

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 921098-WS
certificates to provide) ORDER NO. PSC-93-0229-FOF-WS
water and wastewater service) ISSUED: 02/10/93
in Alachua County under)
grandfather rights by TURKEY)
CREEK, INC. & FAMILY DINER,)
INC. d/b/a TURKEY CREEK)
UTILITIES)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATES NOS. 550-W AND 480-S,
APPROVING RATES AND REQUIRING REFUND

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

On June 30, 1992, the Board of County Commissioners of Alachua County adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring that, as of June 30, 1992, the water and wastewater utilities in that County shall become subject to the provisions of Chapter 367, Florida Statutes. The resolution was acknowledged by this Commission on September 9, 1992, by Order No. PSC-92-0964-FOF-WS. Pursuant to Section 367.031, Florida Statutes, a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization or an order recognizing the exempt status of the system.

Turkey Creek Utilities (Turkey Creek) is a Class C utility in Alachua County that provides water and wastewater services to approximately 300 residential and general service customers within the Turkey Creek development.

DOCUMENT NUMBER-DATE

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1993-RECORDS/REPORTING

Application

On October 26, 1992, Turkey Creek Utilities (Turkey Creek) filed an application for water and wastewater certificates under grandfather rights pursuant to Section 367.171, Florida Statutes, to provide service in Alachua County. Turkey Creek has been providing service since 1977, prior to this Commission receiving jurisdiction of the water and wastewater utilities in Alachua County. The utility has a water treatment system, a water distribution system, a wastewater treatment system, and a wastewater collection system.

The application is complete with the exception of adequate evidence that the utility owns the land upon which the utility's facilities are located, as required by Rule 25-30.035(6), Florida Administrative Code. The applicant filed a copy of a tax bill as evidence of land ownership. We find this to be inadequate.

The rules and statutes do not require noticing for grandfather certificate applications. The applicant paid a filing fee in the amount of \$2,250. In addition, adequate service territory and system maps and a territory description have been provided as prescribed by Rules 25-30.035(9), (10), and (11), Florida Administrative Code. A description of the territory we are authorizing the utility to serve is appended to this Order as Attachment A, which by reference is incorporated herein. The territory includes only the territory actually being served by the utility prior to our receiving jurisdiction.

Turkey Creek requested more territory than is currently being served by the utility. The additional territory being requested is adjacent to the Turkey Creek subdivision; however, according to the utility, there are no immediate plans for development of the area. According to Section 367.171, Florida Statutes, a utility is entitled to a grandfather certificate for "the area served by such utility on the day this chapter becomes applicable to it." Although the additional territory being requested is adjacent to the area the utility is currently serving, because the utility is not currently serving the area, we do not find it appropriate to grant the utility that territory with the grandfather certificate. In the future, the utility may file for an amendment of certificate pursuant to Section 367.045(2), Florida Statutes, when it wants to serve the territory not granted in this case.

We have contacted the Department of Environmental Regulation (DER) and learned that there are no outstanding notices of violation against this utility.

Based on the above information, we find it in the public

interest to grant the utility's application for grandfather certificates. Accordingly, Turkey Creek Utilities is hereby granted Certificates Nos. 550-W and 480-S to serve the territory described in Attachment A. In addition, we hereby find that the utility shall file within 30 days of the effective date of this order a recorded warranty deed as evidence of ownership of the utility land.

Rates And Charges

The utility has increased its rates twice since June 30, 1992, the date on which the Commission received jurisdiction over the privately owned water and wastewater utilities in Alachua County. The utility stated that it increased the rates to implement the rate increase approved by the City of Alachua (the City) on August 27, 1991. Upon investigation, the City confirmed to our Staff that the current rates were never approved by the City. The City has been regulating water and wastewater utilities within its city limits since it passed an ordinance on October 7, 1991. Prior to that time, the City entered into an agreement with Turkey Creek in which Turkey Creek agreed to regulation of its rates and charges by the City. Between the time of the agreement and October 7, 1991, Turkey Creek was to advise the City of any rate increase. However, Turkey Creek did not advise the City of the rate increase on August 27, 1991. In fact, the City was not aware of the August 27, 1991, rates until our Staff brought these rates to the City's attention at a meeting with the City in early December, 1992. Additionally, Turkey Creek did approach the City for another rate increase on August 27, 1992 (after the Commission received jurisdiction), but this increase was never implemented.

Upon our examination of the books and records of Turkey Creek, we have determined that the rates that were being charged on June 30, 1992, were those in effect on December 26, 1990. These are the rates the City of Alachua has indicated were approved for the utility. Therefore, we find that the rates that should be approved are the rates that were in effect on December 26, 1990, and were being charged on June 30, 1992.

