the association's wastewater collection system.

JURISDICTIONAL STATUS OF FOREST PARK PROPERTY OWNER'S ASSOCIATION

As part of this application, Forest Park Property Owner's Association, Inc. requested that its certificate be cancelled since it will no longer operate a wastewater treatment plant. The agreement between NFMU and the association provides that the association retain ownership and responsibility for maintaining the on-site installations within the boundaries of Forest Park, including lines and pump stations. If any charge is collected for this maintenance, the association will remain a utility because not all residents of the subdivision are members of the association. Neither NFMU nor the association have provided sufficient documentation to require a change in the jurisdictional status of the association at this time. Accordingly, Docket No. 920273-SU will remain open to address this jurisdictional question.

APPLICATION FOR AMENDMENT

The application for amendment filed by NFMU is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules. Specifically, the application contains:

- 1) A check in the amount of \$150, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.
- 2) Evidence in the form of a warranty deed that the utility owns the land upon which the treatment facilities that will serve the territory are located, as required by Rule 25-30.036(1)(d), Florida Administrative Code.
- 3) Adequate service territory and system maps and a territory description as required by Rule 25-30.036(1)(e), (f) and (i), Florida Administrative Code; a description of the territory requested by the utility is appended to this Order as Attachment A, which by reference is incorporated herein.
- 4) An affidavit, consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission.
- 5) Proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code; no objections to the notice of application were received, and the time for such has expired.

NFMU has been operating a wastewater utility system in Lee County since 1977 and has extensive experience in the utility business. NFMU is in an area designated by the South Florida Water Management District as a critical use area. The utility currently disposes a portion of its effluent as spray irrigation on a golf course. The capacity of the wastewater treatment system is 2,000,000 gallons per day (gpd) and average flows are currently 296,000 gpd. Therefore, NFMU has more than adequate available capacity to serve the Forest Park subdivision which consists of 437 mobile home sites and a clubhouse. Further, DER has informed us that no outstanding notices of violation have been issued for the NFMU system. In fact, as discussed in an earlier portion of this Order, DER has entered into a consent agreement with the Forest Park association that the existing treatment plant serving the

mobile home subdivision be abandoned and service be provided by NFMU. According to the utility, the provision of service will be consistent with the Lee County comprehensive plan, which has been approved by the Department of Community Affairs.

Based on the foregoing, we find that it is in the public interest to grant the application of NFMU for amendment of Certificate No. 247-S to include the territory described in Attachment A of this Order. The utility has returned the certificate for entry to include the additional territory and has filed revised tariff sheets that reflect the correct territory description.

TEMPORARY RATES AND CHARGES

As discussed in an earlier portion of this Order, NFMU has requested increased rates and charges on a temporary basis through its request for interim relief filed on May 22, 1992, as well as permanent rates and charges through a limited proceeding. The utility requests the temporary rates in order to facilitate the interconnection of the NFMU system with the association's collection system which is projected to be completed by June 15, 1992. Since the association's wastewater system is not in compliance with DER rules and a Consent Agreement to interconnect with NFMU has been entered into, we find that an immediate interconnection is in the public interest and approve the request for temporary rates, subject to refund with interest, as set forth below.

NFMU has requested to charge its currently authorized residential rates to the residents of Forest Park. A comparison of the current rates in Forest Park and the approved residential rate of NFMU follows:

	<u>Forest Park</u>	<u>North Fort Myers</u>
All meter sizes	\$8.94 flat rate	\$9.21 base charge
Gallonage charge per 1,000 gallons* (maximum 10,000 gal.)	n/a	\$3.34

*Each mobile home lot is separately metered for water service, which is provided by Lee County. The county has entered into an agreement with NFMU to provide the water consumption data for billing purposes.

In addition to the rate change, NFMU has also requested authorization to collect a service availability charge from each Forest Park resident, including a plant capacity charge and the pro rata cost of the interconnection. The total proposed service availability charge per mobile home lot is \$1,118.57 (\$741 + \$377.57). This consists of: a plant capacity of \$462 per mobile home lot, which is consistent with NFMU's approved tariff; an addition to the plant capacity charge for CIAC gross-up of \$279, for a total plant capacity charge of \$741 per mobile home lot; plus, a pro rata cost per mobile home lot of \$377.57 for the total cost of the interconnection (\$165,000). According to the agreement between NFMU and the association, the customers have an option to pay the service availability charge on an installment basis over seven years at 10% interest, which results in monthly payments of \$18.57. As stated above, we find it appropriate, because of the circumstances requiring an immediate interconnection to authorize NFMU to collect their service availability charges on a temporary basis subject to refund.

