

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 4, 2010

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Brady, Williams) *pb*  
Office of the General Counsel (Holley) *W*

**RE:** Docket No. 100050-WS – Application for grandfather certificate to operate water and wastewater utility in Hardee County by Aqua Utilities Florida, Inc.  
County: Hardee *yam*

**AGENDA:** 03/16/10 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Skop

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\100050.RCM.DOC

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 COMMISSION  
 CLERK

### Case Background

On October 22, 2009, the Board of County Commissioners of Hardee County adopted Ordinance No. 2010-02, declaring the privately-owned water and wastewater facilities in Hardee County to be subject to the provisions of Chapter 367, Florida Statutes (F.S.). The Ordinance was filed on October 26, 2009, making that the effective date of the transfer of jurisdiction. The Commission acknowledged the Ordinance on December 14, 2009.<sup>1</sup>

<sup>1</sup> Order No. PSC-09-0820-FOF-WS, issued December 14, 2009, in Docket No. 090489-WS, In Re: Ordinance by Board of County Commissioners of Hardee County relating to regulation of privately owned water and sewer utilities within the unincorporated areas of Hardee County.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day the chapter becomes applicable to the utility. On January 22, 2010, Aqua Utilities Florida, Inc. (AUF or Utility) filed an application for certificates under grandfather rights to provide water and wastewater service in Hardee County pursuant to Section 367.171, F.S. The area served is known as Peace River Heights. The application as filed was complete.

The Peace River Heights' systems have been in existence since approximately 1972 and are at build-out with approximately 100 residential water connections and 95 residential wastewater connection and 2 water and wastewater general service connections making it a Class C utility. The Peace River Heights service area is located in the Southwest Florida Water Management District, which is currently under Phase II (Severe Water Shortage) Restriction.

This recommendation addresses the application for grandfather water and wastewater certificates, rates, and charges. The Commission has jurisdiction pursuant to Section 367.171, F.S.

### Discussion of Issues

**Issue 1:** Should Aqua Utilities Florida, Inc.'s application for grandfather water and wastewater certificates in Hardee County be acknowledged?

**Recommendation:** Yes. AUF's application should be acknowledged and the Utility should be issued Certificate Nos. 555-S and 649-W, effective October 26, 2009, to serve the territory described in Attachment A. The resultant order should serve as AUF's water and wastewater certificates and should be retained by the Utility. AUF should be required to file a 2009 annual report by March 31, 2010, and pay regulatory assessment fees (RAFs) by March 31, 2010, for the period of October 26, 2009, through December 31, 2009. (Brady, Williams, Holley)

**Staff Analysis:** The Board of County Commissioners of Hardee County transferred jurisdiction of privately-owned water and wastewater utilities in the county to the Commission effective October 26, 2009. On January 22, 2010, an application was filed on behalf of AUF to provide water and wastewater service under the grandfather rights of Section 367.171(2)(b), F.S. The application is in compliance with the governing statute and other pertinent statutes and administrative rules concerning an application for grandfather certificates.

The application contains a warranty deed as proof of ownership of the land on which the utility facilities are located, an accurate territory description, and adequate service territory and system maps. A description of the territory, known as Peace River Heights is appended to this memorandum as Attachment A.

The Utility has been in existence since approximately 1972. The water plant consists of two wells with a total rated capacity of 300 gallons per minute. Sodium Hypochlorite is used as the primary disinfectant with pressure provided by a 5,000 gallon hydropneumatic tank. The wastewater facility consists of an extended aeration treatment plant with a rated capacity of 40,000 gallons per day. Effluent is disposed of through a two-cell rapid infiltration basis system.

The Utility's wastewater system was recently inspected by the Florida Department of Environmental Protection (DEP) with only minor issues noted. The Utility is working with DEP with regard to an August 13, 2009, warning letter indicating that the Peace River Heights water system may have exceeded the maximum contaminant levels (MCLs) for Gross Alpha Particles. In response to DEP's proposed consent order, AUF provided DEP with proposed amendments and supporting documentation, as well as a treatment alternative. In addition, AUF is working with a consultant to evaluate cost effective treatment options to address the MCLs, if needed.

The Utility is aware of the requirement to submit a 2009 annual report and remit 2009 RAFs for the period October 26, 2009, through December 31, 2009 by March 31, 2010. In addition, the utility is aware that it must maintain its books and records according to the National Association of Regulatory Commissioners' Uniform System of Accounts.

Based on the above, staff recommends that AUF be granted Water Certificate No. 649-W and Wastewater Certificate No. 555-W to serve the territory described in Attachment A. The Utility should be required to file a 2009 annual report by March 31, 2010, and remit RAFs by

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March 31, 2010, for the period of October 26, 2009, through December 31, 2009, and every year thereafter.

**Issue 2:** What rates and charges should be approved for Aqua Utilities Florida, Inc.?

**Recommendation:** The Utility's rates and charges that were in effect when Hardee County rescinded jurisdiction, shown on Schedule No. 1, should be approved. AUF should be required to charge the approved rates until authorized to change by this Commission in a subsequent proceeding. The rates and charges should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.). (Brady)

**Staff Analysis:** According to the application, Hardee County approved the rates and charges that are shown on Schedule No. 1. Staff recommends that the Utility's rates and charges that were in effect when Hardee County rescinded jurisdiction should be approved. AUF should be required to charge the approved rates until authorized to change by this Commission in a subsequent proceeding. The rates and charges should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C.

**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of the final order. (Holley)

**Staff Analysis:** Since there are no pending issues in this docket, the docket should be closed upon the issuance of the final order.

