



Public Service Commission

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RECORDS AND REPORTING

**DATE:** JUNE 17, 1999

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

**FROM:** DIVISION OF WATER AND WASTEWATER (MESSER, REDEMANN) *BSM*  
DIVISION OF LEGAL SERVICES (CROSSMAN) *gl* *RS* *Ren* *bl*

**RE:** DOCKET NO. 990323-SU - ACKNOWLEDGMENT OF TRANSFER OF WASTEWATER SERVICE IN LEE COUNTY FROM HACIENDA TREATMENT PLANT, INC. TO BONITA SPRINGS UTILITIES, INC., AN EXEMPT UTILITY, AND CANCELLATION OF CERTIFICATE NO. 370-S. COUNTY: LEE

**AGENDA:** 06/29/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\WAW\WP\990323SU.RCM

CASE BACKGROUND

Hacienda Treatment Plant, Inc. (Hacienda or utility) is a Class C utility providing service to approximately 351 wastewater customers in Lee County. The utility's last annual report on file with the Commission in 1997 lists annual revenues of \$42,998 and a net operating loss of \$2,877.

The utility was issued Certificate No. 370-S pursuant to Order No. 15844 issued on March 14, 1986 in Docket No. 840451-SU. As a result of a series of violations, Hacienda entered into a consent order with the Florida Department of Environmental Protection (DEP) on May 12, 1995, in which it chose to abandon its 85,000 gallons per day treatment plant and drainfield and to connect with Bonita Springs Utilities, Inc.'s (BSU) regional treatment plant. After the connection occurred in May and June, 1995, the remaining system consisted of Hacienda's collection and transmission lines and a

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pump station. The Commission recognized BSU as receiver for the system based on the October 5, 1995 order from Circuit Judge R. Wallace Pack, Twentieth Judicial Circuit, Lee County, by Order No. PSC-96-0167-FOF-SU, issued February 6, 1996, in Docket No. 951038-SU.

On November 4, 1998, the Circuit Court of Lee County, Florida entered its Order Approving Recommendation for Disposition of Assets of Hacienda Treatment Plant, Inc., Case No. 95-6433, CA-RWP. On March 12, 1999, BSU filed its Application for Transfer of Facilities Due to Abandonment and Cancellation of Certificates. This recommendation is to address the transfer and cancellation of Certificate No. 370-S of Hacienda.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission approve the transfer of Hacienda Treatment Plant, Inc. to Bonita Springs Utilities, Inc., an exempt entity, as of the date of the Commission vote, and cancel Wastewater Certificate No. 370-S?

**RECOMMENDATION:** Yes, the Commission should approve the transfer of Hacienda Treatment Plant, Inc. to Bonita Springs Utilities, Inc., an exempt entity, as of the date of the Commission vote, and cancel Wastewater Certificate No. 370-S. Bonita Springs Utilities, Inc., as receiver, shall file an affidavit certifying revenues for the portion of 1999 prior to the Commission vote and pay the associated regulatory assessment fees. (MESSER, REDEMANN, CROSSMAN)

**STAFF ANALYSIS:** Hacienda has provided wastewater service to residential customers since 1986. At the time of the abandonment, Hacienda served 351 customers (see Order No. PSC-96-0167-FOF-SU). Water service was provided by Bonita Springs Utilities, Inc. (BSU). In response to a consent order with the DEP in May 1995, Hacienda interconnected to BSU in the latter part of June 1995. BSU was officially appointed receiver for Hacienda by the Circuit Court in Lee County on October 5, 1995, and was acknowledged as receiver by this Commission by Order No. PSC-96-0167-FOF-SU, issued February 6, 1996 in Docket No. 951038-SU.

On November 4, 1998, the Circuit Court of Lee County, Florida entered its Order Approving Recommendation for Disposition of Assets of Hacienda Treatment Plant, Inc., Case No. 95-6433, CA-RWP. This order requires the transfer of all of Hacienda's assets to BSU, conditioned upon the Commission's unconditional acknowledgement of the transfer of Hacienda's assets to BSU, relinquishing jurisdiction over Hacienda, assertion of no claim of jurisdiction over BSU, and acknowledging that BSU has no further obligation to the Commission. The order is further conditioned on the Lee County Board of Commissioners approving such rates and charges as are required by BSU to own and operate Hacienda's water and wastewater system.

