

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public) DOCKET NO. 900055-WU
Service Commission of Certificate) ORDER NO. 22904
No. 406-W in Marion County issued to) ISSUED: 5-7-90
EDGEWATER UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, CHAIRMAN
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER

ORDER CANCELLING CERTIFICATE, REFERRING
COLLECTION OF FEES TO COMPTROLLER'S OFFICE,
AND WAIVING ANNUAL REPORT REQUIREMENT

BY THE COMMISSION:

Certificate No. 406-W was issued to Edgewater Utilities, Inc., ("Edgewater" or "utility") on March 29, 1984, by Order No. 13149. Edgewater's service territory in Marion County, Florida, is as follows:

Township 17 South - Range 23 East

Section 15

The South 1/2 of the NE 1/4 and the North 1/2 of the SE 1/4 of said Section 15.

Our investigation indicates that the utility has never provided water service within its territory. The existing residents in the territory have received and continue to receive their water from private wells. Edgewater has never been an operating utility, has never paid any regulatory assessment fees, and has not filed any annual reports. There is no tariff on file for this utility, and no evidence can be found which indicates that a tariff was ever filed. Further, the Division of Corporations indicated that Edgewater Utilities, Inc., was dissolved on November 14, 1986.

Pursuant to Sections 367.111 and 367.045, Florida Statutes, we initiated proceedings to cancel Edgewater's certificate on

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February 21, 1989. As required by Section 367.045(6), Florida Statutes, we provided notice in accordance with Rule 25-30.030, Florida Administrative Code. No timely objections to this action were filed.

Section 367.111, Florida Statutes, states that if utility service has not been provided to any part of the area which a utility is authorized to serve within five years after the date of authorization, such authorization may be revoked. As stated, Edgewater Utilities, Inc., has never been an operating utility and has been dissolved as a corporation. Therefore, we find that Certificate No. 406-W issued to Edgewater Utilities, Inc., should be cancelled and the party or parties holding said Certificate should return the Certificate to the Commission within 30 days of the date of this order.

Section 350.113(3), Florida Statutes, states, "Each regulated company under the jurisdiction of the Commission . . . shall pay to the Commission . . . a fee based upon gross operating revenue." It also states, "In no event shall payments under this section be less than \$25 annually." Section 350.113(3)(e), Florida Statutes. As the statute mandates the levy of this fee, the Commission is without authority to waive it. Since Edgewater has had no operating revenues, it owes a \$25 assessment fee for each year it has held its certificate, for a total of \$150. We have made reasonable efforts to collect these fees from Edgewater since the discovery of the delinquency and find that further collection efforts would not be cost effective. Therefore, we find it appropriate to refer this matter to the Comptroller's Office for further disposition.

The filing of annual reports is required by Rule 25-30.110(6), Florida Administrative Code. No annual reports were ever filed by the utility in this case. There was no response to our certified letters requesting reports from the utility. We conclude that it would not be productive to pursue a course which would in all probability lead to no resolution. Therefore, the report requirement of Rule 25-30.110, Florida Administrative Code, is hereby waived for Edgewater Utilities, Inc.; and show cause proceedings will not be initiated against it for failure to furnish said reports.

It is, therefore,

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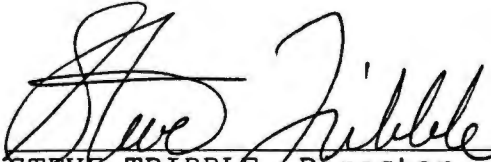
ORDERED by the Florida Public Service Commission that Certificate 406-W issued to Edgewater Utilities, Inc. is hereby cancelled and that the party or parties holding said Certificate shall return it to the Commission within thirty (30) days of the date of this Order. It is further

ORDERED that collection of the outstanding regulatory assessment fees of Edgewater Utilities, Inc., shall be referred to the Comptroller's Office for further disposition. It is further

ORDERED that the report requirement of Rule 25-30.110(6), Florida Administrative Code, is hereby waived for Edgewater Utilities, Inc. It is further

ORDERED that this docket shall be closed upon referral of the collection of the outstanding regulatory assessment fees to the Comptroller's Office.

By ORDER of the Florida Public Service Commission
this 7th day of MAY, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.