



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: MAY 08, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAY)

FROM: DIVISION OF ECONOMIC REGULATION (RIEGER, E. BASS)
OFFICE OF THE GENERAL COUNSEL (GERVASI)

RE: DOCKET NO. 030305-WU - JOINT APPLICATION FOR TRANSFER OF
FACILITIES OF FLORIDA PUBLIC UTILITIES COMPANY (FERNANDINA
BEACH DIVISION) IN NASSAU COUNTY TO CITY OF FERNANDINA
BEACH, AND CANCELLATION OF CERTIFICATE NO. 001-W.
COUNTY: NASSAU

AGENDA: 05/20/03 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\030305.RCM

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CASE BACKGROUND

Florida Public Utilities Company, (FPUC or utility) is a Class A water utility that provides water service to approximately 7,000 customers on Amelia Island in Nassau County, Florida. According to its 2000 annual report, the utility received \$2,805,047 in total water operating revenues.

The Commission granted FPUC Certificate No. 001-W, in Docket No. 7848-W, by Order No. 3798, issued April 28, 1965. Pursuant to Section 367.071(4) (a), Florida Statutes, on April 1, 2003, FPUC and the City of Fernandina Beach, Florida (City), jointly filed an application to transfer its facilities to the City and to cancel FPUC's certificate.

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The purpose of the recommendation is to address the joint application for transfer to the City of Fernandina Beach, cancellation of certificate, and annual reports. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the joint application for transfer of facilities from Florida Public Utilities Company to the City of Fernandina Beach be approved and the utility's certificate cancelled?

RECOMMENDATION: Yes. The joint application for transfer of facilities from Florida Public Utilities Company to the City of Fernandina Beach should be approved as a matter of right and the utility's certificate should be cancelled. Further, staff recommends that the utility not be required to file any additional schedules for its 2002 annual report. (RIEGER, E. BASS, GERVASI)

STAFF ANALYSIS: Pursuant to Section 367.071(4)(a), Florida Statutes, on April 1, 2003, FPUC and the City jointly filed an application to transfer the utility's facilities to the City and to cancel FPUC's certificate. The application included a copy of Resolution No. 2002-165, adopted by the City Commission, issued on December 3, 2002. The resolution stated that the proposed utility acquisition is in the public interest and authorized the Mayor and the City Clerk to execute a contract for sale. Also included with the application is a copy of FPUC's "Agreement for Purchase and Sale of Water Assets" (Agreement). According to the Agreement, the total purchase price for the transfer of assets is \$18,950,000, as well as a contingent "futures" consideration of \$7,500,000. The closing was finalized on March 27, 2003.

Because the City is a governmental authority, a statement was provided in the application declaring that the transaction between the utility and the City must be approved by the Commission as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes. Pursuant to Rule 25-30.037(4), Florida Administrative Code, the application also stated that the City has obtained from FPUC the most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction for its water utility operations. Also, the liability for all customer deposits was transferred to the City. In addition, the utility will refund all accumulated interest accrued as of closing directly to the customers. Subsequent to the closing of the sales transaction, the utility also indicated in the application that it will retain no assets that would constitute a system providing or proposing to provide water service to the public for compensation.

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Rule 25-30.110(3), Florida Administrative Code, requires an annual report be filed for any year a utility is jurisdictional as of December 31st. Staff has verified that the utility is current with respect to annual reports through 2001 and was granted an extension until May 30, 2003, in which to file its 2002 annual report. On March 27, 2003, the utility's assets were sold to the City, a non-jurisdictional entity. Since the utility is no longer jurisdictional, the Commission has no need for the 2002 annual report, except for Schedule W-9, Water Operating Revenue, to support the regulatory assessment fee (RAF) filing for 2002. On May 6, 2003, the utility filed its 2002 annual report, Schedule W-9. Therefore, staff recommends that the utility not be required to file any additional schedules for its 2002 annual report.

Staff has also verified that the utility has paid RAFs up through the transfer date of March 27, 2003, and there are no penalties, interest or refunds due. There are no further requirements for the utility with respect to RAFs.

As indicated earlier, pursuant to Section 367.071(4)(a), Florida Statutes, the sale of facilities to a governmental authority shall be approved as a matter of right. Based on the above, staff recommends that the application is in compliance with Section 367.071(4)(a), Florida Statutes and Rule 25-30.037(4), Florida Administrative Code. Therefore, it is recommended that the Commission approve the joint application for transfer of facilities from FPUC to the City as a matter of right, and cancel Certificate No. 001-W.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If staff's recommendation in Issue 1 is approved, this docket should be closed. (GERVASI)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, this docket should be closed.