

State of Florida



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: March 23, 2006

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

FROM: Division of Economic Regulation (Clapp, Redemann, Romig) *DR* *RR* *DR* *DR* *DR*
Office of the General Counsel (Fleming) *KEF* *MAN* *CS* *DR* *DR* *JOS*

RE: Docket No. 050902-WS – Application to transfer assets and Certificate Nos. 590-W and 508-S in Polk County from Lake Haven Utility Associates, Ltd., d/b/a Lake Wales Utility Company to Gold Coast Utility Corp.

AGENDA: 04/04/06 – Regular Agenda – Proposed Agency Action Issue 3 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Arriaga

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050902.RCM.DOC

Case Background

Lake Haven Utility Associates, Ltd., d/b/a Lake Wales Utility Company (Lake Wales, seller, or utility) is a Class B water and wastewater utility serving approximately 131 residential and 32 general service customers in Polk County. The utility is in the South Florida Water Management District and is not in a water use caution area. The utility's 2004 annual report shows total operating revenue of \$139,784 and \$214,527 and net operating loss of \$21,182 and \$43,305 for water and wastewater, respectively.

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The utility was granted Certificate Nos. 590-W and 508-S in 1997 subsequent to Polk County turning over jurisdiction to the Commission.¹ There have been no additional dockets which effect the territory served by the utility.

On December 1, 2005, Gold Coast Utility Corp. (Gold Coast or buyer) submitted an application for transfer of the Lake Wales water and wastewater facilities and certificates. Deficiencies were found in this application. The corrections were received on February 14, 2006.

This recommendation addresses the transfer of the water and wastewater facilities from Lake Wales to Gold Coast and requests for a new late payment fee and an increased meter installation fee. The Commission has jurisdiction to consider this matter pursuant to section 367.071, Florida Statutes.

¹ Order No. PSC-97-0567-FOF-WS, issued May 20, 1997, in Docket No. 961485-WS, In re: Application for grandfather certificates to provide water and wastewater service in Polk County by Lake Haven Utility Association, Ltd, d/b/a Lake Wales Utility Co., Ltd.

Discussion of Issues

Issue 1: Should the transfer of the Lake Wales facilities to Gold Coast be approved?

Recommendation: Yes. The transfer of the Lake Wales facilities and Certificate Nos. 590-W and 508-S to Gold Coast is in the public interest and should be approved effective the date of the Commission's vote. Gold Coast should be responsible for the 2005 Annual Report and future regulatory assessment fees and Annual Reports. The territory being transferred is described in Attachment A. (Clapp, Redemann, Romig, Fleming)

Staff Analysis: As stated in the case background, Gold Coast applied for a transfer of utility facilities and certificates in Polk County from Lake Wales to Gold Coast on December 1, 2005. The closing on the transfer of the utility facilities took place on November 18, 2005, subject to approval by the Commission. The purchase price was \$550,000.

All of the filing requirements for the application were completed on February 14, 2006. The application is in compliance with the governing statute, section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment, or transfer of certificates of authorization. The territory being transferred is described in Attachment A.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. No objections to the application were received by the Commission and the time for filing such has expired.

The application contains a copy of the recorded warranty deed transferring the property upon which the utility treatment facilities are located to Gold Coast. The utility also provided a copy of a 99-year lease for a spray field used for disposal of treated wastewater. This lease has been assigned to Gold Coast.

Documentation regarding the terms of the sale and financing of the purchase, including a copy of the agreement for purchase and sale is included in the application. The purchase price for the utility is secured by a 20-year, \$550,000 mortgage at 7.125% for the first 7 years and adjusted annually thereafter based upon the one year U.S. Treasury Security, plus a margin of 3.75%.

The application contains a statement that the buyer has performed a reasonable investigation of the utility's water and wastewater systems and found the overall condition to be satisfactory and in general compliance with the requirements of the Florida Department of Environmental Protection (DEP). Staff has contacted DEP and verified that there are no outstanding notices of violation.

