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Public Service Commission

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COMMISSION
CLERK

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

DATE: January 26, 2006

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

FROM: Division of Economic Regulation (Rieger) *SDR MCB AD OR JAR*
Office of the General Counsel (Rodan) *JAR*

RE: Docket No. 050820-WS – Application for amendment of Certificates 611-W and 527-S to extend water and wastewater service areas to include territory in Charlotte County by MSM Utilities, LLC.

AGENDA: 02/07/06 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050820.RCM.DOC

Case Background

On October 18, 2005, MSM Utilities, LLC. (MSM or utility) filed an application with the Commission to amend Certificate Nos. 611-W and 527-S to add water and wastewater territory to its service area in Charlotte County, pursuant to section 367.045, Florida Statutes. MSM is a Class C utility which provides water and wastewater service in Charlotte County to approximately 50 customers. The utility's 2004 annual report shows combined water and wastewater annual operating revenue of \$80,103, and a net operating loss of \$64,287. The proposed area is in the Southwest Florida Water Management District. The Commission has jurisdiction pursuant to section 367.045, Florida Statutes.

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The area requested by MSM consists of approximately 280 acres. It will include potential service to approximately 1,100 water and wastewater residential connections in areas soon to be developed. Initially, the application included developed areas consisting of smaller lots with existing private wells and septic tanks. After the utility provided notice of its intent to add territory pursuant to section 367.045, Florida Statutes, the Commission received 109 objections to the application from property owners who have wells and septic tanks in the proposed service area. Believing that utility service will someday be forced upon them, the property owners indicated that they did not need or desire service from the utility in their area. As a result of the 109 objections received by the Commission, the utility voluntarily amended its application on December 2, 2005, to reflect a proposed area which excludes the property of those who objected and retained those areas planned for future development. Staff and the utility informed those individuals who objected that the utility amended its application to remove certain territory and that their property was now outside of the utility's proposed territory. Staff believes that the objections have been resolved due to the utility's action and that there is no further objection to the utility's proposal.

Discussion of Issues

Issue 1: Should the Commission approve MSM's application to amend Certificates 611-W and 527-S?

Recommendation: Yes. The Commission should approve MSM's application to amend Certificate Nos. 611-W and 527-S to include territory as reflected in Attachment A. (Rieger, Rodan)

Staff Analysis: The application is in compliance with the governing statute, section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code. The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code.

Staff believes that the utility has demonstrated its ability to serve the proposed extended areas and that it has the necessary financial and technical expertise to do so. The Department of Community Affairs has indicated that the utility's application is consistent with the Charlotte County Comprehensive Plan. The utility operates a .040 MGD reverse osmosis water treatment facility and a .015 MGD extended aeration wastewater treatment facility. There are presently four different development projects being planned in the proposed territory. Some projects are being developed by entities related to the owners of the utility. Anticipated construction starts for these projects range from early 2006 through the last quarter of 2007. To accommodate growth, the utility plans to expand and relocate both of its facilities. The water treatment plant will be expanded to .175 MGD and the wastewater treatment facility to .090 MGD. The utility provided related cost information to the Commission in Docket No. 050587-WS, In Re: Application for staff-assisted rate case in Charlotte County by MSM Utilities, Inc., along with information relevant to setting service availability charges that would be applicable to new customers. Service availability charges will be addressed in Docket No. 050587-WS.

Based on the foregoing, staff believes it is in the public interest to approve the application filed by MSM to amend its territory to reflect the area described in Attachment A. The utility should charge the customers in the territory added herein the rates and charges contained in its current tariff until authorized to change by the Commission.

Docket No. 050820-WS

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Issue 2: Should this docket be closed?

Recommendation: Yes. If staff's recommendation in Issue 1 is approved, no further action is required and the docket should be closed. (Rodan)

Staff Analysis: If staff's recommendation in Issue 1 is approved, no further action is required and the docket should be closed.

MSM UTILITIES, LLC
EXTENTION OF SERVICE TERRITORY

THE NORTH ¼ OF SECTION 12, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF THE SEABOARD COASTLINE RAILROAD AND NORTH OF TURBAK ROAD

TOGETHER WITH:

A PORTION OF SECTION 12, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS :

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE WEST ALONG THE SOUTHLINE OF SAID SECTION 12, A DISTANCE OF 2577.55 FEET; THENCE NORTH, A DISTANCE OF 385.34 FEET; THENCE WEST, A DISTANCE OF 531.75 FEET; THENCE NORTH, A DISTANCE OF 897.20 FEET; THENCE WEST, A DISTANCE OF 511.21 FEET; THENCE NORTH, A DISTANCE OF 438.40 FEET; THENCE EAST A DISTANCE OF 511.21 FEET; THENCE NORTH, A DISTANCE 178.65 FEET; THENCE EAST, A DISTANCE OF 606.14 FEET; THENCE SOUTH, A DISTANCE OF 600 FEET MORE OR LESS; THENCE EAST, A DISTANCE OF 2860 FEET MORE OR LESS TO THE EAST LINE OF SAID SECTION 12, THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION 12 TO THE POINT OF BEGINNING.

TOGETHER WITH:

THE SOUTH ¼ OF SECTION 1, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF SEABOARD COASTLINE RAILROAD

THE SOUTH ¼ OF SECTION 11, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF HUNTERS CREEK.

THE NORTH ¼ OF SECTION 14, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF HUNTERS CREEK.