

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of )	DOCKET NO. 910659-WU
Majority Organizational Control of Mid-) )	ORDER NO. 25257
County Services, Inc. in Pinellas )	ISSUED: 10/28/91
County from Peter R. Brown to Utilities) )	
Inc. of Florida and Reissue of )	
Certificate No. 81-S to Mid-County )	
Services, Inc. and application for )	
amendment of Certificate No. 81-S. )	
_____ )	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, CHAIRMAN  
 SUSAN F. CLARK  
 J. TERRY DEASON  
 BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING TRANSFER AND  
REISSUANCE OF CERTIFICATE NO. 81-S AND  
AMENDMENT OF TERRITORY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On June 5, 1991, an application was filed with the Commission requesting approval of the transfer of majority organizational control of Mid-County Services, Inc. (Mid-County or Utility) from Peter R. Brown to Utilities, Inc. of Florida. Wastewater Certificate No. 81-S is currently held by Whiting Water Works of Pinellas County, Inc. (Whiting). Order No. 23381, issued August 21, 1990, approved a proposed transfer from Mid-County to Whiting and Certificate No. 81-S was reissued to Whiting. The proposed sale of Mid-County never materialized because negotiations between Mid-County and Whiting failed. It appears that the negotiations failed because of a dispute involving a third party over possible land rights in the event that a future sale of the utility took place. During this time, Utilities, Inc. of Florida initiated

DOCUMENT NUMBER-DATE

10721 OCT 28 1991

FPSC-RECORDS/REPORTING

ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 2

negotiations with Peter Brown to acquire the stock of the utility and attain majority organizational control. Although utility ownership remained with Peter R. Brown, Certificate No. 81-S remained in Whiting's name.

The transaction involving the acquisition of stock has taken place and closing occurred May 22, 1991. In Article V of the stock purchase agreement, the parties acknowledge that the transaction is subject to approval by the Commission.

#### Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of majority organizational control. The application contains a check in the amount of \$1,500 which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(1)(o), Florida Administrative Code.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system to be transferred. On July 26, 1991, Whiting filed an objection letter to the transaction involved in this docket. However, on September 12, 1991, the objection was withdrawn by Whiting pursuant to a letter filed with the Commission. Further, in a separate letter filed August 8, 1991, Whiting explained why the anticipated sale of Mid-County was never finalized. Since the sale of the assets did not occur and Mid-County retained ownership, Order No. 23381 is hereby rescinded and Whiting Water Works of Pinellas County, Inc. is directed to return Certificate No. 81-S to the Commission within thirty (30) days.

During the processing of this application we discovered that several errors existed in the legal description of the utility's service territory. A review of orders going back to the first one, Order No. 5559 in Docket No. 72325-S issued October 24, 1972 up through Orders Nos. 23643 and 23769 in Docket No. 900475-SU issued in October and November 1990, respectively, indicated that the errors were consistent throughout the 18 year period. No reason other than mere accident can be found as a reason for the errors made. The Utility hired an engineering firm to produce an accurate legal description. A corrected legal description of the territory served by Mid-County is appended to this Order as

ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 3

Attachment A. The Utility has renoticed using the correct legal description contained herein.

Utilities, Inc. of Florida has entered into a contract with Peter R. Brown and has purchased all of the issued and outstanding common capital stock of the seller. The Utility is currently not under any Department of Environmental Regulation (DER) citations or notices of violation. However, DER officials have recently urged the Utility to upgrade its treatment to advanced wastewater treatment (AWT) in order to provide environmental protection and compatibility.

The applicant asserts that the public interest has been benefitted as a result of the larger utility company taking over the smaller one. Utilities, Inc. of Florida can provide the organizational control necessary along with technical, operational, financial and managerial expertise. Utilities, Inc. of Florida intends to fully assume the commitments, obligations and representations of the transferor. In addition, Utilities, Inc. of Florida has obtained all the books and records of the utility.

Based on the above information, we find that the transfer of majority organizational control of Mid-County from Peter R. Brown to Utilities, Inc. of Florida is in the public interest and it is approved. Wastewater Certificate No. 81-S is hereby modified to reflect that the name of the utility is Mid-County Services, Inc. and the legal description shall be changed to that shown in attachment A, which by reference is incorporated herein.

#### Rate Base

The sale of stock of Mid-County does not alter the Utility's asset and liability accounts. Accordingly, the transfer of stock ownership will not change the rate base balance. Therefore, rate base is not being established in this Docket. Order No. 23643, issued October 22, 1991, established rate base at \$84,455 for purposes of the prior proposed transfer.