As to the utility's request for application of its current rates and the increased service availability charges on a final basis, we find it appropriate to require further investigation and amplification of the requested rates and charges, including the calculation of the gross-up amount and the actual cost of interconnection. In addition, a customer meeting to discuss the proposed rates and charges will be held in the service territory in July.

NFMU shall notify the residents of Forest Park of the temporary rates and charges prior to their implementation. This notice shall be approved by staff prior to its distribution by the utility. The temporary rates approved herein shall be effective for meter readings taken on or after thirty days from June 16, 1992. In addition, we find it appropriate to require that the temporary rates and service availability charges be held in escrow pending a final decision in Docket No. 920379-SU.

Further, we find it appropriate to suspend the rates authorized for the association, once the interconnection takes place and NFMU implements its rates for service in the mobile home park. The suspension of rates shall remain in effect until a final decision in Docket No. 920273-SU is issued.

Based on the foregoing, it is therefore,

ORDER NO. PSC-92-0588-FOF-SU
DOCKETS NOS. 920273-SU & 920379-SU
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ORDERED by the Florida Public Service Commission that Certificate No. 247-S held by North Fort Myers Utility, Inc., is hereby amended to include the territory described in Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that North Fort Myers Utility, Inc. shall charge the customers of Forest Park Mobile Home Subdivision, on a temporary basis, subject to refund, those rates and charges set forth in the body of this Order. It is further

ORDERED that the rates and charges authorized for the Forest Park Property Owner's Association, Inc., shall be suspended upon the interconnection with North Fort Myers Utility, Inc. and the implementation of the temporary rates and charges approved herein. The suspension of rates shall remain in effect until a final decision in Docket No. 920273-SU is issued. It is further

ORDERED that North Fort Myers Utility, Inc. shall provide notice to the residents of Forest Park Mobile Home Subdivision of the temporary rates and charges prior to their implementation. This notice shall be approved by staff prior to its distribution by the utility. It is further

ORDERED that the temporary rates approved herein shall be effective for meter readings taken on or after thirty days from June 16, 1992. It is further

ORDERED that the temporary rates and service availability charges approved herein shall be held in escrow pending a final decision in Docket No. 920379-SU.

By ORDER of the Florida Public Service Commission, this 30th day of June, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

by: Kay DeLeon
Chief, Bureau of Records

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.

As identified in the body of this order, our action granting temporary rates and charges for North Fort Myers, Inc. and suspending rates and charges for Forest Park Property Owner's Association, Inc. is procedural in nature. Our action granting amendment of Certificate No. 175-S is final. Any party adversely affected by this Commission's actions in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting 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 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 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. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

TERRITORY DESCRIPTION

The following described lands located in Section 36, Township 43 South, Range 24 East, Lee County, Florida:

Beginning at the Northwest corner of said Section 36; run thence South 89 degrees 46 minutes 50 seconds East, along the North line of said Section 36 and the center line of a roadway easement 50 feet wide, 25 feet either side of said centerline as declared by C.C.M. Book 5 at page 661 of the public records of Lee County, Florida, for 1650.00 feet; thence South 0 degrees 19 minutes 40 seconds East, 132.00 feet; thence South 89 degrees 46 minutes 50 seconds East, 330.00 feet; thence North 0 degrees 19 minutes 40 seconds West, 132.00 feet to the Northwest corner of Lot 19, Block A, Sherwood Forest Mobile Home Subdivision; thence South 89 degrees 46 minutes 40 seconds East, 592.67 feet to the Northeast corner of the said Sherwood Forest Mobile Home Subdivision, said point also being on the West boundary of Hart Road; thence South 2 degrees 43 minutes 18 seconds East, 660 feet more or less along said West boundary of Hart Road to the intersection with the centerline of Forest Park Drive; thence North 89 degrees 46 minutes 40 seconds West, 294 feet more or less along the said centerline of Forest Park Drive to the intersection with the Northerly extension of the East boundary of Block B, Sherwood Forest Mobile Home Subdivision; thence South 0 degrees 19 minutes 36 seconds, 660 feet more or less along said East boundary of Block B to the Southeast corner of said Block B; thence North 89 degrees 47 minutes 24 seconds West; 2310 feet to the Southwest corner of Block D, Forest Mobile Home Subdivision, said point also being on the West boundary of said Section 36; thence North 0 degrees 19 minutes 36 seconds, 1319.72 feet along said West boundary to the POINT OF BEGINNING. Project Name: FOREST PARK MOBILE HOME PARK.