

State of Florida



Public Service Commission

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

RECEIVED 11:09
-4 PM 1:42
COMMISSION
CLERK

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

DATE: August 05, 2004

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

FROM: Division of Economic Regulation (Rieger) *SDR Rieger*
Office of General Counsel (Brown) *MCB*

RE: Docket No. 040484-WU; Application for "Quick Take" Amendment of Certificate No. 587-W in Polk County by Florida Water Services Corporation.

AGENDA: 08/17/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040484.RCM.DOC

Case Background

Florida Water Services Corporation (Florida Water or utility) is a Class A utility. According to its 2003 annual report, Florida Water's Gibsonia Estates system in Polk County serves approximately 180 water customers with annual operating revenues of \$22,492, and a net income of (\$13,688).

On May 21, 2004 the utility applied for a "Quick Take" amendment to Water Certificate No. 587-W in Polk County, Florida, pursuant to Rule 25-30.036(2), Florida Administrative Code. The completed application was filed on June 11, 2004. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes.

DOCUMENT NUMBER-DATE

08467 AUG-4 03

FPSC-COMMISSION CLERK

Discussion of Issues

Issue 1: Should the Commission acknowledge Florida Water's "Quick Take" application to amend Certificate No. 587-W?

Recommendation: Yes, the Commission should acknowledge Florida Water's amendment application to expand its Gibsonia Estates territory. Florida Water should charge the customers in the added territory, as reflected in Attachment A, the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (RIEGER)

Staff Analysis: On May 21, 2004, Florida Water applied for a "Quick Take" amendment to Water Certificate No. 587-W in Polk County, Florida, pursuant to Rule 25-30.036(2), Florida Administrative Code (Attachment B). The completed application was filed on June 11, 2004. Florida Water's Gibsonia Estates system obtains water service from an onsite water treatment facility made up of two wells with chlorination used for disinfection purposes. The proposed territory consists of three small general service customers that are currently served by a failed private water system. The area is adjacent to the utility's existing water service territory. The utility indicated in its application that the proposed new territory will not exceed 25 equivalent residential connections pursuant to Rule 25-30.036(2)(a), Florida Administrative Code.

The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The application contained the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. A description of the territory requested by the utility is appended to this recommendation as Attachment A. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the application have been received and the time for filing such has expired.

Staff has contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation issued for Florida Water's Gibsonia Estates system. Staff recommends that the rates and charges approved by the Commission for Florida Water's Gibsonia Estates service area be applied to the customers in the new service territory. The utility has filed revised tariff sheets incorporating the additional territory into its tariff and returned its certificate for entry reflecting the additional territory.

Based on the above information, staff believes it is in the public interest to acknowledge the "Quick Take" amendment application filed by Florida Water and to add the additional territory described in Attachment A.

Docket No. 040484-WU

Date: August 05, 2004

Issue 2: Should this docket be closed?

Recommendation: Yes, no further action is required and the docket should be closed.
(BROWN)

Staff Analysis: No further action is required and the docket should be closed.

POLK COUNTY
GIBSONIA ESTATES
EXTENTION OF WATER SERVICE TERRITORY

Section 23, Township 27 South, Range 23 East, Polk County, Florida;

Beginning at the Southeast corner of the Northeast quarter of the Southeast quarter of the Southeast quarter of said Section 23, proceed West along the South line of the Northeast quarter of the Southeast quarter of the Southeast quarter of said Section 23 to the West line of the East 318.88 feet of said Section 23; thence proceed North along said West line a distance of 317.62 feet, more or less, to the South line of the North 347.32 feet of the Southeast quarter of the Southeast quarter of said Section 23; thence proceed East along said South line a distance of 318.88 feet, more or less, to the East line of aforesaid Section 23; thence proceed South along said East line a distance of 317.62 feet, more or less, to the Point of Beginning.

25-30.036 Application for Amendment to Certificate of Authorization to Extend or Delete Service.

(1) This rule applies to any certificated water or wastewater utility that proposes to extend its service territory into an area in which there is no existing water or wastewater system or proposes to delete a portion of its service territory.

(2) A request for service territory expansion and amendment of an existing certificate or issuance of a new certificate shall be considered approved under the following conditions if no protest is timely filed to the notice of application:

(a) The utility has provided a written statement of an officer of the utility that the proposed new territory includes a maximum of 25 equivalent residential connections within such territory at the time the territory is at buildout; and

(b) The utility has provided the written statement of an officer of the utility that, upon investigation, to the best of his or her knowledge:

1. There is no other utility in the area of the proposed territory that is willing and capable of providing reasonably adequate service to the new territory; and

2. The person(s) or business(es) requesting water or wastewater service have demonstrated to the utility that service is necessary because (1) a private well has been contaminated or gone dry, (2) a septic tank has failed; or (3) service is otherwise not available.

(c) The utility has filed a completed application in accordance with subsection (2) of this rule within 45 days of the completion of the notice requirements.

