

MEMORANDUM

MARCH 11, 2010

TO: ANN COLE, OFFICE OF COMMISSION CLERK
FROM: ERIK SAYLER, SENIOR ATTORNEY
DOCKET NO. 090154-SU In re: Notice of abandonment of wastewater system
for The Village of Lakeland Mobile Home Park in Polk County, by West
RE: Lakeland Wastewater, Inc.

Please place the attached documents and e-mail correspondence between Ms. Nicole Davis, Department of Financial Services (DFS), and Commission staffers Ms. Valorie Moore and Erik Sayler in the docket file. This correspondence concerns the Commission's request that DFS write-off the regulatory assessment fees, penalties and interest, owed by this Utility through June 22, 2009, by Order PSC-09-0607-FOF-SU, issued September 8, 2009.

Please note that additional correspondence may be appended to this memorandum.

ELS/th
Attachment

DOCUMENT NUMBER-DATE
01670 MAR 11 2010
FPSC-COMMISSION CLERK

Erik Sayler

From: Erik Sayler
Sent: Wednesday, March 10, 2010 5:05 PM
To: 'Nicole.Davis@myfloridacfo.com'
Cc: Valorie Moore; Karen Belcher
Subject: RE: AR Write-off
Attachments: 09276-09.pdf

Dear Ms. Davis,

I'm the attorney that was assigned to this proceeding whereby the Commission acknowledged the abandonment of this utility by its former owners and the appointment of a receiver to manage the utility until a new owner can found or appointed by the Court in Lakeland. At this time, the utility is still in receivership.

I was wondering what additional explanation you are seeking from the Commission. In addition, if this matter is turned over to collections, from whom will collections attempt to collect the delinquent RAFs (i.e. - former owners; the utility; the receiver; or the new owner).

If you could help provide me some guidance regarding this matter, I'd appreciate it. By way of providing additional information, I've attached the order whereby which the Commission acknowledged abandonment and receivership of this utility.

Sincerely,

Erik L. Sayler
Senior Attorney
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
850-413-6199 - mainline
850-413-6084 - direct
850-413-6085 - fax

***DISCLAIMER:** Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure. If you received this e-mail in error, please notify the sender by reply e-mail and then delete this e-mail immediately.*

From: Valorie Moore
Sent: Wednesday, March 10, 2010 8:47 AM
To: Erik Sayler
Cc: Karen Belcher
Subject: FW: AR Write-off

Eric, please take a look at the attached document concerning West Lakeland Wastewater. Do you have any additional information that can be sent to Department of Financial Services, if not, we will have to change the collection status and let them pursue collection.

3/11/2010

DOCUMENT NUMBER-DATE

01670 MAR 11 e

FPSC-COMMISSION CLEAR

From: Nicole Davis [mailto: Nicole.Davis@myfloridacfo.com]
Sent: Tuesday, March 09, 2010 4:20 PM
To: Valorie Moore
Subject: AR Write-off

Hello Valorie,

After further management review of your AR write-off request, please provide additional explanation of why this receivable should not be sent to collections/not cost-effective.

Thank you for your assistance in this matter. Have a great evening!

Nicole Davis
Department of Financial Services
Bureau of Accounting
(850) 413-5458

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of abandonment of wastewater system for The Village of Lakeland Mobile Home Park in Polk County, by West Lakeland Wastewater, Inc.

DOCKET NO. 090154-SU
ORDER NO. PSC-09-0607-FOF-SU
ISSUED: September 8, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER ACKNOWLEDGING ABANDONMENT AND APPOINTMENT OF RECEIVER
AND DECLINING TO SHOW CAUSE

BY THE COMMISSION:

Background

West Lakeland Wastewater, Inc. (West Lakeland or utility) is a Class C wastewater utility currently serving approximately 300 customers in Polk County (County). This area is in the Southwest Florida Water Management District (SWFWMD) and is considered a water use caution area. Water service is provided by the City of Lakeland. The utility's 2006 annual report shows operating revenue of \$67,521 and net operating loss of \$34,442.

