

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for . ) DOCKET NO. 961446-WS  
amendment of Certificates Nos. ) ORDER NO. PSC-97-0373-FOF-WS  
223-W and 167-S in Duval County ) ISSUED: April 4, 1997  
by Ortega Utility Company )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
JOE GARCIA  
DIANE K. KIESLING

ORDER ACKNOWLEDGING NOTICE OF VOLUNTARY DISMISSAL OF  
APPLICATION FOR AMENDMENT OF CERTIFICATE

BY THE COMMISSION:

Ortega Utility Company (Ortega or utility) is a Class B utility providing water and wastewater service to approximately 1,499 and 1,338 customers, respectively, in Duval County. The utility reported gross income of \$1,297,000 and net operating income of \$61,871 for 1995. On December 4, 1996, Ortega filed an application to amend its certificates to include additional territory in Duval County. The requested territory would serve a planned 100 room hotel, equating to twenty-nine equivalent residential connections. The utility states that it currently provides water and wastewater service to adjoining properties on both sides of the requested area.

On December 19, 1996 the City of Jacksonville (the City), timely filed an objection to Ortega's application. Accordingly, this Commission, in Order No. PSC-97-0112-PCO-WS, issued an Order Establishing Procedure on January 29, 1997, setting this docket for hearing.

On February 21, 1997, the utility filed a Notice of Voluntary Dismissal without prejudice, formally withdrawing its application from consideration by this Commission. The utility is not currently serving the requested territory. The utility states that the potential customer no longer desires service from Ortega, and we have verified with the City that it will provide service to the requested area; therefore, a withdrawal of Ortega's application will not impair water and wastewater service in the area.

DOCUMENT NUMBER-DATE

03494 APR-45

FPSC-RECORDS/REPORTING

Rule 25-22.035(3), Florida Administrative Code, states that generally, the Florida Rules of Civil Procedure shall govern in proceedings before the Commission. Rule 1.420(a)(1), Florida Rules of Civil Procedure, allows a party to file a notice of voluntary dismissal without order of court any time before the case has been submitted for decision. Further, this Commission has accepted voluntary withdrawals or dismissals from applicants in the past. See, for example, Order No. PSC-97-0095-FOF-WU, issued January 27, 1997 in Docket No. 960866, In Re: Application for Amendment of Certificate No. 427-W to Add Territory in Parcels A, B, C, D, and E in Marion County by Windstream Utilities Company.

Therefore, in accordance with the above, we find it appropriate to acknowledge the utility's Notice of Voluntary Dismissal of its Application for Amendment of Certificates Nos. 223-W and 167-S to add Territory in Duval County and close this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the findings made in the body of this order is hereby approved in every respect. It is further

ORDERED that the Notice of Voluntary Dismissal filed by Ortega Utility Company is hereby acknowledged, and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 4th day of April, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

DCW

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 Records and Reporting, 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 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 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.