

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: February 18, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Johnson, Fletcher)
Office of the General Counsel (Holley, Jaeger)

Handwritten initials: JPH, JSB, BS, CKAB

Handwritten signature

RE: Docket No. 060540-WU – Application for increase in water rates in Pasco County by Colonial Manor Utility Company.

Docket No. 100034-WU – Application for transfer of water facilities to Florida Governmental Utility Authority, and cancellation of Certificate No. 153-W, by Colonial Manor Utility Company.
County: Pasco

AGENDA: 03/02/10 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Stevens (060540-WU)
Administrative (100034-WU)

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Related Docket Nos. 100033-WU, 100035-WU, 100036-WU and 100037-WU should be considered sequentially.

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100034.RCM.DOC

10 FEB 17 AM 10: 01
COMMISSION CLERK
RECEIVED FPSC

Case Background

Colonial Manor Utility Company (Colonial Manor or utility) is a Class C water utility providing service to approximately 708 customers in Pasco County. The utility is located in the Northern Tampa Bay Water-Use Caution Area of the Southwest Florida Water Management

DOCUMENT NUMBER-DATE

01045 FEB 17 2010

FPSC-COMMISSION CLERK

District (SWFWMD). The utility's 2008 annual report shows gross revenue of \$148,580 and a net operating loss of \$12,340.

The utility was originally issued Certificate No. 153-W in 1973.¹ The utility has been transferred once and its certificate has been amended once to delete territory since it received its certificate.²

On January 20, 2010, Colonial Manor filed an application for transfer of the water system to the Florida Governmental Utility Authority (FGUA) and cancellation of Certificate No. 153-W. It should be noted that the agreement for purchase and sale of water assets submitted in this docket includes four utilities in addition to Colonial Manor. Docket Nos. 100033-WU, 100035-WU, 100036-WU, and 100037-WU address the other four utilities and should be considered sequentially by the Commission.

Docket No. 060540-WU was opened on December 22, 2006, to address the utility's application for an increase in water rates. Order No. PSC-08-0622-PAA-WU, issued September 24, 2008, in Docket No. 060540-WU, In re: Application for increase in water rates in Pasco County by Colonial Manor Utility Company was consummated by Order No. PSC-08-0686-CO-WU, on October 16, 2008, and required that Docket No. 060540-WU remain open to allow staff to monitor the implementation of the second tiered rates that related to the construction of the centralized treatment facilities. When the utility entered into sale negotiations with the FGUA, the construction of the centralized treatment facilities was put on hold. Implementation of the second tiered rates did not occur because the treatment facilities were not constructed and the system was sold to FGUA. Pursuant to Section 367.071(4)(a), F.S., any request for rate relief pending before the Commission at the time of sale to a governmental authority is deemed to have been withdrawn. Accordingly, because no further action is required in Docket No. 060540-WU, staff is seeking approval by the Commission to close that docket.

This recommendation addresses the acknowledgement of the transfer of the utility to a governmental entity and the closure of Docket No. 060540-WU. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

¹ Order No. 5846, issued September 11, 1973, in Docket No. 73135-W, In re: Application of Floralino Properties Inc., for a certificate to operate an existing water system in Pasco County, Florida.

² Order No. PSC-05-0422-PAA-WU, issued April 20, 2005, in Docket No. 041461-WU, In re: Application for transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. to Colonial Manor Utility Company, and Order No. PSC-01-1302-FOF-WU, issued June 15, 2001, in Docket No. 991486-WU, In re: Investigation into retention of certificated area of Ellis & Company, Ltd. (Holiday Mall) by Floralino Properties, Inc. in Pasco County.

Discussion of Issues

Issue 1: Should the transfer of the water facilities of Colonial Manor Utility Company to the Florida Governmental Utility Authority be acknowledged, as a matter of right, and Certificate No. 153-W be cancelled?

Recommendation: Yes. The transfer of the Colonial Manor territory and facilities to FGUA should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate No. 153-W should be cancelled effective December 23, 2009, which was the closing date of the sale. (Johnson, Holley)

Staff Analysis: Colonial Manor applied for a transfer of Colonial Manor facilities and territory to FGUA on January 20, 2010, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code, (F.A.C.) The FGUA has been determined to be a governmental authority in previous dockets.³ The closing on the sale of the utility facilities took place on December 23, 2009. Therefore, December 23, 2009, is the effective date of the transfer.

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 FGUA obtained Colonial Manor's most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction. In addition, a statement was provided that all customer deposits were transferred to FGUA and the interest there on was distributed to the applicable customers.

Colonial Manor has filed all annual reports through 2008 and paid all regulatory assessment fees through December 23, 2009. Because the utility was not jurisdictional as of December 31, 2009, no annual report is required to be filed for 2009.

Staff recommends that the transfer of the Colonial Manor water territory and facilities to FGUA should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 153-W should be cancelled effective December 23, 2009, which was the closing date of the sale.

³ See Order No. PSC-00-2351-FOF-WS, issued December 7, 2000, in Docket No. 990489-WS, In re: Application by Florida Cities Water Company, holder of Certificate Nos. 027-W and 024-S in Lee County and 0007-W and 0003-S in Brevard County, and Poinciana Utilities, Inc., holder of Certificate Nos. 146-W and 103-S in Polk and Osceola Counties, for transfer of facilities to Florida Governmental Utility Authority and Cancellation of Certificate Nos. 027-W, 024-S, 007-W, 003-S, 146-W, and 103-S; Order No. PSC-03-1284-FOF-WS, issued November 10, 2003, in Docket No. 030932-WS, In re: Joint application for acknowledgement of sale of land and facilities of Florida Water Services Corporation in Lee County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 306-W and 255-S; and Order No. PSC-09-0334-PAA-WS, issued May 14, 2009, in Docket No. 090120-WS, In re: Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

Issue 2: Should Docket Nos. 060540-WU and 100034-WU be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, Docket No. 060540-WU should be closed because pursuant to Section 367.071(4)(a), F.S., any request for rate relief pending before the Commission at the time of sale to a governmental authority is deemed to have been withdrawn. Therefore, no further action is necessary in Docket No. 060540-WU. In addition, Docket No. 100034-WU should be closed because no further action is necessary. (Holley, Jaeger, Johnson, Fletcher)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, Docket No. 060540-WU should be closed because pursuant to Section 367.071(4)(a), F.S., any request for rate relief pending before the Commission at the time of sale to a governmental authority is deemed to have been withdrawn. Therefore, no further action is necessary in Docket No. 060540-WU. In addition, Docket No. 100034-WU should be closed because no further action is necessary.