On March 12, 1999, pursuant to Section 367.071, Florida Statutes, BSU filed its Application for Transfer of Facilities Due to Abandonment and Cancellation of Certificates. The application was properly noticed and no objections to the application were received. In order to satisfy the various requirements of Rule 25-30.037, Florida Administrative Code, and the Order Disposing of Assets, BSU stated that Hacienda has no customer deposits nor

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interest thereon; guaranteed revenue contracts; developer agreements; or customer advances. BSU also states that the transfer of assets out of receivership does not include any leases, debt or other obligations of Hacienda. Further, there is no financing associated with the conveyance of Hacienda's assets to BSU, nor is BSU otherwise paying any monies to acquire Hacienda's assets. BSU is not requesting any acquisition adjustment. Service will be provided from the treatment facilities owned by BSU. BSU was granted an extension to file the 1998 Annual Report, but regulatory assessment fees have been paid for 1998.

The Circuit Court Order approving the transfer of assets to BSU was conditioned upon the approval of the transfer by the PSC. Hacienda is jurisdictional until the Commission has approved the transfer. Therefore, regulatory assessment fees will be due to the Commission for a portion of 1999. Since Hacienda is being transferred to an exempt entity, the staff believes the requirement of filing a full Annual Report is unnecessary, and that a reasonable option is the requirement of filing information that allows the verification of revenues for the period, which is the foundation for the calculation of regulatory assessment fees. The Commission has found this to be a reasonable option in a recent grandfather certificate case involving CHC, VII, LTD. in Polk County, by Order No. PSC-99-0639-FOF-WS, issued April 5, 1999, in Docket No. 981913-WS. Specifically, this order required the filing of an affidavit certifying revenues for the time period at issue, rather than a full annual report.

For informational purposes, staff notes that current customers of Hacienda have been paying the monthly service rates of BSU since the interconnection in 1995. These rates will continue to be charged to those customers. However, BSU is seeking a special service charge from the Lee County Commission to recover the expense incurred to connect the customers to BSU. The old system has required various repairs to upgrade the system to a service level consistent with BSU's standards and County and State requirements. These include: extensive repair and rehabilitation of the collection system; construction of additional gravity lines; rebuilding three existing lift stations; abandoning a fourth lift station; repairing manholes; and miscellaneous other work. The estimated total of these repairs is \$317,000, based on work already performed and bids for the balance of the improvements. The charge for connecting these customers will be \$795, which can be amortized over 20 years at a monthly cost per customer of \$5.68. The standard connection fee for a new 5/8" x 3/4" BSU residential customer is \$2,183.

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BSU also supplied copies of documents which provide the consent of several homeowners groups to the distribution of the assets of Hacienda in accordance with the Circuit Court's Order for Disposition of Assets. These homeowners groups include: the Villanova Colonnade Condominium Association, Inc., Section I- IV; the Citadel Condominium Association, Inc.; Alcris Holdings, Inc.; and the Hacienda Village Homeowners Association, Inc. BSU represented that these groups encompassed the majority of Hacienda's customers.

BSU states that it is in the public interest to approve the transfer for a number of reasons. It has been operating the system as receiver for a number of years. BSU has almost 30 years experience in providing utility service to its members and possesses the financial ability to operate the system. The Commission acknowledged BSU's exempt status as a non-profit corporation pursuant to Section 367.022(7), Florida Statutes, by Order No. PSC-98-0153-FOF-WS, issued January 27, 1998, in Docket No. 961343-WS.

Based on the above, the staff recommends that the transfer of Hacienda to BSU, an exempt entity, be approved, and that Certificate No. 370-S be cancelled. The November 4, 1998 Order by the Circuit Court concerning the Disposition of Assets found that the transfer of all of Hacienda's assets to BSU were "conditioned upon the Public Service Commission's (PSC) unconditional acknowledgement of the transfer of Hacienda's assets to BSU..." pursuant to Section 367.071, Florida Statutes. Therefore, staff believes that the date of cancellation should be the date of the Commission vote on whether to approve the transfer in this docket. BSU, as receiver for Hacienda, should be required to submit an affidavit certifying revenues for a portion of 1999 and payment of the associated regulatory assessment fees.

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

**RECOMMENDATION:** Yes. If the Commission approves Staff's recommendation, no further action will be required, and this docket should be closed. (CROSSMAN)

**STAFF ANALYSIS:** If the Commission approves Staff's recommendation, no further action will be required, and this docket should be closed.