The utility, previously known as ABCA, Inc. (ABCA), has been providing service to customers in Polk County since 1972. On January 9, 1990, the Polk County Commission granted a franchise to Ameribanc Investors Group (Ameribanc) for a system known as Village Lakeland. Polk County came under our jurisdiction on July 11, 1996. In 1998, we granted the utility its grandfather Certificate No. 515-S for wastewater service.¹ ABCA's certificate was transferred to West Lakeland in 2001.²

By letter dated March 26, 2009, West Lakeland gave notice of abandonment effective June 30, 2009. The notice was provided to us, the Board of County Commissioners of Polk County, and the Florida Department of Environmental Protection (DEP). Upon receiving the notice of abandonment, the Polk County Attorney's Office (County Attorney) started investigating options for the utility. On May 13, 2009, the County Attorney filed a Petition for Appointment of Receiver for West Lakeland Wastewater, Inc. in the Circuit Court of the Tenth

¹ Order No. PSC-98-0752-FOF-SU, issued June 1, 1998, in Docket No. 971531-SU, In re: Application for grandfather certificate to operate wastewater utility in Polk County by ABCA, Inc.

² By Order No. PSC-01-1576-FOF-SU, issued July 30, 2001, in Docket No. 010382-SU, In re: Application for transfer of Certificate No. 515-S in Polk County from ABCA, Inc. to West Lakeland Wastewater, Inc.

DOCUMENT NUMBER-DATE

09276 SEP-8 8

FPSC-COMMISSION CLERK

Judicial Circuit (Circuit Court). The Circuit Court issued an order in Case No. 53-2009CA-005284, issued on June 22, 2009, in which it declared West Lakeland Wastewater, Inc. abandoned and appointed Mr. Michael Smallridge (Mr. Smallridge or receiver) as receiver of the wastewater system.

This order acknowledges the abandonment of the utility and the appointment of Mr. Michael Smallridge as the receiver. We have jurisdiction pursuant to Sections 367.165 and 367.071, Florida Statutes (F.S.).

Discussion

On March 26, 2009, pursuant to Section 367.165(1) F.S., which requires a 60-day notice from the utility owner prior to abandonment, officers of West Lakeland provided a 90-day notice of intent to abandon the utility. Consistent with Section 367.165(2), F.S., by order issued June 22, 2009, the Circuit Court declared the utility abandoned and appointed Mr. Michael Smallridge as the receiver as of June 22, 2009. The responsibility of the receiver is to operate the utility efficiently and effectively from the date of abandonment until disposition of the property.

With the appointment of the receiver, the utility is not owned or controlled by a governmental entity. Therefore, the utility will retain Certificate No. 515-S and will remain under our jurisdiction. The resultant order reflecting the change in ownership shall serve as West Lakeland's wastewater certificate and it shall be retained by the utility. The territory previously approved for this utility is shown on Attachment A.

Pursuant to Rule 25-30.090(3), Florida Administrative Code (F.A.C.), within 10 days of the appointment of a receiver by the Circuit Court, the receiver shall request from us a copy of the utility's tariff and most recent annual report. Since being appointed, the receiver made a timely request and a copy of the utility's tariff and 2006 annual report were supplied to the receiver. The receiver has hired a licensed operator to run the system.

The utility's initial rates and charges were approved in Order No. PSC-98-0752-FOF-SU. In 2007, the utility applied for a limited proceeding to increase the wastewater rates to address the cost of meter reading and customer billing.³ All of the rates approved for the utility are shown on Attachment B. Pursuant to Rule 25-9.044(1), F.A.C., the rates and charges approved for the utility shall be continued until authorized to change by us in a subsequent proceeding.

According to DEP's Tampa office, there is no formal enforcement activity with this utility. At the time of the last inspection several months ago, there were a few minor details needing attention. A significant item that will need to be addressed soon is renewal of the plant's operating permit, which expires November 29, 2009.

West Lakeland has outstanding regulatory assessment fees (RAFs) and associated penalties and interest. West Lakeland filed its 2006 annual report but has not the annual reports

³ Order No. PSC-08-0083-PAA-SU, issued February 13, 2008, in Docket No. 070466-SU, In re: Application for limited proceeding rate increase in Polk County by West Lakeland Wastewater, Inc.

for 2007 and 2008. There are outstanding penalties for these annual reports. The annual reports and RAFs will be discussed in more detail subsequently in this order. In accordance with Rule 25-30.110, F.A.C., Mr. Smallridge, as receiver, shall be responsible for filing the 2009 annual report for the utility. Furthermore, in accordance with Rule 25-30.120, F.A.C., the receiver shall file the utility's 2009 regulatory assessment fees.

