

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Resolution of Board of County Commissioners of Bay County rescinding resolution of July 10, 1973 which imposed regulatory jurisdiction upon the Florida Public Service Commission for utilities operating within Bay County.

DOCKET NO. 041116-WS  
ORDER NO. PSC-04-1065-FOF-WS  
ISSUED: October 29, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING RESOLUTION ADOPTED BY BAY COUNTY RESCINDING  
COMMISSION JURISDICTION, AND ESTABLISHING PROCEDURE FOR  
CANCELLATION OF CERTIFICATES IN BAY COUNTY

BY THE COMMISSION:

BACKGROUND

On July 10, 1973, the Board of County Commissioners of Bay County (Bay County) adopted a resolution declaring Bay County subject to the provisions of Chapter 367, Florida Statutes. This resolution invoked Commission jurisdiction over investor-owned water and wastewater utilities in Bay County. This Commission acknowledged the resolution by Order No. 5802, issued July 19, 1973, in Docket No. 5818-WS, In re: Jurisdictional Resolutions from Boards of County Commissioners adopting the Water and Sewer System Regulatory Law, Chapter 71-278, Laws of Florida (Chapter 367, Florida Statutes).

On September 7, 2004, Bay County adopted Resolution No. 2570, rescinding our jurisdiction over investor-owned water and wastewater utilities in Bay County effective immediately. An application for acknowledgement of the resolution was filed on September 23, 2004. We have jurisdiction pursuant to Section 367.171, Florida Statutes.

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ACKNOWLEDGMENT OF RESOLUTION

As stated above, by Resolution 2570 effective September 7, 2004, Bay County rescinded our jurisdiction in accordance with Section 367.171(1), Florida Statutes. Section 367.171(1), Florida Statutes, provides that a county, after ten continuous years under Commission jurisdiction, may by resolution or ordinance rescind said jurisdiction and thereby exclude itself from the provisions of Chapter 367, Florida Statutes, except from Section 367.171, Florida Statutes. Bay County has met that requirement. Therefore, we hereby acknowledge Resolution 2570, which rescinds our jurisdiction in Bay County, effective September 7, 2004.

The following three utilities currently hold certificates of authorization from this Commission to provide water and wastewater service in Bay County:

<u>Utility</u>	<u>Certificate Number(s)</u>	
Bayside Utility Services, Inc. (Bayside)	358-S	469-W
Crooked Creek Utility Company (Crooked Creek)	535-S	
Sandy Creek Utility Services, Inc. (Sandy Creek)	446-S	514-W

Pursuant to Section 367.171(5), Florida Statutes, when a utility becomes subject to regulation by a county, all cases in which the utility is a party then pending before the Commission shall remain within the jurisdiction of the Commission until disposed of in accordance with the law in effect on the day such case was filed. At the time of the County Board's resolution, both Bayside and Sandy Creek were parties to Docket No. 040316-WS, In re: Analysis of Utilities, Inc.'s plan to bring all of its Florida subsidiaries into compliance with Rule 25-30.115, Florida Administrative Code. However, since that docket addresses future compliance with Commission rules, both utilities were considered withdrawn from that docket effective September 7, 2004. Bayside is also party to Docket No. 030444-WS, In re: Application for rate increase in Bay County by Bayside Utility Services, Inc. Crooked Creek is party to Docket No. 040358-SU, In re: Application for certificate to provide wastewater service in Bay County by Crooked Creek Utility Company. Since the matters in these dockets remain within our jurisdiction, the certificates shall remain active until the dockets are concluded.

Bayside's and Sandy Creek's Regulatory Assessment Fees (RAFs) were paid for the period of January 1, 2004 through June 30, 2004. Bayside and Sandy Creek are also responsible for an additional RAF payment for the period July 1, 2004 through September 7, 2004. Bay County is not responsible for these additional RAF payments.

Crooked Creek's application to provide wastewater service was approved by us on September 21, 2004, and the order was issued on October 11, 2004. Since construction has not yet begun, the utility has not yet collected any revenues. Therefore, pursuant to Rule 25-

ORDER NO. PSC-04-1065-FOF-WS  
DOCKET NO. 041116-WS  
PAGE 3

30.120(1), Florida Administrative Code, a minimum annual RAF payment of \$25 shall be imposed.

Because there are no pending cases for Sandy Creek, its Certificates Nos. 446-S and 514-W shall be cancelled effective September 7, 2004. Certificates Nos. 358-S and 469-W, held by Bayside, shall be cancelled upon the conclusion of Docket No. 030444-WS, and Certificate No. 535-S, held by Crooked Creek, shall be cancelled upon the conclusion of Docket No. 040358-SU. The cancellation of these certificates does not affect the authority of this Commission to collect, or the obligation of the utilities to pay, regulatory assessment fees accrued prior to the September 7, 2004, transfer of jurisdiction to Bay County. See Section 367.145(1)(a), Florida Statutes, and Rule 25-30.120(2), Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Resolution No. 2570 adopted by the Board of County Commissioners of Bay County rescinding Commission jurisdiction in Bay County effective September 7, 2004, is hereby acknowledged. It is further

ORDERED that Certificates Nos. 446-S and 514-W, held by Sandy Creek Utility Services, Inc. shall be cancelled effective September 7, 2004. It is further

ORDERED that Certificate No. 535-S, held by Crooked Creek Utility Company, shall be cancelled upon the conclusion of Docket No. 040358-SU, and Certificates Nos. 358-S and 469-W, held by Bayside Utility Services, Inc., shall be cancelled upon the conclusion of Docket No. 030444-WS. It is further

ORDERED that the canceling of these certificates does not affect our authority to collect, or the obligation of the utilities to pay, regulatory assessment fees accrued prior to the September 7, 2004, transfer of jurisdiction to Bay County. It is further

ORDERED that pursuant to Rule 25-30.120(1), Florida Administrative Code, a minimum annual regulatory assessment fee payment of \$25 shall be imposed upon Crooked Creek Utility Company. It is further

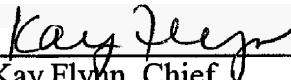
ORDERED that this docket shall remain open until Docket Nos. 040358-SU and 030444-WS have been closed, after which time this docket shall be closed administratively and Crooked Creek's Certificate No. 535-S and Bayside's Certificates Nos. 358-S and 469-W shall be canceled.

ORDER NO. PSC-04-1065-FOF-WS  
DOCKET NO. 041116-WS  
PAGE 4

By ORDER of the Florida Public Service Commission this 29th day of October, 2004.

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

By:

  
\_\_\_\_\_  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

RRJ

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.

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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.