

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: January 28, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Clapp, Kaproth) *PPA KKJS*
Office of the General Counsel (Holley) *JAM JSB*

RE: Docket No. 090546-WS – Application for transfer of water and wastewater facilities to City of Sebring by Highlands Ridge Utilities, LLC.

AGENDA: 02/09/10 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\090546.RCM.DOC

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COMMISSION
CLERK

Case Background

Highlands Ridge Utilities, LLC (Highlands Ridge or utility) is a Class B utility providing water and wastewater service to approximately 610 water and wastewater customers in Highlands County. The utility is in the Highlands Ridge Water Use Caution Area and the Southern Water Use Caution Area of the Southwest Florida Water Management District (SWFWMD). The utility's 2008 annual report indicates that the utility had gross revenues of \$184,117 and \$176,452 and net operating incomes of \$29,731 and (\$11,054) for water and wastewater, respectively.

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The utility's water and wastewater systems were originally issued Certificate Nos. 544-W and 474-S in 1992.¹ The utility has been transferred once and its certificates have been amended once to include additional territory since it received its certificates.²

On December 23, 2009, the City of Sebring (the City) filed an application for transfer of Highlands Ridge water and wastewater systems to the City and cancellation of Certificate Nos. 544-W and 474-S. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

¹ Order No. PSC-92-0954-FOF-WS, issued September 9, 1992, in Docket No. 920306-WS, In re: Application of Highlands Ridge Associates, Inc. for water and wastewater certificates in Highlands County, Florida.

² Order No. PSC-01-1917-PAA-WS, issued September 24, 2001, in Docket No. 001551-WS, In re: Application for transfer of Certificate Nos. 544-W and 474-S in Highlands County from Highlands Ridge Associates, Inc. to Highlands Ridge Utilities, LLC., and Order No. PSC-02-1849-FOF-WS, issued December 27, 2002, in Docket No. 020999-WS, In re: Application for amendment of Certificates 474-S and 544-W to extend water and wastewater service area in Highlands County, by Highlands Ridge Utilities, LLC.

Discussion of Issues

Issue 1: Should the transfer of the water and wastewater facilities of Highlands Ridge Utilities, LLC to the City of Sebring, Florida be acknowledged as a matter of right, and Certificate Nos. 544-W and 474-S be cancelled?

Recommendation: Yes. The transfer of the Highlands Ridge water and wastewater territory and facilities to the City of Sebring should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 544-W and 474-S should be cancelled effective August 3, 2009, which was the closing date of the sale. Highlands Ridge should be required to pay all outstanding regulatory assessment fees (RAFs) for January 1, 2009, through August 3, 2009, by March 31, 2010. (Clapp, Kaproth, Holley)

Staff Analysis: As stated in the case background, the City of Sebring applied for a transfer of Highlands Ridge facilities and territory to the City on December 23, 2009, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code, (F.A.C.) The closing on the sale of the utility facilities took place during August 3, 2009.

Pursuant to Section 367.071(4)(a), F.S., the sale 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 is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contains a statement that the City obtained Highlands Ridge's most recent 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)(e), F.A.C. A statement was provided indicating that the utility does not collect customer deposits; therefore, no deposits were transferred to the City.

Additionally, pursuant to the requirements of Rule 25-30.037(4)(h), F.A.C., a statement was included that Highlands Ridge has paid all outstanding regulatory assessment fees (RAFs). The utility has filed all annual reports through 2008 and paid all RAFs through December 31, 2008. Because the utility will not be jurisdictional as of December 31, 2009, no annual report needs to be filed for 2009. However, Highlands Ridge should be required to pay all outstanding RAFs for January 1, 2009, through August 3, 2009, by March 31, 2010.

Staff recommends that the transfer of the Highlands Ridge water and wastewater territory and facilities to the City of Sebring should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 544-W and 474-S should be cancelled effective August 3, 2009, which was the closing date of the sale. Highlands Ridge should be required to pay all outstanding RAFs for January 1, 2009, through August 3, 2009, by March 31, 2010.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary. (Holley, Clapp)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, this docket should be closed because no further action is necessary.