Based upon the foregoing, we acknowledge the abandonment of the utility and the appointment of Mr. Smallridge as receiver effective June 22, 2009, pursuant to Section 367.165, F.S. We note that the territory previously approved for this utility is described in Attachment A. Certificate No. 515-S shall remain effective. The resultant order shall serve as West Lakeland's wastewater certificate and it shall be retained by the utility. Pursuant to Rule 25-9.044(1), F.A.C., the rates and charges approved for the utility shall be continued until authorized to change us in a subsequent proceeding.

Declining to Show Cause

The following two show cause issues are discussed below: the utility's failure to pay its RAFs and to file annual reports.

Failure to pay regulatory assessment fees

RAFs are intended to cover the costs incurred in our regulation of utilities, and Section 367.145, F.S., requires water and wastewater utilities to remit RAFs to us. Pursuant to Section 350.113(4), F.S., and Rule 25-30.120(7)(a), F.A.C., a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its RAFs, in the following manner:

1. Five percent of the fee if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.
2. The amount of interest to be charged is one percent for each 30 days or fraction thereof, not to exceed a total of 12 percent annum.

Payment of RAFs, plus associated penalties and interest, is required by Sections 367.145(1), and 350.113(3) and (4), F.S. Therefore, we do not have the power to waive the requirement for payment of RAFs, associated penalties and interest. Pursuant to Sections 367.145(1)(b) and 367.161, F.S., and Rule 25-30.120(7)(b), F.A.C., we may impose an additional penalty upon a utility for failure to pay RAFs in a timely manner.

West Lakeland made a partial payment of \$1,360.67 on May 31, 2008, for its 2007 RAFs, and no payment for its 2008 RAFs. Notices of delinquency for failure to remit the 2007 and 2008 RAFs were mailed to West Lakeland on April 22, 2008, and April 15, 2009, respectively. As of the date of receivership, June 22, 2009, the utility owed delinquent RAFs for 2007 and 2008, respectively: \$3,961.53 in RAFs, \$856.62 in interest, and \$312.80 in penalties. The

amount of 2009 RAFs owed from January 1, 2009, through June 22, 2009, is \$1,315.17; however, this amount will be the responsibility of the receiver.⁴

Failure to submit annual reports

Pursuant to Rule 25-30.110, F.A.C., the filing of annual reports is required. Any utility which fails to file an annual report within the specified timeframe, pursuant to Rule 25-30.110(7), F.A.C., shall be subject to a penalty of \$3.00 per day for Class C utilities. Here, West Lakeland failed to file its required 2007 and 2008 annual reports. Because West Lakeland is a Class C utility, the amount due is \$840 for failing to file the 2007 report, and \$249 for the 2008 report.⁵

The total amount owed by West Lakeland for RAFs, associated penalties and interest, and annual report penalties, is \$6,219.95. This amount is calculated through June 22, 2009, the date of receivership.

Section 367.161(1), F.S., authorizes us to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, F.S. Because West Lakeland has failed to pay its RAFs since May 31, 2008, and has not submitted its required annual reports, the utility is apparently in violation of Chapter 367, F.S.

Utilities are charged with the knowledge of our rules and statutes. Additionally, “[i]t is a common maxim, familiar to all minds that ‘ignorance of the law’ will not excuse any person, either civilly or criminally.” Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility’s failure to pay RAFs, would meet the standard for a “willful violation.” In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, we nevertheless found it appropriate to order it to show cause why it shall not be fined, stating that “‘willful’ implies an intent to do an act, and this is distinct from an intent to violate a statute or rule.” Id. at 6.

The failure to pay RAFs and file annual reports is an apparent violation of Section 367.145(1)(b), F.S. On June 23, 2009, our staff contacted one of the former owners by phone about the RAFs owed, and he stated the utility was broke and unable to pay its debts. On June 24, 2009, the former owners were contacted by letter and electronic mail about the RAFs and annual reports they failed to submit, seeking information about why they failed to submit RAFs and annual reports. To date, they have not responded.