#### Rates and Charges

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulations of the former operating company unless authorized

ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 4

to change by the Commission. The Utility's approved rates and charges were effective May 4, 1991 pursuant to a 1990 Price Index and Pass Through filing. Utilities Inc. of Florida did not request a change in the rates and charges of the Utility and we see no reason to change the rates at this time. The Utility is directed to continue charging the rates and charges approved in its tariff until the Commission authorizes a change.

The Utility has filed a revised tariff reflecting the changes as a result of the transfer of majority organizational control. The tariff filing shall be effective for service provided or connections made after the stamped approval date on the tariff sheets.

It is, therefore,

ORDERED by the Florida Public Service Commission that the provisions of this Order are issued as proposed agency action and shall become final, unless a person whose interests are substantially affected files an appropriate petition in the form provided by Rule 25-22, Florida Administrative Code, with the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that the transfer of majority organizational control of Mid-County Services, Inc. from Peter R. Brown to Utilities Inc. of Florida is hereby approved. It is further

ORDERED that Mid-County Services, Inc. shall continue to charge the rates and charges approved in its tariff until the Commission authorizes a change. The tariff sheets shall be effective for service provided or connections made after the approval date on the tariff sheets. It is further

ORDERED that Order No. 23381 is hereby rescinded and Whiting Water Works of Pinellas County, Inc. is directed to return Certificate No. 81-S to the Commission within thirty (30) days.

ORDERED that Wastewater Certificate No. 81-S shall be modified to reflect that the name of the Utility is Mid-County Services, Inc. and the legal description should be changed to that shown in Attachment A.

ORDERED that Docket No. 910659-SU is hereby closed if no timely protest is received from a substantially affected person.

ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 5

By ORDER of the Florida Public Service Commission, this  
28th day of OCTOBER, 1991.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

LAJ

by: Kay Wilson  
Chief, Bureau of Records

ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 6

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 11/18/91.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.



ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 7

ATTACHMENT A  
Page 1 of 2

MID-COUNTY SERVICES, INC.

TERRITORY DESCRIPTION

The following described lands located in portions of Sections 13 and 24, Township 28 South, Range 15 East, and Sections 18, 19 and 30, Township 28 South, Range 16 East, in Pinellas County, Florida, more particularly described as:

The West  $\frac{1}{2}$  of Section 18, Township 28 South, Range 16 East,

AND

A parcel of land in the Southeast  $\frac{1}{4}$  of Section 18, Township 28 South, Range 16 East, more particularly described as follows:

Begin at the southeast corner of the N.E.  $\frac{1}{4}$  of the S.E.  $\frac{1}{4}$  of Section 18, Township 28 South, Range 16 East, Pinellas County, Florida; thence S89°51'16"W., along the south boundary of the N.E.  $\frac{1}{4}$  of the S.E.  $\frac{1}{4}$  of said Section 18, being also the north boundary of Block "J", Curlew City, as recorded in Plat Book 51, page 19 of the Public Records of Pinellas County, Florida and its easterly and westerly projection 1380.74 feet, to the southwest corner of the N.E.  $\frac{1}{4}$  of the S.E.  $\frac{1}{4}$  of said Section 18; thence N01°07'13"W., along the west boundary of the N.E.  $\frac{1}{4}$  of the S.E.  $\frac{1}{4}$  of said Section 18, 845.61 feet; thence N84°42'28"E., 942.02 feet; thence N89°51'16"E., 452.36 feet; thence S00°25'30"E., along the east boundary of the N.E.  $\frac{1}{4}$  of the S.E.  $\frac{1}{4}$  of said Section 18, 930.00 feet, to the Point of Beginning.

AND

All of Section 19, Township 28 South, Range 16 East, less the North  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  thereof.

AND

The North  $\frac{1}{2}$  of Section 30, Township 28 South, Range 16 East.

ORDER NO. 25257  
DOCKET NO. 910659-SU  
PAGE 8

ATTACHMENT A  
Page 2 of 2

MID-COUNTY SERVICES, INC.

TERRITORY DESCRIPTION

(Continued)

AND

The East  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  of Section 13, Township 28 South, Range 15 East.

AND

The South 450 feet of the S.W.  $\frac{1}{4}$  of the N.E.  $\frac{1}{4}$  of Section 13, Township 28 South, Range 15 East.

AND

The East 1840 feet of the North  $\frac{1}{2}$  of the S.E.  $\frac{1}{4}$  of Section 13, Township 28 South, Range 15 East.

AND

The S.E.  $\frac{1}{4}$  of the N.E.  $\frac{1}{4}$  of Section 24, Township 28 South, Range 15 East.

All of the above lying in Pinellas County, Florida.