

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of wastewater facilities to Florida Keys Aqueduct Authority in Monroe County, and cancellation of Certificate No. 205-S, by Key Haven Utility Corporation.

DOCKET NO. 090390-SU
ORDER NO. PSC-09-0729-FOF-SU
ISSUED: November 3, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING TRANSFER TO A GOVERNMENTAL AUTHORITY
AND CANCELLING WASTEWATER CERTIFICATE

BY THE COMMISSION:

Key Haven Utility Corporation (Key Haven, seller, or utility) is a Class B utility providing wastewater service to approximately 443 wastewater equivalent residential connections (ERC) in Monroe County. The utility's 2008 annual report indicates that the utility had gross wastewater revenue of \$455,278 and net operating income of \$19,122. The utility's wastewater system was originally issued Certificate No. 205-S in 1976.¹ The utility has had no transfers or amendments since it received its certificate.

Florida Keys Aqueduct Authority (FKAA or buyer) is an independent special district created by the Florida Legislature pursuant to Chapter 76-441 Laws of Florida. This special district is a governmental authority as defined by Section 1.01(8), Florida Statutes (F.S.), and therefore is a non-jurisdictional entity. FKAA provides both water and wastewater service.

On July 28, 2009, Key Haven submitted an application for transfer of utility assets to FKAA and cancellation of Certificate No. 205-S. We have jurisdiction pursuant to Section 367.071, F.S.

On July 28, 2009, Key Haven filed an application to transfer the utility's service territory and facilities to FKAA pursuant to Section 367.071(4)(a), F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.), and to cancel Certificate No. 205-S. The actual closing of the transfer took place on September 17, 2009. Therefore, September 17, 2009, is the effective date of the transfer.

¹ Order No. 7404, issued August 25, 1976, in Docket No. 760052-S, In re: Application of Key Haven Utility Corporation for a certificate to operate an existing sewer system in Monroe County, Florida, pursuant to Section 367.171, Florida Statutes.

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FPSC-COMMISSION CLERK

The seller and buyer agreed to the transfer of the wastewater facilities. Pursuant to Section 367.071(4), F.S., the transfer of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply.

The application contains a statement that the utility holds no customer deposits. Therefore, no deposits or accumulated interest will be transferred to the buyer or applied to the customer accounts. The application also stated that the buyer obtained the utility's most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction.

In accordance with Rule 25-30.110, F.A.C., Key Haven filed its annual reports for 2008 and prior years. Key Haven is not required to file an annual report for 2009 because of its transfer to the FKAA prior to the end of 2009. Pursuant to Rule 25-30.120, F.A.C., the utility's regulatory assessment fees (RAFs) for 2008 and all prior years have been paid. Key Haven has paid its RAFs for January 1, 2009, through June 30, 2009, and its estimated RAFs for July 1, 2009 through August 25, 2009. Key Haven shall file its actual RAF return and pay any additional RAFs owed for July 1, 2009, through September 17, 2009, by January 30, 2010.

Based on the above, the transfer of Key Haven Utility Corporation's wastewater facilities to FKAA shall be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 205-S shall be cancelled effective September 17, 2009. Key Haven shall file its actual RAF return and pay any additional RAFs owed for July 1, 2009, through September 17, 2009, by January 30, 2010.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Key Haven Utility Corporation's wastewater facilities to Florida Keys Aqueduct Authority is hereby acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 205-S shall be cancelled effective September 17, 2009. It is further

ORDERED that Key Haven Utility Corporation shall file its actual regulatory assessment fee return and pay any additional regulatory assessment fees owed for July 1, 2009, through September 17, 2009, by January 30, 2010. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 3rd day of November, 2009.



ANN COLE
Commission Clerk

(S E A L)

JSB

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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.