⁴ See Order No. PSC-95-0222-FOF-WU, issued February 17, 1995, in Docket No. 941122-WU, In Re: Notice of abandonment of water system in Levy County by Manatee Utilities, Inc.

⁵ Because the utility had requested an extension to file, the amount due for the 2007 annual report was calculated from September 15, 2008, until June 22, 2009, the date of receivership. The amount due for the 2008 annual report was calculated from March 31, 2009, until June 22, 2009.

The law, as indicated above, is clear that we do not have the discretion to waive the assessment of RAFs and the associated penalties and interest.⁶ The requirement for RAFs, plus penalty and interest, is by statute, and not by rule, and a waiver is therefore not appropriate. With regards to annual report penalties, Section 367.121(1)(c), F.S., authorizes us to require annual reports, but does not require penalties for non-compliance. Penalties imposed for delinquent annual reports are imposed pursuant to Rule 25-30.110(6) and (7), F.A.C. Pursuant to Rule 25-30.110(6), F.A.C., a utility will be subject to a penalty unless it can demonstrate good cause for its non-compliance.

We note that while the utility is liable for the RAFs, interest and penalties, and any penalties associated with failing to file annual reports, in this case, it would be the former owners who are liable. According the Circuit Court's Order on Petition for Appointment of Receiver for West Lakeland Wastewater, Inc., dated June 22, 2009, "Respondents, Sam Averett and Suzzane Britt, [utility's former owners,] shall remain liable under all applicable laws for any claims, violations, penalties, suits, proceeding, actions or fees occurring prior to the appointment of the Receiver." As such, the former owners are liable for these past due amounts.

Because the former owners abandoned the utility, the likelihood that the former owners will pay the past due RAFs, penalties and interest, annual report penalties, or any other amounts due us is minimal without much time, energy, and effort expended by our staff in attempting to collect them. Our staff contacted the former owners about the past due amounts; however, the former owners responded they did not have the money. In addition, they failed to respond to our staff's letter seeking an explanation of why they did not pay. Their abandonment of the utility, along with their verbal response and failure to subsequently respond to staff inquiries, are all indications that the former owners will not pay any outstanding RAFs, penalties and interest, annual report penalties, or any other amounts due us.

In consideration of the foregoing, we find that any attempt to collect the RAFs, plus associated penalties and interest, and annual report penalties, through a show cause proceeding would almost certainly be a waste of time, money, and effort. It appears that further collection efforts would not be cost-effective and that collection of any fees is highly unrealistic. Therefore, consistent with our practice,⁷ we decline to initiate show cause proceedings against the utility or its former owners for its apparent violation of the aforementioned statutes and rules, and direct our staff to refer West Lakeland's unpaid RAFs for 2007 and 2008 and associated penalties and interest to the Department of Financial Services for permission to write off the account as uncollectible. Because the utility was abandoned and is now in receivership, we find

⁶ See Order No. PSC-96-0834-FOF-WS, issued July 1, 1996, in Docket No. 960540-WS, In re: In Re: Request to Establish Payment Plan for 1994 and 1995 Regulatory Assessment Fees by J & J Water and Sewer Corporation in Citrus County; Order No. 24290, issued March 26, 1991, in Docket No. 900961-SU, In re: Request for waiver of penalty and interest added to regulatory assessment fees for 1989, by St. George Island Utility Company, LTD. in Franklin County; and Order No. PSC-97-0767-FOF-GU, issued June 30, 1997, in Docket No. 970360-GU, In re: Petition for waiver of penalty for late payment of regulatory assessment fees pursuant to Rule 25-7.0131, F.A.C., by City Gas Company of Florida.

⁷ See Order No. PSC-03-0550-FOF-WS, issued April 28, 2003, in Docket No. 030289-WS, In re: Disposition of delinquent regulatory assessment fees and delinquent annual report and penalties for Sports Shinko Utility, Inc. d/b/a Grenelefe Utilities in Polk County.

good cause for the utility's non-compliance, exercise our discretion in Rule 25-30.110(6), F.A.C., and not assess the penalties set forth in Rule 25-30.110(7), F.A.C., for outstanding annual reports.

