

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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

COMMISSION
CLERK

MAY - 6 AM 9:26

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DATE: May 6, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Brady, Romig) *PR JS or JDT*
Office of the General Counsel (Fleming) *Kox Nax*

RE: Docket No. 040267-WS – Application for transfer of all facilities operated under
Certificates 200-W and 145-S from Forest Hills Utilities, Inc. to Pasco County.
County(ies): Pasco

AGENDA: 05/18/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040267.RCM.DOC

Case Background

Forest Hills Utilities, Inc. (Forest Hills or utility) is a Class B water and wastewater utility providing service in Pasco County. The utility is located in the Northern Tampa Bay Water Use Caution Area of the Southwest Florida Water Management District. Service is provided to approximately 2,301 water and 1,132 wastewater customers. The utility's 2003 annual report indicates that Forest Hills had gross revenues of \$539,944 and \$401,458 with net operating losses of \$82,727 and \$19,030 for water and wastewater, respectively.

The utility began operations on February 16, 1967, to serve the Forest Hills development in Holiday, Florida. The water and wastewater systems were issued Certificate Nos. 200-W and 145-S pursuant to Order No. 6406, issued December 18, 1974, in Docket Nos. 73376-S and 73377-W, In Re: Application of Forest Hills Utilities, Inc. for certificates to operate a water and sewer utility in Pasco County, Florida. There have been no further certification orders.

On March 26, 2004, an application was filed with the Commission for the approval of the transfer of Forest Hills' facilities to Pasco County and for the cancellation of Certificate Nos.

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200-W and 145-S. This recommendation addresses the transfer to Pasco County. The Commission has jurisdiction pursuant to Sections 367.045 and 367.071(4)(a), Florida Statutes.

Discussion of Issues

Issue 1: Should the transfer of Forest Hills' water and wastewater facilities to Pasco County be approved?

Recommendation: Yes. The transfer should be approved as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes. Certificate Nos. 200-W and 145-S should be cancelled upon notification of the date of closing, which is anticipated to be July 30, 2004. Within 30 days of the closing, Forest Hills should be responsible for remitting 2004 regulatory assessment fees from January 1, 2004, through the date of closing. (Brady, Romig, K. Fleming)

Staff Analysis: On March 26, 2004, Forest Hills filed an application to transfer its water and wastewater facilities to Pasco County pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. According to the application, the closing is intended to occur on July 30, 2004, after the Commission has approved the application.

Pursuant to Section 367.071(4)(a), Florida Statutes, the transfer of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. The application had no deficiencies and is in compliance with Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code.

The application contains a statement that Pasco County obtained a copy of Forest Hills' most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction, pursuant to Rule 25-30.037(4)(a), Florida Administrative Code. Pursuant to the Purchase and Sale Agreement, all customer deposits, and the accumulated interest thereon, will be returned to the customer by Forest Hills prior to, or upon closing.

Additionally, pursuant to the requirements of Rule 25-30.037(4)(a), Florida Administrative Code, the application contained a statement that Forest Hills has no outstanding regulatory assessment fees (RAFs) and no fines or refunds are owed. Staff verified that the utility has filed annual reports and paid RAFs through December 31, 2003, and that there are no outstanding penalties, refunds or interest as of December 31, 2003. The application indicates that Forest Hills will file a final Regulatory Assessment Fee Return and pay the associated RAFs with the Commission as soon as is reasonably possible after closing, but in any event, within the time period required by the rules of the Commission. Staff recommends that the utility remit the RAFs within 30 days of closing. The buyer, Pasco County, as a governmental authority, will not be responsible for RAFs on revenues after the closing. Also, pursuant to Rule 25-30.110(3), Florida Administrative Code, the utility is not responsible for filing an annual report for 2004.

Staff recommends that the application is in compliance with all provisions of Rule 25-30.037, Florida Administrative Code. Pursuant to Section 367.071(4)(a), Florida Statutes, the transfer of facilities to a governmental authority shall be approved as a matter of right. Therefore, staff recommends that the transfer of Forest Hills' facilities to Pasco County should be approved as a matter of right and Certificate Nos. 200-W and 145-S should be cancelled upon notification of the closing. Within 30 days of the date of closing, Forest Hills should be

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responsible for remitting 2004 regulatory assessment fees from January 1, 2004, through the date of closing.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending receipt of the executed purchase agreement, which confirms the date of closing and payment of 2004 RAFs at which time Certificate Nos. 200-W and 145-S should be cancelled and the docket administratively closed.

Staff Analysis: This docket should remain open pending receipt of confirmation of the date of closing and payment of 2004 RAFs at which time Certificate Nos. 200-W and 145-S should be cancelled and the docket administratively closed.