

State of Florida



**Public Service Commission**  
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COMMISSION CLERK

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

**DATE:** November 17, 2009

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

**FROM:** Division of Economic Regulation (Clapp, Kaproth)  
Office of the General Counsel (Fleming) *KL or PR JS*

**RE:** Docket No. 090442-WS – Application for transfer of water and wastewater facilities to Martin County, and cancellation of Certificate No(s). 336-W and 291-S, by Utilities, Inc. of Hutchinson Island.  
County: Martin

**AGENDA:** 12/01/09 – 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\090442.RCM.DOC

**Case Background**

Utilities, Inc. of Hutchinson Island (UIHI or utility) is a Class B utility providing water and wastewater service to approximately 127 water and 113 wastewater customers in Martin County. The utility is in the South Florida Water Management District (SFWMD). The utility's 2008 annual report indicates that the utility had gross revenue of \$279,746 and \$247,567 and net operating income of \$82,870 and (\$43,111) for water and wastewater, respectively.

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The utility's water and wastewater systems were originally issued Certificate Nos. 336-W and 291-S in 1981.<sup>1</sup> The utility has been transferred five times since it received its certificates.<sup>2</sup>

On September 9, 2009, UIHI filed an application for transfer of its water and wastewater systems to Martin County (the County) and cancellation of Certificate Nos. 336-W and 291-S. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

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<sup>1</sup> Order No. 9885, issued March 17, 1981, in Docket No. 800754-WS, In re: Application of Indian River Plantation Company, d/b/a Plantation Utilities, for certificates to operate water and sewer utilities in Martin County.

<sup>2</sup> Order No. 14738, issued August 19, 1985, in Docket No. 850054-WS, In re: Application for Transfer of Certificates Nos. 336-W and 291-S from Indian River Plantation Company to Radnor Plantation Corporation d/b/a Plantation Utilities.; Order No. PSC-98-0994-FOF-WS, issued July 20, 1998, in Docket No. 970429-WS, In re: Joint application for authority to transfer Certificates Nos. 336-W and 291-S in Martin County from Radnor/Plantation Corporation d/b/a Plantation Utilities to IHC Realty Partnership, L.P. d/b/a Plantation Utilities.; Order No. PSC-04-0438-PAA-WS, issued April 29, 2004, in Docket No. 030891-WS, In re: Joint application for transfer of Certificates Nos. 336-W and 291-S, in Martin County from IHC Realty Partnership L.P. d/b/a Plantation Utilities to Columbia Properties Stuart, LLC.; Order No. PSC-04-1027-PAA-WS, issued October 22, 2004, in Docket No. 040179-WS, In re: Application for transfer of facilities and Certificate Nos. 336-W and 191-S in Martin County from Columbia Properties Stuart, LLC to Utilities, Inc of Hutchinson Island.; and, Order No. PSC-06-0094-FOF-WS, issued February 9, 2006, in Docket No. 050499-WS, In re: Application for authority to transfer majority organizational control of Utilities, Inc. from Nuon Global Solutions USA, B.V. to Hydro Star, LLC.

### **Discussion of Issues**

**Issue 1:** Should the transfer of the water and wastewater facilities of Utilities, Inc. of Hutchinson Island to Martin County, Florida be acknowledged as a matter of right and should Certificate Nos. 336-W and 291-S be cancelled?

**Recommendation:** Yes. The transfer of the UIHI water and wastewater territory and facilities to Martin County should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 336-W and 291-S should be cancelled effective November 9, 2009, which was the closing date of the sale. UIHI should be required to pay all outstanding regulatory assessment fees (RAFs) for July 1, 2009, through November 9, 2009, by January 30, 2010. (Clapp, Kaproth, Fleming)

**Staff Analysis:** As stated in the case background, UIHI applied for a transfer of its facilities and territory to Martin County on September 9, 2009, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code, (F.A.C.). The closing on the sale of the utility facilities took place on November 9, 2009.

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 had deficiencies which were corrected as of August 26, 2009. 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 the County obtained UIHI's most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction, pursuant to Rule 25-30.037(4)(e), F.A.C. A statement was provided indicating that UIHI will transfer its customer deposits to Martin County.

Additionally, pursuant to the requirements of Rule 25-30.037(4)(h), F.A.C., a statement was included that UIHI has paid all RAFs. The utility has filed all annual reports through 2008 and paid all RAFs through June 30, 2009. Because the utility will not be jurisdictional as of December 31, 2009, no annual report needs to be filed for 2009. However, UIHI should be required to pay all outstanding RAFs for July 1, 2009, through November 9, 2009, by January 30, 2010.

Staff recommends that the transfer of the UIHI water and wastewater territory and facilities to Martin County should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 336-W and 291-S should be cancelled effective November 9, 2009, which was the closing date of the sale. UIHI should be required to pay all outstanding RAFs for July 1, 2009, through November 9, 2009, by January 30, 2010.

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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 because no further action is necessary. (Fleming, Clapp)

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