

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

APRIL 4, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (WALKER, MESSER) *NAW*
DIVISION OF LEGAL SERVICES (O'SULLIVAN) *BSM* *MS* *JS* *AS*

RE: DOCKET NO. 960272-WS - RESOLUTION 96-104 BY COLLIER
COUNTY COMMISSIONERS RESCINDING FLORIDA PUBLIC SERVICE
COMMISSION JURISDICTION OVER PRIVATE WATER AND WASTEWATER
COMPANIES IN COLLIER COUNTY

AGENDA: APRIL 16, 1996 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\WAW\WP\ [REDACTED]

DOCUMENT NUMBER DATE

03899 APR-4 1996

FPSC-RECORDS/REPORTING

03899-96

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CASE BACKGROUND

On April 16, 1985, the Collier County Board of County Commissioners adopted a resolution declaring Collier County subject to the provisions of Chapter 367, Florida Statutes. This resolution invoked Public Service Commission jurisdiction over all investor-owned water and wastewater systems. The Commission has actively regulated the utilities in Collier County since that time. On February 27, 1996, the Collier County Board of County Commissioners met and adopted Resolution No. 96-104 rescinding Florida Public Service Commission jurisdiction in Collier County effective immediately.

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ISSUE 1: Should the Commission acknowledge the resolution adopted by Collier County's Board of County Commissioners to rescind Commission jurisdiction?

RECOMMENDATION: Yes. The Commission should acknowledge the resolution that rescinds the Commission's jurisdiction in Collier County. (WALKER, O'SULLIVAN)

STAFF ANALYSIS: On April 16, 1985, the Board of County Commissioners in Collier County adopted a resolution declaring Collier County subject to the provisions of Chapter 367, Florida Statutes. This resolution invoked Public Service Commission jurisdiction over all investor-owned water and wastewater utilities in Collier County. On February 27, 1996, the Board of County Commissioners of Collier County, in accordance with Section 367.171(1), Florida Statutes, adopted Resolution No. 96-104 thereby rescinding Public Service Commission jurisdiction in Collier County effective immediately.

Section 367.171(1), Florida Statutes, provides that a county, after 10 continuous years under jurisdiction of the Commission, may by resolution or ordinance rescind said jurisdiction and thereby exclude itself from the provisions of Chapter 367, Florida Statutes. Collier County has met that requirement. Staff, therefore, recommends that the Commission acknowledge Collier County's Resolution No. 96-104, which rescinds Commission jurisdiction in Collier County as of April 16, 1996.

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ISSUE 2: Should the Commission cancel the certificates of the regulated utilities in Collier County?

RECOMMENDATION: Certificates previously issued to water and wastewater utilities in Collier County that do not have cases pending before the Commission should be returned to this Commission within 30 days of the Commission's order for cancellation. Certificates held by utilities in Collier County that have pending cases before the Commission should be returned for cancellation at the conclusion of their respective cases. (WALKER, O'SULLIVAN)

STAFF ANALYSIS: Section 367.171(5), Florida Statutes, states that:

When a utility becomes subject to regulation by a county, all cases in which the utility is a party then pending before the Commission, or in any court by appeal from any order of the Commission, shall remain within the jurisdiction of the Commission or court until disposed of in accordance with the law in effect on the day such case was filed by any party with the Commission or initiated by the Commission, whether or not the parties or the subject of any case relates to a utility in a county wherein this chapter no longer applies.

The following utilities had valid Public Service Commission certificates to provide water and wastewater service in Collier County:

| <u>Utility</u> | <u>Certificate Number(s)</u> | |
|--|------------------------------|------|
| Eagle Creek Utility II, Inc. | | 406S |
| Florida Cities Water Company - Golden Gate Division | 456W | 390S |
| Goodland Isles, Inc. | | 418S |
| North Marco Utility Company, Inc. | | 384S |
| Orange Tree Utility Company | 482W | 419S |
| Rookery Bay Utility Company | | 383S |
| Southern States Utilities, Inc. | 452W | 486S |

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The following utility has cases pending before the Commission:

| <u>Utility</u> | <u>Docket Number(s)</u> |
|---------------------------------|-------------------------|
| Southern States Utilities, Inc. | 930880-WS |
| Southern States Utilities, Inc. | 930945-WS |
| Southern States Utilities, Inc. | 950495-WS |

Staff recommends that: (a) Certificate No. 406S, held by Eagle Creek Utility II, Inc.; (b) Certificates Nos. 456W and 390S, held by Florida Cities Water Company; (c) Certificate No. 418S, held by Goodland Isles, Inc.; (d) Certificate No. 384S, held by North Marco Utility Company, Inc.; (e) Certificates Nos. 482W and 419S, held by Orange Tree Utility Company; and Certificate No. 383S, held by Rookery Bay Utility Company, be cancelled and returned to the Commission within 30 days of the Commission's order.

Staff also recommends that Certificates Nos. 452W and 486S, held by Southern States Utilities, Inc., be cancelled and returned to the Commission within 30 days of the conclusion of Docket No. 930945-WS if a decision is rendered that the Commission does not have jurisdiction over all of SSU's facilities. If a decision is rendered that maintains Commission jurisdiction, then the certificates held by SSU will not be cancelled as the Commission will continue to regulate this facility.

The cancellation of the certificates pursuant to the order should not affect the authority of the Commission to collect, or the obligation of the utilities to pay, regulatory assessment fees accrued prior to the February 27, 1996, transfer of jurisdiction to Collier County.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should not be closed. (WALKER, O'SULLIVAN)

STAFF ANALYSIS: Staff recommends that this docket remain open until all dockets currently pending before the Commission have been closed.