

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint petition for) DOCKET NO. 960159-WS
approval of agreement for water) ORDER NO. PSC-96-0565-FOF-WS
and wastewater service to the) ISSUED: April 30, 1996
Flagler County Airport by Palm)
Coast Utility Corporation and)
Flagler County Board of County)
Commissioners.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SPECIAL SERVICE AVAILABILITY AGREEMENT

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 substantially affected files a petition for a formal proceeding, within fourteen days of the issuance of this order, pursuant to Rule 25-22.029, Florida Administrative Code.

Palm Coast Utility Corporation (PCUC or Utility) is a Class A utility providing water and wastewater service in Flagler County. According to its December 31, 1994 annual report, the Utility was serving 14,617 water customers (approximately 14,846 equivalent residential connections (ERCs) and 9,868 wastewater customers (approximately 12,435 ERCs). During the twelve months ending December 31, 1994, the Utility recorded operating revenues of \$6,188,768 for water service and \$2,904,576 for wastewater service. The Utility's recorded operating income for the year ending 1994 was \$747,192 and \$303,166, respectively, for water and wastewater service.

On February 9, 1996, PCUC and the Flagler County Board of Commissioners (County) filed a joint request for approval of a developer agreement. The Utility and County entered into an agreement for water and wastewater service to the Flagler County

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Airport. The developer agreement was submitted pursuant to Section 367.101, Florida Statutes, and Rule 25-30.550(2), Florida Administrative Code. The parties believe that the agreement may be deemed a special service availability contract, in that it includes provisions and charges for the extension of service which are not provided in the Utility's established service availability policy.

We have reviewed the agreement and conclude that only one of the provisions, regarding line flushing usage, rises to the level of a special service availability issue. We do not consider the other provisions of the agreement special service availability issues because those provisions are either in the Utility's tariff or not within the jurisdiction of the Commission.

The on-site water system serving the airport has potential for substantial levels of line flushing. The water used for flushing, necessary to maintain water quality, is not processed through the Utility's wastewater system. Therefore, the Utility has proposed to allow the County an offset up to a maximum of 20% for wastewater usage billing. In order to obtain the credit, the County is required to provide a quarterly water usage analysis.

Section 367.101, Florida Statutes, and Rule 25-30.550(2), Florida Administrative Code, states that the commission shall approve each special service availability contract prior to it becoming effective. Upon review of the agreement, we find it appropriate to approve the agreement between PCUC and Flagler County subject to the provision that the Utility keep a detailed account of the credit allowed to the County.

The Utility has also requested that the protest period be shortened pursuant to Rule 25-22.029(2), Florida Administrative Code, which states in pertinent part that for good cause shown, the Commission may provide that the time for requesting a Section 120.57 hearing shall be 14 days from issuance of the notice. Flagler County Airport currently derives its potable water from its own underground well. The Florida Department of Environmental Protection (DEP) is currently sanctioning Flagler County Airport in OGC Case No. 95-2873, for potable water standards violations. According to Flagler County, switching from its current well to PCUC for the source of its potable water supply would resolve these DEP violations. Therefore, we find that the Utility has shown good cause for reducing the protest period to **fourteen days**.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the developer agreement entered into between the Palm Coast Utility

ORDER NO. PSC-96-0565-FOF-WS
DOCKET NO. 960159-WS
PAGE 3

Corporation and the Flagler County Board of Commissioners is approved subject to the provision that Palm Coast Utility Corporation keep a detailed account of the credit allowed to Flagler County. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that any substantially affected person filing a protest to this Order shall do so within fourteen days of the issuance of this Order. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 30th day of April, 1996.



BLANCA S. BAYO, Director
Division of Records and Reporting

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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.

ORDER NO. PSC-96-0565-FOF-WS
DOCKET NO. 960159-WS
PAGE 4

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 14, 1996.

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 substantially 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.