

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)
Office of the General Counsel (Holley)

Handwritten initials and signatures: OJ, PH, and JAH.

RE: Docket No. 100037-WU – Application for transfer of water facilities to Florida Governmental Utility Authority, and cancellation of Certificate No. 149-W, by Virginia City Utility Company a Division of Community Utilities of Florida, Inc.
County: Pasco

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

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Related Docket Nos. 100033-WU, 100034-WU, 100035-WU, and 100036-WU should be considered sequentially

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100037.RCM.DOC

Vertical stamps:
REC'D PASCO
10 FEB 17 AM 10:03
OFFICE CLERK

Case Background

Virginia City Utility Company, a Division of Community Utilities of Florida, Inc., (Virginia City or utility) is a Class C water utility providing service to approximately 315 customers in Pasco County. The utility is located in the Tampa Bay Water-Use Caution Area of the Southwest Florida Water Management District (SWFWMD). The utility's 2008 annual

DOCUMENT NUMBER-DATE
1048 FEB 17 09
FPSC-COMMISSION CLERK

Docket No. 100037-WU
Date: February 18, 2010

report shows gross revenue of \$101,513 and a net operating loss of \$17,592. The utility was originally issued Certificate No. 149-W in 1973¹ and has been transferred twice.²

On January 20, 2010, Virginia City filed an application for transfer of the Virginia City water system to the Florida Governmental Utility Authority (FGUA) and cancellation of Certificate No. 149-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 Virginia City. The other dockets regarding sale of assets to FGUA that should be considered sequentially with this docket are Docket Nos. 100033-WU, 100034-WU, 100035-WU, and 100036-WU. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

¹ Order No. 5809, issued July 26, 1973, in Docket No. C-73215-W, In Re: Application of Virginia City Inc. for Certificate to Operate an Existing Water System In Pasco County.

² Order No. PSC-04-0342-PAA-WU, issued April 2, 2004, in Docket No. 030655-WU, In re: Application for transfer of facilities and Certificate No. 149-W in Pasco County from Virginia City Utilities, Inc. to Virginia City Utility Company a Division of Community Utilities of Florida, Inc., and Order No. PSC-94-0084-FOF-WU, issued January 24, 1994, in Docket No. 931028-WU, In re: Application for Transfer of Certificate No. 149-W From Virginia City Inc. to Virginia City Utilities, Inc. in Pasco County, the utility was transferred from Mr. Judson F. Potter to Mr. Matthew Potter, his son.

Discussion of Issues

Issue 1: Should the transfer of the water facilities of Virginia City Utility Company, a Division of Community Utilities of Florida, Inc., to the Florida Governmental Utility Authority be acknowledged, as a matter of right, and Certificate No. 149-W be cancelled?

Recommendation: Yes. The transfer of the Virginia City water territory and facilities to the Florida Governmental Utility Authority should be acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 149-W should be cancelled effective December 23, 2009, which was the closing date of the sale. (Johnson, Holley)

Staff Analysis: Virginia City applied for a transfer of the Virginia City's 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 the FGUA obtained Virginia City'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. In addition, a statement was provided that the customer deposits were transferred to FGUA and the accumulated interest on the deposits was distributed to the applicable customers.

The utility 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 Virginia City 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. 149-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.

Docket No. 100037-WU

Date: February 18, 2010

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, Johnson)

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