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Turkey Creek's approved rates are as follows:

WATER SYSTEM

Residential and General Service

Monthly Rates

Minimum Charge by Meter Size:

Meter Size

5/8 x 3/4" (includes 4,000 gal.)	\$ 10.35
1" (includes 6,000 gal.)	12.05
1 1/2" (includes 20,000 gal.)	23.95
2" (includes 40,000 gal.)	40.95

Gallonage Rates: \$.85
(over 4000 gallons consumption)

General Service

Two unmetered locations: \$ 21.40 per month

WASTEWATER SYSTEM

Residential Service

Monthly Rates

Minimum Monthly Charge: \$ 23.75
(includes 4,000 gallons consumption)

Usage between 4,000
and 7,000 gallons: 3.90
(per 1,000 gallons)

Maximum Monthly Charge: \$ 35.45

There are five general service customers who receive wastewater service from Turkey Creek Utilities. All of these customers pay the above-noted rates for service. However, for two customers, the utility adjusts the amount of water to which the rates apply to reflect that not all water usage is returned to the wastewater system. The utility applies the rates to 75% of the water consumption of the clubhouse of the Turkey Creek Country Club and to 30% of the water consumption of the maintenance house of the Turkey Creek Country Club.

The utility shall file a tariff reflecting the above rates. The effective date of the tariff will be the stamped approval date.

Refund

Turkey Creek increased its rates twice since the Commission received jurisdiction in Alachua County, once in September 1992, and again in November 1992. While the utility maintains that it was authorized by the City of Alachua to charge its current rates, these rates were not in effect on June 30, 1992. Additionally, the City informed our Staff that the current rates were never approved by the City. Therefore, we find that the utility shall cease collecting rates implemented in November 1992 and shall begin charging the rates as approved and set forth in the body of this Order, and shall refund to its customers the monies collected in excess of those rates, including interest.

The utility shall refund the unauthorized rate increases within 90 days of the effective date of this Order. As this refund is a result of specific rate changes, it shall be calculated on a per customer basis. Thus, every customer receiving service during the time the rates were increased shall receive a refund of the amount he or she overpaid. This is consistent with Rule 25-30.360,

Florida Administrative Code, regarding the timing and basis for refunds. In addition, the utility shall refund any interest that has accrued from the collection of the charges to the date of the refund. Pursuant to Rule 25-30.360, Florida Administrative Code, the amount of interest shall be based on the 30-day commercial paper rate. We will provide the utility with the commercial paper rate for the appropriate period of time. The utility shall file refund reports consistent with the rule. If any refunds are unclaimed, we find that these unclaimed amounts should be treated as cash contributions-in-aid-of-construction (CIAC).

Regulatory Assessment Fees and Annual Report

Pursuant to Rule 25-30.120(2), Florida Administrative Code, "any utility which is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year, whether or not the utility has applied for or been issued a certificate" is required to pay regulatory assessment fees. Additionally, Rule 25-30.110(3), Florida Administrative Code, states that "(t)he obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate." We hereby find that Turkey Creek is required to pay Regulatory Assessment Fees and file an Annual Report from the jurisdictional date, which is June 30, 1992. The utility has been sent an annual report form. Regulatory assessment fee forms will be sent by our Staff when they are mailed to all other utilities.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Turkey Creek Utilities for grandfather water and wastewater certificates is hereby granted. It is further

ORDERED that all of 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 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 Certificates Nos. 550-W and 480-S shall be issued to Turkey Creek Utilities. It is further

ORDERED that Turkey Creek Utilities' service territory shall be that described in Attachment A, appended hereto. It is further

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ORDERED that Turkey Creek Utilities' rates and charges shall be those set forth in the body of this Order. It is further

ORDERED that Turkey Creek Utilities shall file within 30 days of the effective date of this Order a recorded warranty deed as evidence of ownership of utility land. It is further

ORDERED that Turkey Creek Utilities shall refund to its customers the amount collected since June 30, 1992, in excess of the rates set forth in the body of this Order, plus interest. The refund shall be made within 90 days of the effective date of this Order and shall be consistent with Rule 25-30.360, Florida Administrative Code. The utility shall file refund reports consistent with this rule. It is further

ORDERED that Turkey Creek Utilities shall pay regulatory assessment fees for the period June 30, 1992, through December 31, 1992, by March 31, 1992. It is further

ORDERED that Turkey Creek Utilities shall file an annual report for the period June 30, 1992, through December 31, 1992, by March 31, 1993. It is further

ORDERED that this docket shall remain open pending our investigation and analysis of other policies, procedures, and charges of Turkey Creek Utilities, and pending a timely protest from a substantially affected person by the expiration of the protest period.

