

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Utilities, Inc.) DOCKET NO. 890335-WU
of Florida for amendment of Certificate) ORDER NO. 21555
No. 383-W in Lake County.) ISSUED:7-17-89
_____)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
JOHN T. HERNDON

ORDER GRANTING AMENDMENT OF CERTIFICATE
AND REQUIRING UNIFORM APPLICATION OF RATES AND
CHARGES AUTHORIZED IN ITS LAKE COUNTY TARIFF

BY THE COMMISSION:

Background

On January 25, 1989, Utilities, Inc. of Florida (Utility) filed an application with this Commission for amendment of Certificate No. 383-W to include 70 acres of territory in the Crescent West Subdivision (CWS), which is a new subdivision in Lake County. Utilities, Inc. of Florida currently provides service in six counties in Florida. Within these counties the Utility has 26 systems. The Utility serves approximately 141 water customers in Lake County and approximately 4,971 water customers and 2,609 sewer customers across the state. The parent company is Utilities, Inc., which is located in Northbrook, Illinois.

Application

Upon review of the application, we determined that it is not a simple amendment. The agreement between Utilities, Inc. and CWS is a purchase agreement instead of a Developers Agreement as contemplated by Rule 25-30.550, Florida Administrative Code.

The water distribution system and plant serving CWS will cost approximately \$110,300. According to the Water Service Agreement, the developer will construct and install all of the facilities necessary to provide service to CWS. The facilities

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will become the property of Utilities, Inc. of Florida as installed. The Utility will pay the developer \$5,000, which means that the Utility will receive \$105,300 in contributions-in-aid-of-construction (CIAC) from the developer, as a result of the cost of the water system. Further, CWS will have approximately 103 dwelling units when completed. Each customer will pay \$200 to connect to the system, resulting in additional CIAC of \$20,600. In accordance with the Water Service Agreement, the Utility will retain \$10,000 of the \$20,600 collected from the customers. The \$10,000 will be used to pay Federal taxes on CIAC; the remaining \$10,600 will be returned to the developer.

We became concerned over the arrangement because of the possibility of Utilities, Inc. of Florida not meeting the service availability requirements of Rule 25-30.580, Florida Administrative Code. That Rule provides that the maximum allowed level of CIAC is 75% of net plant when the facilities are at their designed capacity. The Utility indicated that it considers the tax liability associated with CIAC to be its investment in the acquired system, as demonstrated below:

\$105,300	- CIAC
x	.36 - utility's tax rate
<u>\$ 37,900</u>	
- 10,000	- collected from customers
<u>\$ 27,900</u>	- utility's investment

\$27,900 divided by \$110,300 equals 25%

Although the Utility chose not to collect the gross-up to pay the taxes on CIAC, Utilities, Inc. of Florida was advised that it must collect gross-up from the developer since gross-up is approved in its tariff. The Utility has agreed to collect gross-up from the developer and reimburse the developer for gross-up on CIAC, thereby complying with its tariff and meeting the requirements of Rule 25-30.580, Florida Administrative Code.

The Utility has been providing water service at no charge since July, 1988. Further, in the purchase agreement, Utilities, Inc. of Florida agreed to continue to provide free water service to the developer, which is a violation of the Utility's tariff and Commission Rule 25-30.135(2), Florida Administrative Code. Such a violation could result in

Commission enforcement action. In addition, in a future rate case, we would impute revenue for the water. Therefore, since the Utility's tariff does not allow it to provide free water, we find it appropriate to require Utilities, Inc. of Florida to charge all of its Lake County customers the rates and charges approved in this Order.

The application is in compliance with Section 367.041, Florida Statutes, and administrative rules concerning an application for an amendment of certificate. In particular, the notarized application contains:

- a) One check totaling \$150 which, upon calculation, equates to the correct filing fee as prescribed by Section 367.141, Florida Statutes.
- b) Adequate service territory description pursuant to Rule 25-30.035(i), Florida Administrative Code. Said territory to be served is described as being in Lake County and more particularly as described in Attachment "A" attached.
- c) Proof of notice to all interested governmental and regulatory agencies, and all utilities within a four-mile radius of the territory to be served, and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030 Florida Administrative Code.
- d) Evidence that the utility owns the land on which the utility's facilities will be located as required by Rule 25-30.035(3)(f) Florida Administrative Code.

Also, no objections to the requested territory have been received and the time for filing such has expired.

Utilities, Inc. is in the business of operating, owning, and acquiring systems; therefore, it is beneficial to the utility and the customers for Utilities, Inc. be allowed to acquire this system. Further, Utilities, Inc. owns eight other systems in Lake County. Therefore, we find it appropriate to grant Utilities, Inc. of Florida the amendment of Certificate No. 383-W to include the territory shown on Attachment A. The

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Utility shall return Certificate No. 383-W so that it may be amended to reflect the additional territory.

