



Public Service Commission

State of Florida

-M-E-M-O-R-A-N-D-U-M-

DATE: July 16, 2002

TO: Jason Fudge, Office of the General Counsel
Blanca Bayó, Division of the Commission Clerk & Administrative Services

FROM: Stanley D. Rieger, Division of Economic Regulation *SR PDC 199*

RE: Docket No. 991104-WU - Application for amendment of certificate No. 347-W to add territory in Marion County by Marion Utilities Inc.

Marion Utilities, Inc. (Marion or utility) is a Class A utility which provides service in Marion County to approximately 4,724 water and 118 wastewater customers. The utility is primarily in the St. Johns River Water Management District all of which is considered a water use caution area. The utility's 2001 annual report shows a combined water and wastewater annual operating revenue of \$1,119,363 and a net operating income of \$115,889.

The Commission assumed jurisdiction over the privately-owned utilities in Marion County on May 5, 1981. In Order No. 10566, issued February 3, 1982, in Docket No. 820018-W, the utility was granted an original certificate for a system it obtained after the Commission assumed jurisdiction in Marion County. During this same time, the Commission was processing the utility's application for a grandfather certificate for its systems that were in operation on the date the Commission gained jurisdiction in Marion County. In Order No. 11568, issued on January 31, 1983, in Docket No. 810259-W, the Commission amended the utility's existing certificate to reflect the territory for its twelve systems that were in operation on the date the Commission assumed jurisdiction of Marion County. Over the years, there have been twenty-seven additional territory amendments to the utility's certificate.

Pursuant to Section 367.045, Florida Statutes, on August 13, 1999, the utility voluntarily applied for an amendment to Water Certificate No. 347-W to correct a legal description for one of its existing systems. The utility currently provides water service to approximately 22 customers in an area known as the Ponderosa. The legal description in Order No. 11568 which granted the utility the Ponderosa territory contained the wrong township, section, and range references. This problem appears to have been created at the time of certification for this territory. As a result of this discovery, staff suspected that other areas served by Marion may be incorrectly described in the Commission orders. An expanded review of the territory descriptions for all of the utility's service areas was performed. The territory descriptions for several additional systems were found to be in question.

The following is a description of the areas currently being served by the utility which are incorrectly described in or omitted from Commission orders and staff's recommendations to correct the errors. In addition, revisions to existing territory descriptions using the section, township, and range format are being recommended. Staff has authority to administratively

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approve applications for amendment pursuant to APM 2.07(C)(11), when they are filed and processed in accordance with Chapter 367, Florida Statutes, and no protests have been filed.

Ponderosa. Order No. 11568, issued on January 31, 1983, in Docket No. 810259-W, incorrectly describes a residential area known as Ponderosa "Tall Pines" which is located approximately twenty-five miles from the actual Ponderosa area served by the utility. The utility provided the correct legal description in its application in Docket No. 810259-W, although it contained references to government lots. In staff's effort to correct the legal description using section, township, and range references, staff inadvertently described the Ponderosa "Tall Pines" area instead of the Ponderosa area served by the utility. Order No. 11568 describes the territory as Township 14 South, Range 26 East, Section 12. The correct legal description is Township 17 South, Range 24 East, Section 6. In addition, the utility has provided a metes and bounds description of the service area. Further, the utility has noticed the existing Ponderosa customers of its intent to correct the legal description.

Staff recommends that the utility's approved service territory be corrected to reflect the Ponderosa territory currently being served by the utility in Township 17 South, Range 24 East, Section 6, including the metes and bounds description as shown in Attachment A, and to remove the reference to Township 14 South, Range 26 East, Section 12.

Tall Pines and Pine Manor. Order No. 11568 incorrectly describes the Tall Pines and Pine Manor parcels of the Fore Acres service area as being the **East 1/2** of the Southeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28 as a result of a typographical error. The utility provided the correct legal description and notice in its application in Docket No. 810259-W. The correct area is the **West 1/2** of the Southeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28. More specifically, Tall Pines is located in the **West 1/2 of the West 1/2** of the Southeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28, except commencing at the Southwest corner of the Southeast 1/4 of the Southeast 1/4, East 100 feet, North 218 feet, West 100 feet, and South 218 feet to the Point-of-Beginning, and except the South 25 feet thereof. Pine Manor is located in the **East 1/2 of the West 1/2** of the Southeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28, except the South 25 feet of the Northeast 49th Street right-of-way.

