

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Three S Disposal ) DOCKET NO. 881275-SU  
 Inc. for original sewer certificate in ) ORDER NO. 20780  
 Lee County, Florida. ) ISSUED: 2-20-89

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 JOHN T. HERNDON

ORDER GRANTING SEWER CERTIFICATE,  
 RECOGNIZING EXISTING RATES, AND SUBJECTING  
 MONTHLY RATE TO REFUND

BY THE COMMISSION:

Background

Three S Disposal, Inc. (Three S or Utility) is a sewer utility in Lee County which has been in operation since 1974. The current owners of the Utility have operated the system since 1979. The Commission learned of Three S' existence when a customer advised the Commission of the Utility's intention to increase its rates for sewer service from \$14 to \$27 per month. The Utility was contacted and advised that it is subject to Public Service Commission jurisdiction and, therefore, must obtain prior Commission approval to increase its rates. The Utility was further advised that it must obtain a certificate to operate the sewer system. The Utility did not implement the rate increase and filed an application for a certificate on October 4, 1988.

Three S is a corporation registered in the State of Florida, whose officers are James Shannon, Sr., James Shannon, Jr., James Suffridge, Jerry Shannon and Charles Conn.

Application

The application is in compliance with Section 367.041, Florida Statutes, and Rule 25-30.035, Florida Administrative Code. The applicant has paid the proper filing fee and provided proof of ownership of the land upon which the treatment facilities are located. Adequate territory and system maps have been filed. A territory description is attached as Exhibit No. 1.

Noticing requirements have been met in accordance with Rule 25-30.030, Florida Administrative Code. In addition, the Utility has provided notice to its current customers of its intent to apply for a certificate. No objections to the application have been filed with the Commission.

As mentioned previously, the owners have operated the Utility since 1979 and have demonstrated the financial ability to continue operating the system in a satisfactory manner. The system is currently under no DER citations or violations. A review of the financial statements submitted along with the application indicates sufficient financial backing to continue

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operations of the Utility. We, therefore, find it is in the public interest to grant Three S a sewer certificate.

Rates and Charges

Three S' current rates and charges include a monthly flat rate of \$14.00 per month for sewer service and a plant capacity charge of \$1,500 per equivalent residential connection (ERC). The Utility collects no customer deposits, nor does it charge any miscellaneous service charges for initial connection, reconnections or premises visit.

The current rate of \$14.00 has been in effect since May, 1986. Prior to that time, the Utility charged \$12.00 per month. Since the Utility was subject to Commission jurisdiction at the time the rate was increased, this represents an illegal rate change. We do, however, recognize the rate in effect when the present owners obtained control of the system, which is \$12.00 per month. Since the Utility has a pending docket open for a staff-assisted rate case, Docket No. 881276-SU, we find it appropriate to allow the Utility to continue to collect the \$14.00 rate for service on an interim basis, subject to refund, pending the outcome of the rate case. In this way, the customers are protected on a prospective basis in the event the final rate in the rate case is less than \$14.00. However, if the final rate is greater than \$14.00, the Utility will not have to perform a refund.

Accordingly, the Utility is directed to escrow the difference between the rate in effect when the present owners began operating the system in 1979 (\$12.00) and the current rate (\$14.00) or provide a bond or letter of credit in the amount of \$3,200 as guarantee of any potential refund of sewer revenues. Since the refund will depend on the outcome of the rate case, this issue is hereby made a part of Docket No. 881276-SU for final disposition.

The Utility shall file a sewer tariff reflecting the rates and charges approved by the Commission. The tariff sheets shall reflect the current rate of \$14.00 approved herein, subject to refund. The tariff sheets will be approved upon verification by Commission Staff that the tariff is consistent with the Commission's decision and that the required security has been provided.

It is, therefore,

ORDERED by the Florida Public Service Commission that Three S Disposal, Inc., Post Office Box 365, Bonita Springs, Florida 33923, is granted Certificate No. 444-S to serve the territory described in Exhibit No. 1. It is further

ORDERED that pending a final decision as to permanent rates for Three S in Docket No. 881276-SU, Three S is allowed to charge \$14.00 per month for sewer service, subject to refund, as set forth in the body of this Order. It is further

ORDERED that Three S shall escrow the difference between the rate in existence at the time current owners began operating the system in 1979 (\$12.00) and the current rate (\$14.00) or provide a bond or letter of credit in the amount of \$3,200 as security for any potential refund of the interim increase amount. It is further

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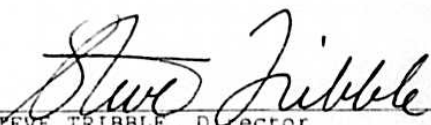
ORDERED that the issue pertaining to the refund of rates shall be addressed in Docket No. 881276-SU. It is further

ORDERED that the plant capacity charge of \$1,500 per equivalent residential connection, currently being charged by Three S, is hereby approved. It is further

ORDERED that the Utility shall file a tariff reflecting the rates and charges approved in the body of this Order. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission,  
this 20th day of FEBRUARY, 1989.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ALC

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.

Any party adversely affected by the Commission's final action 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 sewer 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.

THREE "S" DISPOSAL, INC.

SERVICE TERRITORY DESCRIPTION  
 LEE COUNTY, FLORIDA

Lands located in Lee County, Florida, Township 47 South, Range 25 East, Section 34 more particularly described as follows:

Park Place Units I & II  
 Villa Bonita Units I & II  
 Penn Dell Park Units I, II & III

Point of Beginning (POB) at the Northwest corner of Carolina Street and Michigan Street;  
 Thence, North  $0^{\circ}07'35''$  East along the Westerly right-of-way line of Michigan Street, 1320+ feet, to the Northerly right-of-way line of Pennsylvania Avenue;  
 Thence, North  $35^{\circ}00'00''$  West, 122.08 feet;  
 Thence, North  $34^{\circ}00'00''$  West, 340.30 feet;  
 Thence, North  $19^{\circ}00'00''$  West, 747.00 feet, to the Southerly bank of the Imperial River;  
 Thence Northwesterly along said bank, 420.00 feet, to the Northern extension of the Easterly right-of-way line of Wisconsin Street;  
 Thence, South  $0^{\circ}02'03''$  East along said right-of-way line 1260+ feet to the Southerly right-of-way line of Pennsylvania Avenue;  
 Thence, South  $89^{\circ}53'00''$  West along said right-of-way line 688.77 feet;  
 Thence, South  $0^{\circ}00'40''$  West, 1269.44 feet to the Northerly right-of-way line of Carolina Street;  
 Thence, North  $89^{\circ}54'10''$  East along said right-of-way line 1648.02 feet to the POB.

AND

Spanish Harbor Condominiums

Point of Beginning (POB) at the Northeast corner of Pennsylvania Avenue and Barbarosa Drive;  
 Thence, Northerly along the Easterly right-of-way line of Barbarosa Drive 360.00 feet;  
 Thence, Easterly 330.00 feet to the Westerly right-of-way line of Gallion Drive;  
 Thence, Southerly along said Westerly right-of-way line to the Northerly right-of-way line of Pennsylvania Avenue;  
 Thence, Westerly along said Northerly right-of-way line to the POB.