Upon referral of the unpaid RAFs, penalties, and interest to the Department of Financial Services regarding authority to write off the account as uncollectible, this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the abandonment of West Lakeland Wastewater, Inc. is hereby acknowledged. It is further

ORDERED that the appointment of Mr. Michael Smallridge, pursuant to Section 367.165, F.S., as receiver of West Lakeland Wastewater, Inc., effective June 22, 2009, is hereby acknowledged. It is further

ORDERED that West Lakeland Wastewater, Inc.'s Certificate No. 515-S shall remain effective and this Order shall serve as West Lakeland Wastewater, Inc.'s wastewater certificate and shall be retained by West Lakeland Wastewater, Inc. It is further

ORDERED that pursuant to Rule 25-30.120, F.A.C., Mr. Michael Smallridge, as receiver, shall file the West Lakeland Wastewater, Inc.'s 2009 regulatory assessment fees. It is further

ORDERED that, pursuant to Rule 25-9.044(1), F.A.C., the rates and charges approved for West Lakeland Wastewater, Inc. shall be continued until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that a show cause proceeding shall not be initiated against West Lakeland Wastewater, Inc. for failure to pay regulatory assessment fees now that it is in receivership. It is further

ORDERED that a show cause proceeding shall not be initiated against West Lakeland Wastewater, Inc. for failure to file annual reports now that it is in receivership. It is further

ORDERED that the \$6,219.95 owed by the West Lakeland Wastewater, Inc. shall be referred to the Florida Department of Financial Services for permission to be written off as uncollectible. It is further

ORDERED that upon referral of the unpaid regulatory assessment fees, penalties, and interest to the Department of Financial Services regarding authority to write off the account as uncollectible, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 8th day of September, 2009.



ANN COLE
Commission Clerk

(S E A L)

ELS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

West Lakeland Wastewater, Inc.
Polk County
Description of Wastewater Territory

Village Lakeland
Sections 14 and 23, Township 28 South, Range 24 East

Beginning at the SW corner of Section 14, Township 28 South, Range 24 East; run thence East along the South boundary of said Section 14 to the SE corner of the SW 1/4 of the SW 1/4 of said Section 14; thence North to the NW corner of the South 1/2 of the SE 1/4 of the SW 1/4 of said Section 14; thence East to the NE corner of said South 1/2 of the SE 1/4 of the SW 1/4; thence South along the East boundary of the West 1/2 of said Section 14 and the East boundary of the West 1/2 of Section 23 of said Township and Range to the SE corner of the NW 1/4 of said Section 23; thence East to the NE corner of the West 1/4 of the SE 1/4 of said Section 23; thence South to the SE corner of said West 1/4 of the SE 1/4; thence West along the South boundary of said Section 23 to a point 220 feet West of the SE corner of the SW 1/4 of said Section 23; thence North 1,247.05 feet, West 100 feet, North 600 feet, West 180 feet, North 500 feet, West to the West boundary of the East 1/2 of the SW 1/4 of said Section 23; thence North along said West boundary of said East 1/2 of said SW 1/4 and along the West boundary of the SE 1/4 of the NW 1/4 of said Section 23 to the NW corner of said SE 1/4 of the NW 1/4; thence West along the South boundary of the NW 1/4 of the NW 1/4 of said Section 23 to the West boundary of said Section 23; thence North along said West boundary to the point of beginning.

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
West Lakeland Wastewater, Inc.
pursuant to
Certificate Number 515-S

to provide wastewater service in Polk County in accordance with the provisions of Chapter 367, F.S., 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> |
|---------------------|--------------------|----------------------|-------------------------|
| PSC-98-0752-FOF-SU | 06/01/98 | 971531-SU | Grandfather Certificate |
| PSC-01-1271-PAA-SU | 06/06/01 | 010382-SU | Transfer |
| PSC-01-1576-FOF-SU | 07/30/01 | 010382-SU | Name Change |
| PSC-09-0607-FOF-SU | 09/08/09 | 090154-SU | Receiver Appointed |