Staff recommends that the utility's approved service territory be corrected to reflect the Tall Pines and Pine Manor territory currently being served by the utility in the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28 as shown in Attachment A, and to remove the incorrect reference to the East 1/2 of the Southeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28.

Cedar Hills. Order No. 11568 incorrectly describes the Cedar Hills service area as being the Southeast 1/4 of Township 15 South, Range 22 East, Section 27, **except** the Northeast 1/4 of the Southeast 1/4 of Section 27. The utility provided the correct legal description and notice in its application in Docket No. 810259-W which clearly **included** the Northeast 1/4 of the Southeast 1/4 of Section 27.

Staff recommends that the utility's approved service territory be corrected to include the Northeast 1/4 of the Southeast 1/4 of Section 27 as shown in Attachment A.

Hillside Acres. Order No. 11568, issued on January 31, 1983, in Docket No. 810259-W, omitted the Hillside Acres parcel of the Fore Acres service area even though the utility clearly provided the correct legal description and notice for Hillside Acres in its application. Staff recommends that the utility's approved service territory be corrected to include the Hillside Acres parcel described as the West 1/2 of the South 1/2 of the Northeast 1/4 of the Southeast 1/4 of Township 14 South, Range 22 East, Section 28 as shown in Attachment A.

Georgetowne. Order No. 11568, issued on January 31, 1983, in Docket No. 810259-W, incorrectly omitted the territory description for the Georgetowne parcel of the Fore Acres service area even though the utility clearly requested and noticed the Georgetowne area in its application. Staff recommends that the utility's approved service territory be corrected to include the Georgetowne parcel described as the East 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Township 14 South, Range 22 East, Section 33 as shown in Attachment A.

Rainbow Lake Estates. A small area located in the Rainbow Lake Estates parcel was omitted from Order No. 11568. The order included portions of Sections 27, 34, 35, and 36 in Township 15 South, Range 18 East; however, it failed to include the South 200 feet of the Southwest 1/4 of Township 15 South, Range 18 East, Section 26 which was requested and noticed by the utility in its application. Staff recommends that the utility's approved service territory be corrected to include the portion of Rainbow Lake Estates that was omitted from Order No. 11568, which is described as the South 200 feet of the Southwest 1/4 of Township 15 South, Range 18 East, Section 26 as shown in Attachment A.

Kings Court, Hidden Oaks, and Glen Manor. The utility was authorized to serve Kings Court, Hidden Oaks, and Glen Manor in Order No. 19578, issued on June 28, 1988, in Docket No. 880547-WU. The territory was described in the order using references to Marion County Property Appraiser parcel numbers located in Township 16 South, Range 21 East, Section 30. Although the Commission accepted this description at the time of the amendment, staff recommends that the legal descriptions for these areas be revised using a metes and bounds format as shown in Attachment A.

The utility's application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning applications for amendment of certificate. The application contained a check in the amount of \$100 which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Adequate service territory and system maps and territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (I), Florida Administrative Code. A description of the affected territories is appended to this recommendation as Attachment A. The utility has filed an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual

reports on file with the Commission.

Due to the nature of this case, no new utility plant additions will occur since all of the territories affected in this application have been served by the utility for an extended period of time. Therefore, no impact on the monthly rates and charges is expected.

The utility has demonstrated the financial and technical expertise to provide quality service to these customers. The Department of Environmental Protection has no outstanding violations, citations, or notices of violation issued to the utility and it has served the affected areas without difficulty for many years.