By ORDER of the Florida Public Service Commission this 10th day of February, 1993.



STEVE FRIBBLE, Director
Division of Records and Reporting

(S E A L)
KAC

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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 MARCH 4, 1993.

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

SERVICE TERRITORY DESCRIPTION - TURKEY CREEK, INC.

ALACHUA COUNTY

A part of Sections 27, 28, 32, 33, and 34, Township 8 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the northwest corner of said Section 28 and run South 00° 42' 41" East, along the west line of said Section 28, 1315 +/- feet, to the Point of Beginning; thence South 89° 21' 23" East, 675 +/- feet; thence South 00° 58' 16" East, 275 +/- feet; thence easterly the following courses: North 89° 01' 44" East, 867 +/- feet; North 87° 08' 10" East, 50 +/- feet; South 87° 42' 54" East, 593 +/- feet; thence southerly the following courses: South 04° 23' 10" West, 253 +/- feet; South 04° 32' 21" West, 137 +/- feet; South 29° 43' 19" West, 142 +/- feet; South 11° 49' 06" East, 305 +/- feet; South 11° 49' 06" East, 110 +/- feet; South 08° 32' 03" East, 71 +/- feet; South 17° 14' 50" East, 27 +/- feet; thence easterly the following course: North 88° 38' 16" East, 516 +/- feet; North 88° 29' 14" East, 1387 +/- feet; thence North 01° 55' 03" West, 985 +/- feet; to the southerly right-of-way line of U.S. - 441; thence southeasterly along said right-of-way line 712 +/- feet, thence South 9° 30' West, 550 +/- feet; thence South 12° West, +/- 780 feet; thence North 87° 07' 53" East, 811 +/- feet; South 77° 30' 53" East, 304 +/- feet; South 12° 29' 07" West, 899 +/- feet; South 01° 08' 58" East, 1345 +/- feet; South 15° 11' 38" East, 544 +/- feet; South 19° 38' 13" East, 148 +/- feet; thence South 58° 28' 37" West, 493 +/- feet; thence North 34° West, 117 +/- feet; thence South 57° 44' 07" West, 110 +/- feet; thence South 27° East, 700 +/- feet; thence South 11° East, 280 +/- feet; thence South 9° West, 390 +/- feet; thence North 70° West, 105 +/- feet; thence North 10° East, 52 +/- feet; Thence North 79° West, 585 +/- feet; thence South 19° 48' 00" West, 201 +/- feet to the centerline of a creek; thence westerly along said centerline 2056 +/- feet, (or approximately North 82° West, 2050 +/- feet); thence North 34° West, 150 +/- feet; thence South 75° West, 450 +/- feet; thence South 24° West, 225 +/- feet; thence South 87° 08' 39" West, 319 +/- feet; thence North 02° 51' 21" West, 1515 +/- feet; thence North 73° 34' 38" West, 1284 +/- feet; thence North 29° 14' 16" East, 1719 +/- feet; thence South 89° 12' 04" West, 399 +/- feet; thence North 25° 30' 30" East, 300 +/- feet; thence North 56° West, 290 feet; thence North 42° West, 241 feet; thence South 67° West, 200 feet; thence South 86° West, 210 feet; thence South 00° 42' 41" East, 410 +/- feet; thence South 89° 17' 19" West, 150 +/- feet; thence North 00° 42' 41" West, 18 +/- feet; thence South 89° 17' 19" West, 100 +/- feet; thence North 00° 42' 41" West, 2524 +/- feet to the Point of Beginning. Containing 580 Acres, more or less.

M E M O R A N D U M

February 9, 1993

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (ASHER-COHEN) 

RE: DOCKET NO. 921098-WS - APPLICATION FOR CERTIFICATES TO PROVIDE WATER AND WASTEWATER SERVICE IN ALACHUA COUNTY UNDER GRANDFATHER RIGHTS BY TURKEY CREEK, INC. & FAMILY DINER, INC. d/b/a TURKEY CREEK UTILITIES

PSC-93-0229-FOF-WS

Attached is a Notice of Proposed Agency Action Order Granting Certificates Nos. 550-W and 480-S, Approving Rates and Requiring Refund to be issued in the above-referenced docket. (Consists of -9- pages)

KAC/mcs

Attachment

cc: Division of Water and Wastewater (Holman, Rendell)

I:TURKEY.KAC

*Reverts
due 3/4/93*

DOCUMENT NUMBER-DATE

01637 FEB 10 8

FPCO-RECORDS&REPORTING