West Lakeland Wastewater, Inc.
Monthly Wastewater Service Rates

Residential Service

Meter Size:

| | |
|--|----------|
| 5/8" x 3/4" | \$ 13.39 |
| Gallage Charge Per 1,000 Gallons (8,000 Gallon Cap) | \$ 3.26 |

General Service

Meter Size

| | |
|----------------------------------|-----------|
| 5/8" x 3/4" | \$ 13.39 |
| 1" | \$ 18.29 |
| 1 1/2" | \$ 28.09 |
| 2" | \$ 52.61 |
| 3" | \$ 82.02 |
| 4" | \$ 160.45 |
| 6" | \$ 248.71 |
| 8" | \$ 493.82 |
| Gallage Charge Per 1,000 Gallons | \$ 3.89 |

Miscellaneous Service Charges

| | |
|----------------------------|-------------|
| Initial Connection Fee | \$ 15.00 |
| Normal Reconnection Fee | \$ 15.00 |
| Violation Reconnection Fee | Actual Cost |
| Premises Visit Fee | \$ 15.00 |

Service Availability Charges

| | |
|------------|-----------|
| Tap-in Fee | \$ 880.00 |
|------------|-----------|

Erik Sayler

From: Valorie Moore
Sent: Wednesday, March 10, 2010 8:47 AM
To: Erik Sayler
Cc: Karen Belcher
Subject: FW: AR Write-off
Attachments: PSC_Write-off.pdf

Eric, please take a look at the attached document concerning West Lakeland Wastewater. Do you have any additional information that can be sent to Department of Financial Services, if not, we will have to change the collection status and let them pursue collection.

From: Nicole Davis [mailto:Nicole.Davis@myfloridacfo.com]
Sent: Tuesday, March 09, 2010 4:20 PM
To: Valorie Moore
Subject: AR Write-off

Hello Valorie,

After further management review of your AR write-off request, please provide additional explanation of why this receivable should not be sent to collections/not cost-effective.

Thank you for your assistance in this matter. Have a great evening!

Nicole Davis
Department of Financial Services
Bureau of Accounting
(850) 413-5458

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP
DAVID E. KLEMENT

STATE OF FLORIDA



DIVISION OF
ADMINISTRATIVE SERVICES
APRYL C. LYNN
DIRECTOR
(850) 413-6330

Public Service Commission

October 27, 2009

Ms. Molly Merry
Bureau of Accounting
Financial Services
101 East Gaines Street
Tallahassee, Florida 32399-0354

Dear Ms. Merry:

The Public Service Commission has exercised reasonable efforts to collect fines from the utility referenced below. No response has been received, therefore further collection efforts would not be cost effective.

| DOCKET NUMBER | UTILITY NAME | TOTAL AMOUNT |
|---------------|--------------------------------|--------------|
| 090154-SU | West Lakeland Wastewater, Inc. | \$6,219.95 |

The Delinquent Accounts Receivable Transmittal form, a memorandum from the Commission's Office of the General Counsel, and other supporting documentation are enclosed. At your discretion, please grant this agency permission to write off the debt.

Sincerely,

A handwritten signature in black ink, appearing to read "Apryl C. Lynn".

Apryl C. Lynn

AL:vm
Enclosures

cc: Office of the General Counsel (Saylor)
Division of Economic Regulation (Clapp)
Office of Commission Clerk (Cole)

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State of Florida




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ADMINISTRATIVE SERVICES

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: October 22, 2009
TO: Karen Belcher, Director, Division of Administrative Services
FROM: Erik L. Saylor, Senior Attorney, Office of the General Counsel 
RE: Request for Permission from Department of Financial Services to Write-Off the Penalty Imposed on West Lakeland Wastewater, Inc., pursuant to Order No. PSC-09-0607-FOF-SU, issued September 8, 2009, in Docket No. 090154-SU In re: Notice of abandonment of wastewater system for The Village of Lakeland Mobile Home Park in Polk County, by West Lakeland Wastewater, Inc.

On March 30, 2009, Docket No. 090154-SU was established to address the notice of abandonment submitted by West Lakeland Wastewater, Inc. (the Utility), effective June 30, 2009. On June 22, 2009, the Circuit Court of the Tenth Judicial Circuit issued an order in Case No. 53-2009CA-005284, in which it declared West Lakeland Wastewater, Inc. abandoned and appointed Mr. Michael Smallridge as receiver of the wastewater system.

