

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Rescission by Nassau
County of Resolution No. 2001-
128, which rescinded Florida
Public Service Commission
jurisdiction over investor-owned
water and wastewater systems in
Nassau County.

DOCKET NO. 020831-WS
ORDER NO. PSC-03-0480-PCO-WS
ISSUED: April 11, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER GRANTING EXTENSION OF TIME FOR FLORIDA PUBLIC UTILITIES
COMPANY TO FILE REVISED TARIFF SHEETS OR TRANSFER APPLICATION

BY THE COMMISSION:

BACKGROUND

On September 17, 2001, the Board of County Commissioners of
Nassau County (County Board) adopted Resolution No. 2001-128,
rescinding this Commission's jurisdiction over investor-owned water
and wastewater utilities in the County effective immediately. We
acknowledged the Resolution by Order No. PSC-02-0555-PAA-WS, issued
April 23, 2002, in Docket No. 011344-WS. That Order was
consummated by Order No. PSC-02-0691-CO-WS, issued May 21, 2002.

On July 15, 2002, the County Board adopted Resolution No.
2002-130, which rescinded Resolution No. 2001-128. By Resolution
No. 2002-130, the County ceded jurisdiction of Florida Public
Utilities Company (FPUC), the sole investor-owned water and
wastewater system regulated by the County, to this Commission. We
acknowledged the Resolution by Order No. PSC-02-1411-FOF-WS, issued

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October 10, 2002, in Docket No. 011344-WS, and in the instant docket. In addition to acknowledging that jurisdiction was returned to this Commission effective July 15, 2002, we granted FPUC's request for reactivation of its Certificate No. 001-W, authorizing FPUC to provide water service in Nassau County in its previously approved service territory at its previously approved rates and charges.

Additionally, by Order No. PSC-02-1411-FOF-WS, we required FPUC to file revised tariff sheets reflecting a corrected territory description which complies with Rule 25-30.035(9), Florida Administrative Code, within 90 days of the issuance date of the Order. On January 2, 2003, prior to the expiration of the 90-day filing deadline, FPUC filed a Motion for Extension of Time to File Revised Tariff Sheets. No response has been filed thereto. This Order addresses the Motion. We have jurisdiction pursuant to Sections 367.045(2)(b) and 367.071(4)(a), Florida Statutes.

MOTION FOR EXTENSION OF TIME

By Order No. PSC-02-1025-AS-WS, issued July 29, 2002, in Docket No. 990817-WS, in which this Commission approved a settlement agreement between Florida Water Services Corporation (FWSC) and FPUC concerning an amendment application filed by FWSC, we found that FPUC had no metes and bounds description of its territory. We further noted that by Order No. 3798, issued April 28, 1965, in Docket No. 7848-W, FPUC was granted a certificated territory which encompassed the corporate limits of the City of Fernandina Beach (City) and any additions legally annexed by the City from time to time. However, because FPUC was non-jurisdictional at the time the settlement agreement was approved, we found that there was no need to correct FPUC's territory description at that time.

By Order No. PSC-02-1411-FOF-WS, we found that because FPUC is again a jurisdictional utility, an appropriate territory description is now necessary. Therefore, we required FPUC to file revised tariff sheets reflecting the territory description of its previously approved service area using township, range, and section references, pursuant to Rule 25-30.035(9), Florida Administrative Code, within 90 days of the issuance date of the Order.

In its Motion for Extension of Time to File Revised Tariff Sheets, FPUC states that on December 3, 2002, it entered into an Agreement for Purchase and Sale of Water Assets (Agreement) with the City, providing for the sale of FPUC's water division in Nassau County to the City. Under the Agreement, the due diligence period is underway, with a closing currently scheduled to occur on or before March 31, 2003. FPUC states that in the event that the sale to the City is in fact consummated, this Commission would no longer exercise jurisdiction over FPUC's water division, as it would be exempt from Commission jurisdiction pursuant to Section 367.022(2), Florida Statutes. According to FPUC, in that event, the preparation and processing of the revised tariff sheets, and the associated costs incurred by FPUC and this Commission, would serve no useful purpose. Moreover, FPUC states that in the event that the sale is not consummated, it will prepare and submit the revised tariff sheets as required by Order No. PSC-02-1411-FOF-WS. FPUC requests a 90-day extension of time within which to either file the revised tariff sheets or to notify this Commission that the sale of its water division to the City has been consummated.

We agree that FPUC's water division will become exempt from regulation by this Commission if it is sold to the City, and that if the sale is consummated, there will be no reason for us to have the corrected tariff sheets on file. Therefore, FPUC's Motion for Extension of Time to File Revised Tariff Sheets is granted. FPUC shall be given a 90-day extension of time from the issuance date of this Order within which to either file the revised tariff sheets required by Order No. PSC-02-1411-FOF-WS, or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code, if the sale of its water division to the City is consummated.

This docket shall remain open to allow FPUC time to either revise its tariff or file a transfer application. If FPUC files the revised tariff sheets, upon verification that the tariff sheets comply with Rule 25-30.035(9), Florida Administrative Code, an administrative order will be issued reflecting the revised territory description and closing the docket. If FPUC instead consummates the sale of its water division to the City, this docket shall be closed administratively once the transfer application is filed, and a new docket will be opened to process the transfer application.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Public Utilities Company's Motion for Extension of Time to File Revised Tariff Sheets is granted. FPUC shall either file the revised tariff sheets required by Order No. PSC-02-1411-FOF-WS or a transfer application within 90 days of the issuance date of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 11th day of April, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.