

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: JULY 23, 1998

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

FROM: DIVISION OF LEGAL SERVICES (GERVASI) *[Signature]*  
DIVISION OF WATER AND WASTEWATER (CHASE) *[Signature]*

RE: DOCKET NO. 960288-SU - APPLICATION FOR APPROVAL OF REUSE  
PROJECT PLAN IN SEMINOLE COUNTY BY ALAFAYA UTILITIES, INC.  
COUNTY: SEMINOLE

AGENDA: AUGUST 4, 1998 - REGULAR AGENDA - DECISION PRIOR TO  
HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\960288.RCM

### CASE BACKGROUND

Alafaya Utilities, Inc. (Alafaya or utility), a subsidiary of Utilities, Inc., is a Class A wastewater only utility located in Seminole County. Water service is provided in the area by the City of Oveido (City). As of December 31, 1996, Alafaya was serving approximately 4,300 equivalent residential connections (ERCs) in five different developments in the Oveido area: Alafaya Woods, Twin Rivers/Riverside, Big Oaks, Lake Rogers and Little Creek. Additionally, by Order No. PSC-96-1281-FOF-SU, issued October 15, 1996, in Docket No. 951419-SU, Alafaya's service area was amended to include currently undeveloped property which is located adjacent to the existing wastewater service area. The order was appealed by the City, and was affirmed by the First District Court of Appeal. City of Oveido v. Clark, 699 So. 2d 316 (Fla. 1st DCA 1997). At build out of this new territory, it is expected that Alafaya will serve an additional 5,700 customers.

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FPSC-RECORDS/REPORTING

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On March 6, 1996, the utility filed an application for approval of a reuse project plan pursuant to Section 367.0817, Florida Statutes. This docket was opened to address the utility's application.

By PAA Order No. PSC-98-0391-FOF-SU, issued March 16, 1998, the Commission approved a reuse project plan and reuse rates and charges for the utility.<sup>1</sup> On April 6, 1998, Seminole Ranch, Ltd., and Live Oak Reserve, Ltd. (petitioners), the owners and developers of two tracts of land located within Alafaya's wastewater treatment and reuse service area, timely filed a Petition on Proposed Agency Action, protesting the PAA Order, requesting a formal hearing pursuant to Section 120.57, Florida Statutes, and Rule 25-22.029(4), Florida Administrative Code, and declaratory relief as provided by Section 120.565, Florida Statutes, and Rule 25-22.020, Florida Administrative Code. On April 17, 1998, the utility timely filed a Motion to Dismiss the petition.

On May 5, 1998, Alafaya filed a Motion for Implementation of Interim Rates, requesting that the Commission allow it to implement the reuse rates and charges as set forth in the PAA Order on an interim basis, subject to refund, pending the outcome of the protest. On May 7, 1998, the petitioners filed a Response to Motion for Implementation of Interim Rates, stating that they do not object to the motion.

Also on May 7, 1998, the petitioners filed a Motion to Amend Petition on Proposed Agency Action, along with its Amended Petition, by which they withdrew their request for declaratory relief as sought in the original petition. On May 15, 1998, the utility filed a Response to Motion to Amend Petition.

On June 17, 1998, the utility filed a copy of developer agreements which were entered into between the utility and the petitioners on June 11, 1998. Consequently, on July 15, 1998, the petitioners filed a Withdrawal of Petition on Proposed Agency Action.

This recommendation addresses the above-described pleadings and whether Order No. PSC-98-0391-FOF-SU should be made final and effective.

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<sup>1</sup>By final action, the Commission also directed staff to investigate all issues concerning the provision of reuse service, to conduct workshops on the matter, and to report our recommendations to the Commission by January, 1999.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission acknowledge the Withdrawal of Petition on Proposed Agency Action and make Order No. PSC-98-0391-FOF-SU final and effective August 4, 1998.

**RECOMMENDATION:** Yes. The Commission should acknowledge the Withdrawal of Petition on Proposed Agency Action and make Order No. PSC-98-0391-FOF-SU final and effective August 4, 1998. The utility's Motion to Dismiss and Motion for Implementation of Interim Rates, and the petitioners' Motion to Amend Petition on Proposed Agency Action are moot and therefore need not be ruled upon. (GERVASI, LINGO)

**STAFF ANALYSIS:** As noted in the case background, by PAA Order No. PSC-98-0391-FOF-SU, issued March 16, 1998, the Commission approved a reuse project plan and reuse rates and charges for Alafaya. On April 6, 1998, Seminole Ranch, Ltd., and Live Oak Reserve, Ltd. (petitioners), the owners and developers of two tracts of land located within Alafaya's wastewater treatment and reuse service area, timely filed a protest to the PAA Order. Various motions were subsequently filed by the parties, including the utility's Motion to Dismiss and Motion for Implementation of Interim Rates, and the petitioners' Motion to Amend Petition on Proposed Agency Action.

On July 15, 1998, the petitioners filed a Withdrawal of Petition on Proposed Agency Action, stating that they have entered into developer agreements with the utility, which has agreed to construct all off-site facilities relating to the reuse system, including storage and transmission. The petitioners attached copies of the developer agreements, executed June 11, 1998, to the Withdrawal of Petition on Proposed Agency Action.

Because the parties have settled their differences, staff recommends that the Commission acknowledge the petitioners' Withdrawal of Petition on Proposed Agency Action and make Order No. PSC-98-0391-FOF-SU final and effective August 4, 1998. The utility's Motion to Dismiss and Motion for Implementation of Interim Rates, and the petitioners' Motion to Amend Petition on Proposed Agency Action are rendered moot by the protest withdrawal and therefore need not be ruled upon.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, because no further action is necessary, this docket should be closed. (GERVASI)

**STAFF ANALYSIS:** No further action is necessary and this docket should be closed.