Based on the above information, staff recommends that Marion Utilities, Inc.'s application to amend its territory, as described in Attachment A, should be granted. An order should be issued within thirty days acknowledging the amendments and corrections to Certificate No. 347-W. Staff recommends the rates and charges approved by the Commission continue to be applied to customers of the affected areas as detailed in this recommendation. The utility has filed revised tariff sheets correcting the areas of concern and returned its certificate for entry reflecting the corrected territory. Furthermore, the docket should be closed upon the issuance of the order.

cc: Division of Economic Regulation (Daniel)

Marion Utilities Inc.
Corrected Water Territory Descriptions
Marion County

Ponderosa:

Township 17 South, Range 24 East
Section 6

Thence South 87°55'37" West along the North boundary of said tract 444.36 feet to the Northwest corner of said tract, said point also being the Northeast corner of a tract of land as described in deed book 251, page 415, public records of said Marion County; thence continue South 87°55'07" West along the North boundary of said tract 369.77 feet to the Northwest corner of said tract, said point also being on the West boundary of a tract of land as described in deed book 305, page 5, public records of said Marion County; thence North 1°25'45" West along said West boundary and continuing along a Northerly projection of said West boundary 802.14 feet to a point West from the Point of Beginning; thence East 1,379.03 feet to the Point of Beginning.

Fore Acres:

Township 14 South, Range 22 East
Sections 28 and 33

Fore Acres:

The East 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 28, and the West 1/2 of the Southeast 1/4 of said Section 28, and the South 998.0 feet of the Southwest 1/4 of Northeast 1/4, except the North 255.0 feet of the East 175.0 feet of the South 720.0 feet of said Southwest 1/4 of Northeast 1/4 of Section 28, and the Northwest 1/4 of the Northeast 1/4 of said Section 33.

Hillside Acres:

The West 1/2 of the South 1/2 of the Northeast 1/4 of the Southeast 1/4 of said Section 28.

Pine Manor:

The East 1/2 of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of Section 28, except the South 25 feet of the Northeast 49th Street Right-of-Way.

Tall Pines:

The West 1/2 of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 28, except commencing at the Southwest corner of the Southeast 1/4 of the Southeast 1/4, East 100 feet, North 218 feet, West 100 feet, and South 218 feet to the Point-of-Beginning, and except the South 25 feet thereof.

Georgetowne:

The East 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4, except the North 25.0 feet of Road Right-of-Way, and except the East 132.0 feet of the North 190.0 feet of the East 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4, in said Section 33.

Cedar Hills:

Township 15 South, Range 22 East
Section 27

The Southeast 1/4 of Section 27 of Township 15 South, Range 22 East, lying South of the CSX Transportation - Florida Northern Railroad tracks

Rainbow Lake Estates:

Township 15 South, Range 18 East.
Sections 26, 27, 34, 35, and 36

The South 1/4 of the East 3/4 of said Section 27,

AND

The North 1/6 of said Section 35

AND

The North 1/4 of said Section 36 West of U.S. Highway 41,

AND

The East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 34

AND

The South 200 feet of the Southwest 1/4 of said Section 26

Section 36

Rainbow Acres Unit One, and Rainbow Acres Second Addition Replat.

Kings Court, Glen Manor, Hidden Oaks:

Township 16 South, Range 21 East
Section 30

Commence at the Southeast corner of Section 30, Township 16 South, Range 21 East; thence West along the South boundary of said Section 1351.39 feet; thence North 00°42'05" East 2302.81 feet to the Southerly Right-of-Way Line of Southwest 103rd Street Road (Hialeah Boulevard, 100 feet wide) said point being on a curve concave to the Northeast, having a radius of 868.45 feet and a central angle of 4°16'53"; thence Northwesterly along said Right-of-Way curve an Arc distance of 64.89 feet, with a chord bearing and distance of North 78°44'55" West, 64.88 feet, to the Point of Beginning which is the Northeast corner of Kings

Court; thence South $00^{\circ}21'52''$ West along the East boundary of said "Kings Court" 822.22 feet to the Southeast corner of said "Kings Court"; thence West $89^{\circ}55'51''$ South; 3826.16 feet; thence North $00^{\circ}35'24''$ East 1234.03 feet to the Southerly Right-of-Way line of aforementioned Southwest 103rd Street Road; thence East along said Southerly Right-of-Way line 3833.32 feet; to the Point of Beginning.