During the pendency of this proceeding, it was discovered that the Utility was in apparent violation of Sections 367.145, 367.161, and 350.113, Florida Statutes (F.S.), Rules 25-30.110, and 25-30.120, Florida Administrative Code (F.A.C.). Commission staff contacted the former owners, by phone, letter, and email concerning the outstanding RAFs, penalties and interest owed to the Commission, and their failure to file annual reports. By phone, the former owners stated they could not pay the RAFs nor penalties and interest. The former owners did not respond to staff's letter or email concerning these outstanding amounts.

Order No. PSC-09-0607-FOF-SU, issued on September 8, 2009, acknowledged abandonment of the Utility and appointment of Mr. Smallridge as receiver. In addition, the order declined to show cause the former owners of the Utility for their failure to pay regulatory assessment fees, penalties and interest on those fees, and for failing to file annual reports because the Utility was abandoned and the likelihood of recovering any money from the former owners was minimal.

In its Order, the Commission found that the Utility had failed to timely submit, pursuant to Rule 25-30.120, F.A.C., its regulatory assessment fees (RAF) and was assessed penalties and interest pursuant to statute and rule. The Utility made a partial payment of \$1,360.67 on May 31, 2008, for its 2007 RAFs, and no payment for its 2008 RAFs. Notices of delinquency for failure to remit the 2007 and 2008 RAFs were mailed to the Utility on April 22, 2008, and April 15, 2009, respectively. As of the date of receivership, June 22, 2009, the Utility owed delinquent

RAFs for 2007 and 2008, respectively: \$3,961.53 in RAFs, \$856.62 in interest, and \$312.80 in penalties. The amount of 2009 RAFs owed from January 1, 2009, through June 22, 2009, is \$1,315.17; however, this amount will be the responsibility of the receiver.¹

The Commission also found that the Utility had failed to timely file, pursuant to Rule 25-30.120, F.A.C., its annual reports, and was assessed a penalty pursuant to the rule. Because the Utility was abandoned and was now in receivership, the Commission found good cause for the Utility's non-compliance, exercised its discretion in Rule 25-30.110(6), F.A.C., and did not assess the penalties set forth in Rule 25-30.110(7), F.A.C., for outstanding annual reports.

Because the Commission also found that further collection efforts would likely not be cost-effective and that collection of any fees is highly unrealistic, the Commission further ordered that the outstanding the RAFs, penalties and interest be sent to the Department of Financial Services for collection, and that the Division of Administrative Services shall request permission to write-off the uncollectible amount.

Therefore, staff requests that the Division of Administrative Services/Fiscal Services Section take the appropriate steps to seek permission from the Department of Financial Services to write-off the uncollectible the RAFs, penalties and interest for West Lakeland Wastewater, Inc.

ELS/els

cc: Valorie Moore
Stephanie Clapp

¹ See Order No. PSC-95-0222-FOF-WU, issued February 17, 1995, in Docket No. 941122-WU, In Re: Notice of abandonment of water system in Levy County by Manatee Utilities, Inc.

**STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
BUREAU OF ACCOUNTING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL
(PLEASE PRINT OR TYPE)**

AGENCY FLORIDA PUBLIC SERVICE COMMISSION DATE October 22, 2009 PAGE 1 OF 1
CONTACT KAREN BELCHER, DIRECTOR, FISCAL SERVICES