The seller is no longer interested in continuing in the utility business. Its related partnership is selling the remaining developable lots and will no longer have a business interest in Polk County. Gold Coast is a Florida corporation authorized to do business in Florida as of October 13, 2005. The shareholders of Gold Coast are Reginald and Keith Burge (the Burges), who are father and son. Gold Coast has the necessary financial and technical abilities to provide adequate, safe, and reliable water and wastewater service to the Lake Wales customers. Staff has

reviewed the current financial statement of Mr. Keith Burge and has determined that he has the financial ability to provide quality water and wastewater service in Florida. The Burges have demonstrated their technical ability to provide quality water and wastewater service in Florida through their regulated history in Florida since 1990. The Burges own and operate Laniger Enterprises of America, Inc., in Martin County and used to own Burkim Enterprises, Inc., in Brevard County. The application also includes a statement that the buyer will fulfill the commitments, obligations, and representations of the seller with regard to utility matters. Therefore, staff believes the transfer is in the public interest.

Pursuant to section 367.071, Florida Statutes, the Commission may set rate base in transfer dockets. Although rate base is typically set in transfer proceedings, no audit was performed in this docket as a cost savings measure for the Commission. According to the application, Gold Coast plans to apply for a rate case in 2006. Rate base was last set for Lake Wales in 1998 at \$68,638 and \$241,248 for water and wastewater, respectively.² The 2004 Lake Wales annual report shows rate base of \$28,472 and \$129,353 for water and wastewater, respectively. The 2004 rate base amounts are reasonable amounts based upon the 1998 order. Therefore it appears that the \$550,000 paid by Gold Coast exceeds the rate base of the two systems and there would be no negative acquisition adjustment pursuant to Rule 25-30.0371, Florida Administrative Code.

The buyer stated it had obtained from the seller all records pertaining to utility plant in service, depreciation, and contributions-in-aid-of-construction for the water and wastewater utility since rate base was last set. The buyer understands the need to maintain this information for any future rate proceeding.

Lake Wales reported and paid regulatory assessment fees (RAFs) for the entire year of 2005. Lake Wales' 2005 semiannual RAF report and payment were filed late. Gold Coast also reported and paid RAFs for the period November 18, 2005 through December 31, 2005. Based on the foregoing and conversations with Lake Wales, Lake Wales may request a refund for the overpayment of 2005 RAFs for the November 18, 2005 through December 31, 2005 period, reduced by late-filing penalties and interest. The appropriateness and amount of the refund cannot be determined until after the 2005 Annual Report is received and reviewed. Lake Wales timely filed its 2004 Annual Report. Gold Coast is responsible for filing the 2005 Annual Report and future RAFs and Annual Reports.

Based on the above, staff recommends that the transfer of the Lake Wales facilities and Certificate Nos. 590-W and 508-S to Gold Coast is in the public interest and should be approved effective the date of the Commission's vote. Gold Coast should be responsible for the 2005 Annual Report and future regulatory assessment fees and Annual Reports. The territory being transferred is described in Attachment A.

² Order No. PSC-99-1742-PAA-WS, issued September 7, 1999, in Docket No. 981258-WS, In re: Investigation of water and wastewater rates of Lake Haven Utility Association, Ltd. d/b/a Lake Wales Utility Co., Ltd. In Polk County for possible overearnings.

Issue 2: Should the Lake Wales rates and charges be continued by Gold Coast?

Recommendation: Yes. The Lake Wales rates and charges should be continued by Gold Coast, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should become effective on or after the stamped approval date, pursuant to Rule 25-30.0475, Florida Administrative Code. (Clapp, Fleming)

Staff Analysis: Rule 25-9.044(1), Florida Administrative Code, provides that in the case of change of ownership or control of a utility which places the operation under a different or new utility the company which will thereafter operate the utility business must adopt and use the rates, classifications, and regulations of the former operating company unless authorized to change by the Commission.

The utility's rates and charges for water and wastewater service were grandfathered in 1997 when the utility's grandfather certificates were approved. The water and wastewater rates were subsequently increased pursuant to a 2002 price index. The current rates and charges are shown on Attachment B.

Staff recommends that the Lake Wales rates and charges should be continued by Gold Coast, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should become effective on or after the stamped approval date, pursuant to Rule 25-30.0475, Florida Administrative Code.

Issue 3: Should a revised meter installation fee and late payment fee be approved?