Rates and Charges

The Water Service Agreement entered into between Utilities, Inc. of Florida and CWS states that the rates, fees and charges applicable to CWS are the same as those applicable to its other water systems located in Lake County. The rates and charges authorized in the Utility's Lake County tariff are as follows:

WATER RATES
Residential and General Service

(Bi-Monthly)

Minimum Charge (Includes first 10,000 Gallons)	\$10.96
Gallonage Charge (Per 1,000 Gallons Over 10,000 Gallons)	.55

Tapping Fee

\$200 per Equivalent Residential Connection (ERC)

Utilities Inc. of Florida is directed to charge CWS the rates and charges authorized in its Lake County tariff. The Utility shall submit revised tariff sheets reflecting the additional territory. The rates approved herein shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets.

It is, therefore,

ORDERED by the Florida Public Service Commission that Certificate No. 383-W, held by Utilities, Inc. of Florida, 2335 Sanders Road, Northbrook, Illinois 60062, is hereby amended to include the territory described in Attachment A of this Order. Utilities, Inc. of Florida shall return Certificate No. 383-W to the Commission for appropriate entry within 20 days of the date of this Order. It is further

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ORDERED that Utilities, Inc. of Florida shall charge all of the customers in the additional territory the rates and charges authorized in its Lake County Tariff. It is further

ORDERED that Utilities, Inc. of Florida shall file revised tariff sheets reflecting the additional territory within 30 days of the date of this Order. It is further

ORDERED that Utilities, Inc. of Florida shall comply with the service availability requirements of Rule 25-30.580, Florida Administrative Code. It is further

ORDERED that the Utility shall collect gross-up on CIAC as authorized by its tariff. It is further

ORDERED that upon approval of the revised tariff sheets, Docket No. 890335-WU may be closed.

By ORDER of the Florida Public Service Commission,
this 17th day of July, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ALC

by: Kay Ryan
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

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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.

ATTACHMENT A

Crescent West Subdivision
In Township 23 South, Range 25 East:
Sections 2 and 11

The NW 1/4 of the NE 1/4 and, that portion of the South 1/2 of the NE 1/4 of the NW 1/4, Section 11, Township 23 South, Range 25 East, Lake County, Florida. Less, a portion of said NW 1/4 of the NE 1/4, and, the South 1/2 of the SW 1/4 of the SE 1/4 of Section 2, Township 23 South, Range 25 East, Lake County, Florida, and, Lots 1 A, 1 B, and a portion of Lot 1. CLERMONT FARMS, as recorded in Plat Book 3, Page 4 (rerecorded in Plat Book 5, Page 59), of the Public Records of Lake County, Florida, said Property being more completely described as follows:

Begin at the South 1/4 Corner of Section 2, Township 23 South, Range 25 East, Lake County, Florida; Run thence N00 degrees 28'58"W along the West line of the South 1/2 of the SW 1/4 of the SE 1/4 of said Section 2, a distance of 678.63 feet to the NW Corner of said South 1/2; Run thence N 89 degrees 46'42"E along the North line of said South 1/2, a distance of 1327.19 feet to the NE Corner thereof; Run thence S00 degrees 17'43"E along the East line of said South 1/2 a distance of 189 feet, more or less, to the Shoreline of Lake Crescent; Run thence Southerly along said shoreline, and the Easterly lines of lots 1 A and 1, of CLERMONT FARMS, as recorded in Plat Book 5, Page 59 of the Public Records of Lake County, Florida, a distance of 1713 feet to a concrete monument, unmarked; Run thence S88 degrees 57'30"W a distance of 872.00 feet, more or less, to a concrete monument marked "PLS #3137"; Run thence S00 degrees 02'10"W a distance of 566.58 feet to the South line of the NW 1/4 of the NE 1/4 of Section 11, Township 23 South, Range 25 East, Lake County, Florida; Run thence S89 degrees 23'10"W along said South line a distance of 654.22 feet to the SW Corner of said NW 1/4 of the NE 1/4; Run thence N89 degrees 47'37"W along the South line of the South 1/2 of the NE 1/4 of the NW 1/4 of

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said Section 11, a distance of 1192.82 feet to the Southeasterly Right-of-Way line of State Road #561 (formerly known as Jacksonville-Tampa Hwy.), said road currently having an half right-of-way of 33 feet, said point being on a curve concave Southeasterly, and having for its principle elements, a radius of 921.93 feet, a central angle of 19 degrees 43'46" and a tangent bearing of N25 degrees 35'19"E; Run thence Northeasterly along said Right-of-Way, and the arc of said curve a distance of 317.46 feet to the Point of Tangency (P.T.) thereof; Run thence N45 degrees 19'05"E a distance of 137.10 feet to the Point of Curvature of a curve concave Northwesterly, and having for its principle elements, a radius of 995.95 feet and a central angle of 21 degrees 44'23"; Run thence Northeasterly along the arc of said curve a distance of 377.89 feet to the North line of the aforesaid South 1/2 of the NE 1/4 of the NW 1/4 leaving said Right-of-Way, Run thence S89 degrees 23'44"E along said North line a distance of 699.36 feet to the NE Corner thereof; Run thence N00 degrees 01'35"W along the West line of the aforesaid NW 1/4 of the NE 1/4 of Section 11, a distance of 660.41 feet to the NW Corner thereof, and the Point of Beginning.

All being and lying in the SE 1/4 of Section 2, Township 23 South, Range 25 East, and the NE 1/4 and the NW 1/4 of Section 11, Township 23 South, Range 25 East, Lake County, Florida.