PHONE NUMBER 850-413-6273

FLAIR ACCOUNT CODE FLAIR ACCOUNT CODES: 61 50 2 573003 610100 00 000100
61 74 1 000331 610100 00 001200

1. Docket No. 090154-SU WEST LAKELAND WASTEWATER, INC.

| Agency Reference # | Last Name | First | M | Social Security # | DFS use only |
|--|-----------|--------------------|---|-------------------------|------------------------|
| P.O.BOX 266, EATON PARK, FLORIDA 33840 | | | | | |
| Last Known Address (Include Zip) | | | | | |
| 863-581-7514/863-665-1748 | | | | \$3,961.53 | \$1,169.42 |
| | | | | \$1,089.00 | \$6,219.95 |
| Home Telephone Work Phone | | Principal Amount | | Penalty/Interest Amount | Annual Rpt. Fine Total |
| §367.145 F.S., §350.113, F.S., and Rule 25-30.120, F.A.C., Rule 25-30.110, F.A.C. | | | | | |
| Penalty/Interest Authority | | Date Debt Incurred | | Debt Type | |
| Regulatory Assessment Fees, Penalties, Interest and Annual Report Fines for Failure to Pay | | | | | |
| Debt Description, e.g., Drivers License, Property Damage | | | | | |
| Additional Information, e.g., Date of Birth, Drivers License Number, etc | | | | | |

2.

| Agency Reference # | Last Name | First | M | Social Security # | DFS use only |
|--|-----------|--------------------|---|-------------------------|--------------|
| Last Known Address (Include Zip) | | | | | |
| Home Telephone Work Phone | | Principal Amount | | Penalty/Interest Amount | Total |
| Penalty/Interest Authority | | Date Debt Incurred | | Debt Type | |
| Debt Description, e.g., Drivers License, Property Damage | | | | | |
| Additional Information, e.g., Date of Birth, Drivers License Number, etc | | | | | |

3.

| Agency Reference # | Last Name | First | M | Social Security # | DFS use only |
|--|-----------|--------------------|---|-------------------------|--------------|
| Last Known Address (Include Zip) | | | | | |
| Home Telephone Work Phone | | Principal Amount | | Penalty/Interest Amount | Total |
| Penalty/Interest Authority | | Date Debt Incurred | | Debt Type | |
| Debt Description, e.g., Drivers License, Property Damage | | | | | |
| Additional Information, e.g., Date of Birth, Drivers License Number, etc | | | | | |

****DEBIT TYPE CODE****

1. RETURNED CHECK 2. NONPAYMENT FOR STATE GOODS/SERVICES 3. DAMAGE TO STATE PROPERTY
7. COURT ORDER 8. FINES 9. OVERPAYMENT OF STATE FUNDS

GENERAL INSTRUCTIONS

Provide as much information as possible for each account or returned check listed. Names should include legal entities as well as individuals. Principal Amount is the original amount of the debt excluding any service charge, penalty, and/or interest. Penalty/Interest Amount is the amount of the service charge, penalty, and/or interest due to date on the delinquent account or returned check. For those accounts subject to interest charges, please indicate the interest rate, method of calculation, and whether the rate is subject to change. Penalty/Interest Authority is the Florida Statutory and/or Florida Administrative Code citation authorizing the service charge, penalty, and/or interest on delinquent accounts and returned checks. Date Incurred is the date the account became delinquent; e.g., the date a check was returned marked NSF, the date an invoice was due to be paid, etc. Debt Type must be indicated using the codes listed at the bottom of the form.

In order to properly pursue a delinquent account the Bureau of Accounting and the collection agency, if used, require pertinent information about the debt and debtor. Such information regarding the debt should be provided in the area titled Debt Description and include the purpose of the original payment by check; type of goods/services provided; what, when, and where State property was damaged; when, why and what court ordered a payment; when and why a fine was issued; for what and when were State funds overpaid; etc. Additional Information about the debtor should include, if available, date of birth, driver license number, credit card type and number, names and addresses of relatives, and any other information that may be used to locate the debtor. The more the Bureau and the collection agency know about the debt and debtor the more likely the recovery of the debt.

To facilitate the transfer of moneys collected, each agency shall designate one FLAIR revenue account code to which all moneys will be transferred by the journal transfer. Agencies will be provided a detailed listing of amounts collected and collection fees charged for each amount. The Department will also provide instructions in accordance with Generally Accepted Accounting Principles on the appropriate method of recording the difference between any moneys collected and the amount of the delinquent account; i.e., treat the difference as cost of collection or provide approval for adjusting the balance of the account pursuant to Section 17.04, Florida Statutes.

Forms and Questions should be addressed to:

Department of Financial Services
Bureau of Accounting
Room 414 Fletcher Building
200 East Gaines Street
Tallahassee, Florida 32399-0354
(850) 410-9365 / SC 210-9365