Recommendation: Yes. The proposed meter installation fee of \$170.00 and the late payment fee of \$5.00 are reasonable and should be approved. The recommended charges are shown on Attachment C. Within 10 days of the date of Commission vote, the utility should file a proposed notice of the Commission-approved charges for staff's review. Within 10 days of staff approval, the utility should provide the notice to all customers and any person who has requested or has been provided an estimate for service within 12 months prior to Commission vote. Within 10 days after the notice is given, the utility should file a statement confirming that the notice has been given. The tariff sheets reflecting these charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code. (Clapp)

Staff Analysis: The buyer has determined that the current meter installation fee of \$65.00 is too low in today's market and should be increased to \$170.00. The buyer provided estimated costs for meter parts from National Waterworks and for labor cost to install a meter. Staff reviewed the estimated costs provided for the meter and installation and found them to be reasonable. Therefore, staff recommends that the \$170.00 meter installation fee should be approved.

The utility has requested authorization to implement a \$5.00 late payment charge. The purpose of a late payment charge is not only to provide an incentive for customers to make timely payments, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing such delinquencies solely upon those who are the cost causers. In Order No. PSC-06-0170-PAA-WS, the Commission found that the majority of utilities that have Commission-approved late fees have those late fees set at \$5.00.³ The \$5.00 late payment fee appears reasonable, therefore staff recommends that it be approved for Gold Coast.

Based on the above, staff recommends that the proposed meter installation fee of \$170.00 and the late payment fee of \$5.00 are reasonable and should be approved. The recommended charges are shown on Attachment C. Within 10 days of the date of Commission vote, the utility should file a proposed notice of the Commission-approved charges for staff's review. Within 10 days of staff approval, the utility should provide the notice to all customers and any person who has requested or has been provided an estimate for service within 12 months prior to Commission vote. Within 10 days after the notice is given, the utility should file a statement confirming that the notice has been given. The tariff sheets reflecting these charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code.

³ Order No. PSC-06-0170-PAA-WS, issued March 1, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

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Issue 4: Should this docket be closed?

Recommendation: Yes. If no timely protest is filed to the proposed agency action issue, the Order will become final upon the issuance of a Consummating Order and the docket should be closed. (Fleming)

Staff Analysis: If no timely protest is filed to the proposed agency action issue, the Order will become final upon the issuance of a Consummating Order and the docket should be closed.

ATTACHMENT A

Gold Coast Utility Corp.
Water and Wastewater Territory Description
Polk County

All lands lying within the following perimeter boundary lines:

All of that portion of Section 16, Township 30 South, Range 29 East, lying South of State Road 60 (formerly called New State Road 79);

All of Section 21, Township 30 South, Range 29 East;

That portion of Section 9, Township 30 South, Range 29 East, lying South of State Road 60 (formerly called New State Road 79) and West of Walk In the Water Creek (also known as Weohyakapka Creek);

That portion of Section 15, Township 30 South, Range 29 East, lying South of State Road 60 (formerly called New State Road 79) and West of Walk In the Water Creek (also known as Weohyakapka Creek);

All of that portion of Section 22, Township 30 South, Range 29 East, lying West of Walk In the Water Creek (also know as Weohyakapka Creek);

All of that portion of Section 27, Township 30 South, Range 29 East, lying West of Walk In the Water Creek (also known as Weohyakapka Creek).

ATTACHMENT B

	Water	Wastewater
<u>Monthly Service Rates</u>		
<u>Residential Service</u>		
All Meter Sizes	\$7.19	\$12.52
Charge per 1,000 gallons (in excess of 5,000 gallons)	\$1.03	NONE
<u>General Service</u>		
Meter Size:		
5/8" x 3/4"	\$18.46	11.26
1"	46.15	28.11
1 1/2"	92.28	56.22
2"	147.64	89.94
3"	295.20	179.87
Charge per 1,000 gallons:	\$1.03	\$1.60
<u>Miscellaneous Service Charges</u>		
Initial Connection Fee	\$15.00	\$15.00
Normal Reconnection Fee	15.00	15.00
Violation Reconnection Fee	15.00	Actual Cost
Premises Visit Fee (in lieu of disconnection)	10.00	10.00
<u>Service Availability Charges</u>		
Connection Charge	\$400.00	\$600.00

ATTACHMENT C

	Current	Staff Recommended
	<u>Service Availability Charges</u>	
Meter installation	65.00	170.00
	<u>Miscellaneous Service Charges</u>	
Late Payment Fee	\$0.00	\$5.00