(3) Each utility proposing to extend its service area (except applications filed pursuant to subsection (2) above, which shall file only (a), (d), (e), (i), (m), (o), (p), (q), and (r) listed below) shall provide the following:

(a) The utility's complete name and address;

(b) A statement showing the financial and technical ability of the utility to provide service and the need for service in the area requested;

(c) A statement that to the best of the applicant's knowledge the provision of service will be consistent with the water and wastewater sections of the local comprehensive plan at the time the application is filed, as approved by the Department of Community Affairs, or, if not, a statement demonstrating why granting the amendment would be in the public interest;

(d) Evidence that the utility owns the land upon which the utility treatment facilities that will serve the proposed territory are located or a copy of an agreement, such as a 99-year lease, which provides for the continued use of the land. The Commission may consider a written easement or other cost-effective alternative;

(e) A description of the territory proposed to be served, using township, range and section references as specified in subsection 25-30.030(2), F.A.C.;

(f) One copy of a detailed system map showing the proposed lines, treatment facilities, and the territory proposed to be served. The map shall be of sufficient scale and detail to enable correlation with the description of the territory;

(g) If the utility is planning to build a new wastewater treatment plant, or upgrade an existing plant to serve the proposed territory, provide a written description of the proposed method(s) of effluent disposal;

(h) If (g) above does not include effluent disposal by means of reuse, a statement that describes with particularity the reasons for not using reuse;

(i) One copy of the official county tax assessment map or other map showing township, range, and section, with a scale such as 1" = 200' or 1" = 400', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning;

(j) A statement describing the capacity of the existing lines, the capacity of the treatment facilities, and the design capacity of the proposed extension;

(k) The numbers and dates of any permits issued for the proposed systems by the Department of Environmental Protection;

(l) A detailed statement regarding the proposed method of financing the construction, and the projected impact on the utility's capital structure;

(m) A description of the types of customers anticipated to be served by the extension, i.e., single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;

(n) a statement regarding the projected impact of the extension on the utility's monthly rates and service availability charges;

(o) The original and two copies of sample tariff sheets reflecting the additional service area; and

(p) The applicant's current certificate for possible amendment.

(q) The number of the most recent order of the Commission establishing or changing the applicant's rates and charges.

(r) An affidavit that the utility has tariffs and annual reports on file with the Commission.

(4) Each utility proposing to delete a portion of its service area shall submit the following:

(a) The utility's complete name and address;

(b) A description of the territory proposed to be deleted, using township, range and section references;

(c) One copy of a detailed system map showing the existing lines, treatment facilities, and territory served. The map shall be of sufficient scale and detail to enable correlation with the legal description of the territory;

(d) The number of current active connections within the territory to be deleted;

(e) One copy of the official county tax assessment map, or other map, showing township, range, and section with a scale such as 1" = 200' or 1" = 400', with the territory proposed to be deleted plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning;

- (f) A statement specifying the reasons for the proposed deletion of territory;
- (g) A statement indicating why the proposed deletion of territory is in the public interest;
- (h) A statement as to the effect of the proposed deletion on the ability of any customer or potential customer to receive water and wastewater service, including alternative source(s) of service;
- (i) The original and two copies of sample tariff sheets reflecting the revised service area;
- (j) The applicant's current certificate for possible amendment;
- (k) The number of the most recent order of the Commission establishing or changing the applicant's rates and charges; and
- (l) An affidavit that the utility has tariffs and annual reports on file with the Commission.

Specific Authority 350.127(2), 367.045, 367.121, 367.1213 FS. Law Implemented 367.045, 367.1213 FS. History--New 1-27-91, Amended 11-30-93.

25-30.037 Application for Authority to Transfer.

(1) This rule applies to any application for the transfer of an existing water or wastewater system, regardless of whether service is currently being provided. This rule does not apply where the transfer is of an exempt or non-jurisdictional system and will result in the system continuing to be exempt from or not subject to Commission jurisdiction. The application for transfer may result in the transfer of the seller's existing certificate, amendment of the buyer's certificate or granting an initial certificate to the buyer.

(2) Each application for transfer of certificate of authorization, facilities or any portion thereof, to a non-governmental entity shall include the following information:

- (a) The complete name and address of the seller;
- (b) The complete name and address of the buyer;
- (c) The nature of the buyer's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, or association;
- (d) **The name(s) and address(es) of all of the buyer's corporate officers, directors, partners or any other person(s) who will own an interest in the utility;**
- (e) The date and state of incorporation or organization of the buyer;
- (f) The names and locations of any other water or wastewater utilities owned by the buyer;
- (g) A copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:
 - 1. Purchase price and terms of payment;
 - 2. A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of nonregulated operations or entities; and
- 3. **A description of all consideration between the parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.**
- (h) The contract for sale shall also provide for the disposition, where applicable, of the following:
 - 1. Customer deposits and interest thereon;
 - 2. Any guaranteed revenue contracts;
 - 3. Developer agreements;
 - 4. Customer advances;
 - 5. Debt of the utility;
 - 6. Leases;
- (i) A statement describing the financing of the purchase;
- (j) A statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters;
- (k) A list of all entities upon which the applicant is relying to provide funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility;
- (l) The proposed net book value of the system as of the date of the proposed transfer. If rate base has been established by this Commission, state the order number and date issued and identify all adjustments made to update this rate base to the date of transfer;
- (m) A statement setting out the reasons for the inclusion of an acquisition adjustment, if one is requested;
- (n) If the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records;
- (o) A statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns;