

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for)
certificate to provide)
wastewater treatment service)
in Escambia County under)
grandfather rights by BAYOU)
GRANDE TREATMENT CORP.)
_____)

DOCKET NO. 920209-SU
ORDER NO. PSC-92-1028-FOF-SU
ISSUED: 9/21/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER GRANTING CERTIFICATE

BY THE COMMISSION:

Background

On March 4, 1992, Bayou Grande Treatment Corp. (Bayou Grande) filed an application with this Commission for a certificate to provide wastewater service under grandfather rights pursuant to Section 367.171, Florida Statutes, in Escambia County. Bayou Grande is a wastewater utility in Escambia County that provides wastewater service to the 264 residents of Bayou Grande Villas Mobile Home Park. The water service is provided by The Peoples Water Service Company. Bayou Grande is not located in a critical use area as designated by the Northwest Florida Water Management District.

On December 3, 1991, Escambia County Board of County Commissioners passed a resolution which gave jurisdiction over the regulation of private water and wastewater utilities to the Public Service Commission. Bayou Grande began providing wastewater service in 1971, prior to this Commission's receiving jurisdiction in Escambia County. Currently, Bayou Grande is negotiating with Escambia County Utility Authority (ECUA) regarding ECUA's interest in purchasing Bayou Grande's system and connecting its customers to ECUA's lines. ECUA is planning to be connected with Bayou Grande by early 1993.

DOCUMENT NO
10952-92
9-21-92

APPLICATION

On March 4, 1992, Bayou Grande filed an application for a grandfather certificate. The application had several deficiencies. The utility filed the appropriate information to cure the majority of the deficiencies on May 19, 1992. It subsequently filed the territory description, as required by Rule 25-30.035(9), Florida Administrative Code. On June 15, 1992, the application was complete, and it became the official date of filing.

The utility filed a lease with a 5-year term as evidence that it owns the land upon which the facility is located. However, Rule 25-30.035(6), Florida Administrative Code, provides that a long-term lease, such as a 99-year lease, is appropriate to substantiate that the lease is for the "continued use" of the land. The owner of the utility, Mr. Robert Sedlack, is also the owner of the land upon which the facility is located. He has informed us that he is reluctant to execute a long term lease due to the on-going negotiations with ECUA for the purchase of the utility. Therefore, if the negotiations with ECUA are not successful, and the utility is not sold prior to March 1, 1993, the utility shall file a new lease with a longer term, as provided in the Rule, in order to provide proof of the utility's ownership of the land upon which the facility is located.

Therefore, except for the term of its lease, Bayou Grande's application is in full compliance with Section 367.171, Florida Statutes. With its application, Bayou Grande submitted a filing fee in the amount of \$150, as prescribed by Rule 25-30.020, Florida Administrative Code. The utility provided adequate service territory and system maps, as prescribed by Rule 25-30.035(9), (10), and (11), Florida Administrative Code. The territory requested by the utility is described in Attachment A of this Order, which by reference is incorporated herein. The requested territory consists of the territory served by the utility prior to the Commission's receiving jurisdiction.

The utility does not have a permit for its treatment plant from the Department of Environmental Regulation (DER). The utility's previous permit expired in June 1991, and the utility could not qualify for a new permit due to its noncompliance with DER regulations. However, a consent order was issued which gave the utility the choice of making the necessary improvements to its system in order to receive a new DER permit or to connect to the ECUA system. The utility has chosen to attempt connection with ECUA, and, as stated above, the utility is negotiating with ECUA

for the sale of its system to the County. The sale is expected to be final by January 1993.

Based on the above information, we find it in the public interest to grant Bayou Grande Certificate No. 475-S to serve the territory described in Attachment A of this Order.

RATES AND CHARGES

The wastewater rates and charges currently being charged by Bayou Grande are as follows:

Residential Service and General Service

Rate: \$33 flat rate per month

Late payment: 10 percent of the unpaid bill

Customer Deposit: \$38 upon initial connection

Prior to this Commission's receipt of jurisdiction of Escambia County's private water and wastewater utilities, the utility had increased its rates from \$18 to \$38 based on the information from DER regarding the improvements that would be necessary in order to receive a permit. However, in early 1992, after customers complained about the rate increase, and the utility discovered that the county was interested in purchasing the system, the utility reduced its rates to the current level of \$33 in June 1992.

We find these rates to be reasonable, and they are hereby approved. Bayou Grande shall continue to charge these rates and charges until authorized to change by this Commission. There are no service availability charges.

Bayou Grande has filed a tariff which reflects the above rates and charges. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

REGULATORY ASSESSMENT FEES AND ANNUAL REPORT

According to Rule 25-30.120(2), Florida Administrative Code, any utility subject to this Commission's jurisdiction on or before December 31st of that year, or for any part of that year, shall be required to pay regulatory assessment fees, regardless of whether it has applied for or has been issued a certificate. Bayou Grande

has been subject to this Commission's jurisdiction since December 3, 1991. Therefore, Bayou Grande shall pay regulatory assessment fees for 1991, within 60 days of the issuance of this Order. In addition, Bayou Grande shall pay regulatory assessment fees for 1992 through the date of interconnection with ECUA, if said connection occurs. However, the regulatory assessment fees for 1992 will not be due until March 31, 1993.

It is, therefore,

ORDERED by the Florida Public Service Commission that Bayou Grande Treatment Corp., 402 Poinciana Drive, Gulf Breeze, Florida 32561, with a mailing address of Post Office Box 1405, Gulf Breeze, Florida 32562, is hereby granted Certificate No. 475-S to serve the territory described in Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that Bayou Grande Treatment Corp. shall charge the rates and charges approved in the body of this Order until authorized to change by this Commission. It is further

ORDERED that the tariff, filed by Bayou Grande Treatment Corp., shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Bayou Grande Treatment Corp. shall file a long-term lease, as provided for in Rule 25-30.035(6), Florida Administrative Code, evidencing its continued use of the land upon which the facility is located, before March 1, 1993, if it is not sold to the Escambia County Utility Authority prior to March 1993. It is further

ORDERED that Bayou Grande Treatment Corp. shall make payment of its regulatory assessment fees for 1991 within 60 days of the date of this Order. It is further

ORDERED that Bayou Grande Treatment Corp. shall make payment of its regulatory assessment fees for 1992 prior to March 31, 1993. It is further

ORDERED that this docket is closed.

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By ORDER of the Florida Public Service Commission this 21st
day of September, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

BAYOU GRANDE TREATMENT CORP.

TERRITORY DESCRIPTION - ESCAMBIA COUNTY

Township 03 South, Range 31 West, Escambia County

In Section 04

Beginning at the Northwest corner of Section 4; thence Southeast along the Westerly Line of Section 4, 3,525 feet more or less to the Southerly Right of Way Line of State Road 292; thence East along that Southerly Right of Way Line, 6,250 feet more or less, to a Concrete Monument at the Northwest Corner of Lot 67 Bayreuth Subdivision for the Point of Beginning (P.O.B.); Thence run South 27° 58' 42" East (an assumed bearing) 2,063.12 feet to a concrete monument on the shore line of Bayou Grande; thence Westerly meandering the approximate shore line of Bayou Grande the following 17 courses and distances:

1. South 75° 40' 30" West, 102.91 feet;
2. North 27° 58' West, 150 feet;
3. North 15° 01' 05" West, 102.61 feet;
4. North 17° 12' 45" West, 101.79 feet;
5. North 32° 56' 55" West, 100.38 feet;
6. North 42° 32' West, 175.0 feet;
7. South 31° 19' 05" West, 80.20 feet;
8. South 19° 51' 10" West 72.92 feet;
9. South 51° 44' West 149.19 feet;
10. South 55° 36' 10" East, 85.52 feet;
11. South 16° 36' West, 107.42 feet;
12. South 43° 48' West, 293.63 feet;
13. South 71° 15' West, 155.07 feet;
14. South 73° 52' 10" West, 112.89 feet;
15. South 62° 30' 10" West, 102.26 feet;
16. South 76° 47' 00" West, 238.07 feet;
17. North 62° 12' West, 99.22 feet;

Thence North 27° 58' 42" West, 1,588.04 feet;

Thence North 62° 00' 10" East, 1,346.85 feet to the P.O.B.