**Aqua Utilities Florida, Inc.**  
**Peace River Heights**  
**Hardee County**  
**Water and Wastewater Service Area**

**Township 34 South, Range 25 East**  
**Sections 10 and 15**

A parcel of land lying in Sections 10 and 15, Township 34 South, Range 25 East, Hardee County, Florida, being more particularly described as follows:

Beginning at the Southwest corner of the Southeast 1/4 of Section 10, Township 34 South, Range 25 East, Hardee County Florida, also being the Northwest corner of the Northeast 1/4 of Section 15, Township 34 South, Range 25 East; Thence N00°04'32"W along the West Line of the Southeast 1/4 of said Section 10, Township 34 South, Range 25 East a distance of 284.85 feet to an intersection with the east right of way line of Martin Luther King Jr. Boulevard (formerly known as New York Avenue) also being a point on a curve concave to the West having a radius of 957.90 feet; Thence Northerly along said curve through a central angle of 15°03'40" an arc distance of 251.80 feet, a chord bearing of N07°28'39"E, and a chord distance of 251.07 feet to the point of curvature of said curve; Thence continue along said East right of way line of Martin Luther King Jr. Boulevard N00°04'32"W a distance of 604.98 feet; Thence S89°58'00"E a distance of 100 feet; Thence N00°00'00"E a distance of 33.33 feet; Thence S89°58'00"E a distance of 950.68 feet; Thence S00°04'25"E a distance of 100 feet; Thence S89°58'00"E a distance of 241.44 feet to the East line of the Southwest 1/4 of the Southeast 1/4 of said Section 10; Thence S00°08'50"E along said East line of the Southwest 1/4 of the Southeast 1/4 of Section 10 a distance of 1070.25 feet to the Northeast corner of the Northwest 1/4 of the Northeast 1/4 of Section 15, Township 34 South, Range 25 East; Thence S00°00'00"E along the East line of the West 1/2 of the Northeast 1/4 of said Section 15 a distance of 1639.61 feet; Thence S89°36'53"W a distance of 1227.15 feet; Thence N00°01'21"E a distance of 300.01 feet; Thence S89°36'53"W a distance of 100.00 feet to the West line of the Northeast 1/4 of said Section 15; Thence N00°01'21"E along said West line of the Northeast 1/4 of Section 15 a distance of 1347.43 feet to the point of beginning. Contains 83.78 acres more or less.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**Aqua Utilities Florida, Inc.**  
**pursuant to**  
**Certificate Number 649-W**

to provide water service in Hardee County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	100050-WS	Grandfather Certificate

\*Order Number and date to be provided at time of issuance.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**Aqua Utilities Florida, Inc.**  
**pursuant to**  
**Certificate Number 555-S**

to provide wastewater service in Hardee County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	100050-WS	Grandfather Certificate

\*Order Number and date to be provided at time of issuance.

**Aqua Utilities Florida, Inc.  
 Peace River Heights  
 Hardee County**

**Monthly Service Rates**

<b>Base Facility Charge</b>	<b>Residential</b>	<b>General Service</b>
<b>Meter Size:</b>	<b>Potable Water Service</b>	<b>Potable Water Service</b>
5/8" x 3/4"	\$ 16.44	\$ 16.44
3/4"	24.66	24.66
1"	41.10	41.10
1 1/2"	82.20	82.20
2"	131.52	131.52
3"	263.03	263.03
4"	410.99	410.99
6"	821.97	821.97
8"	1,315.16	1,315.16
10"	1,890.54	1,890.54
Charge per 1,000 gallons		
Block 1, (0-5,000 gallons)	\$ 4.94	
Block 2, (5,000-10,000 gallons)	6.17	
Block 3, (over 10,000)	14.81	
Charge per 1,000 gallons		\$ 6.05

<b>Base Facility Charge</b>	<b>Residential</b>	<b>General Service</b>
<b>Meter Size:</b>	<b>Wastewater Service</b>	<b>Wastewater Service</b>
5/8" x 3/4"	\$ 29.03	\$ 29.03
3/4"		43.55
1"		72.58
1 1/2"		145.17
2"		232.27
3"		464.54
4"		725.84
6"		1,451.68
8"		2,322.70
10"		3,338.87
Charge per 1,000 gallons water	\$ 8.87	
(6,000 gallons maximum)		
Charge per 1,000 gallons water		\$ 10.64



**Monthly Service Rates, continued**

<b>Base Facility Charge</b>	<b>Private Fire Protection</b>
<b>Meter Size:</b>	
2"	\$ 10.96
3"	21.92
4"	34.25
6"	68.50
8	109.60
10"	157.55
Charge per 1,000 gallons	N/A

**Miscellaneous Service Charges**  
**Water Service**

<b>Description</b>	<b>Normal Hours</b>	<b>After Hours</b>
Initial Connection	\$ 22.00	\$ 33.00
Normal Reconnection	\$ 22.00	\$ 33.00
Violation Reconnection	\$ 35.00	\$ 55.00
Premises Visit Charge	\$ 22.00	\$ 33.00
Late Fee	\$ 5.00	Not Applicable

**Miscellaneous Service Charges**  
**Wastewater Service**

<b>Description</b>	<b>Normal Hours</b>	<b>After Hours</b>
Initial Connection	\$ 22.00	\$ 33.00
Normal Reconnection	\$ 22.00	\$ 33.00
Violation Reconnection	Actual Cost	Actual Cost
Premises Visit Charge	\$ 22.00	\$ 33.00
Late Fee	\$ 5.00	Not Applicable