

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment) DOCKET NO. 920273-SU  
of Certificate No. 247-S to )  
include Forest Park Mobile Home )  
Park and cancellation of )  
Certificate No. 175-S held by )  
Forest Park Property Owners )  
Association, Inc.)

In re: Application for limited ) DOCKET NO. 920379-SU  
proceeding for approval of North ) ORDER NO. PSC-92-1357-FOF-SU  
Fort Myers Utility, Inc.'s rates ) ISSUED: 11/23/92  
and charges to the Forest Park )  
Mobile Home Subdivision)

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING APPLICATION FOR LIMITED PROCEEDING,  
GRANTING REQUEST TO CHARGE APPROVED RATES AND CHARGES TO  
FOREST PARK MOBILE HOME SUBDIVISION, AND  
DENYING REQUEST TO CANCEL CERTIFICATE NO. 247-S ISSUED TO  
FOREST PARK HOMEOWNERS ASSOCIATION, INC.

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 March 26, 1992, North Fort Myers Utility, Inc. (NFMU) filed an application for amendment of its wastewater certificate to provide service to the Forest Park Mobile Home subdivision (Forest Park) and to cancel the certificate held by Forest Park Property Owners Association, Inc. (association). This application was assigned Docket No. 920273-SU. On April 30, 1992, NFMU filed an application for a limited proceeding for the application of its current wastewater rates, charges and service availability charges to residents of Forest Park. This application was assigned Docket No. 920379-SU.

DOCUMENT NUMBER-DATE

13760 NOV 23 1992

PSC-RECORDS/REPORTS

Forest Park is a mobile home subdivision consisting of approximately 437 lots which has been in existence since the early 1970's. Wastewater services were provided by a private company, Vista Villages, Inc. from the inception of the subdivision until 1990, when the association obtained ownership. Certificate No. 175-S was transferred from Vista Villages, Inc. to the association by Order No. PSC-92-0193-FOF-SU, issued April 13, 1992.

Due to numerous violations of environmental standards, the association entered into a Consent Order with the Department of Environmental Regulation (DER) providing for the interconnection of its wastewater system with NFMU and the dismantlement of its wastewater treatment plant. On March 3, 1992, NFMU and the association entered into an agreement to interconnect the association's wastewater system with the NFMU system. The agreement provided for the payment of certain connection charges, as well as the implementation of NFMU's monthly rates for service within Forest Park. It also provided that the association retain ownership of the collection gravity lines within the subdivision.

On May 22, 1992, NFMU filed a petition for interim relief requesting authorization to charge the residents of Forest Park NFMU's authorized rates and to collect service availability charges. By Order No. PSC-92-0588-FOF-SU, issued June 30, 1992, the Commission approved the amendment application, granted NFMU temporary authority to charge its rates and charges within the Forest Park subdivision, and suspended the approved rates and charges of the association.

A customer meeting was held on July 9, 1992, at the Forest Park Clubhouse in North Fort Myers to obtain customer input on the limited proceeding to change the rates of the residents of Forest Park. Most of the customers at the meeting were in favor of NFMU becoming their wastewater utility, although there was a large group of customers opposed to paying the service availability fees. Those customers are also involved in a lawsuit against the association for recovery of these charges and other matters.

#### LIMITED PROCEEDING

As mentioned above, NFMU was granted temporary authority to charge its rates and charges to the residents of Forest Park by Order No. PSC-92-0588-FOF-SU. The increase in rates and the service availability charges collected were ordered to be held in escrow pending a final decision.

A comparison of the previous rates of Forest Park and the approved rates of NFMU follows:

	<u>Forest Park</u>	<u>North Fort Myers Utility</u>
<u>Monthly Rates</u>		
All Meter Sizes	\$8.94 flat rate	\$9.66 base charge
Gallonage Charge per 1,000 gallons (maximum 10,000 gal.)	n/a	\$3.50

The above rates of NFMU are those contained in its approved tariff for residential customers and are based on water consumption. Each mobile home lot within Forest Park is separately metered for water service, which is provided by Lee County. The county has agreed to provide data to NFMU indicating the water consumption of each lot. Since these are the Commission approved rates for residential wastewater service for customers of NFMU, we find these rates to be appropriate for the Forest Park residents on a permanent basis.

In addition to rates, NFMU requested authority to collect a service availability charge from each mobile home resident, including a plant capacity charge and the pro rata cost of the construction of the off-site installation. By Order No. PSC-92-0588-FOF-SU, the Commission approved, on a temporary basis subject to refund, a combined service availability charge of \$1,118.57 per mobile home lot. This charge includes a plant capacity charge, an estimated amount of the pro rata share of the cost of the interconnection, and the gross-up amount to recover the income tax on CIAC.

The approved tariff of NFMU contains a plant capacity charge of \$462 per mobile home lot. NFMU correctly applied the gross-up formula contained in its tariff to calculate an additional amount of \$279 to recover the income tax on CIAC. Therefore, pursuant to the tariff of NFMU, the total plant capacity charge including gross-up is \$741.

In addition, NFMU requested authority to collect the pro rata share of the cost of the construction of the off-site installation to interconnect Forest Park with the NFMU system. NFMU submitted a breakdown of the actual costs of the interconnection which was

completed in June, 1992. The construction costs billed by Southwest Utility Systems, Inc. totaled \$143,765, which is \$3,000 less than the original contract amount. However, this amount does not include any of the engineering or legal costs incurred. In addition, NFMU agreed to absorb most of the CIAC gross-up amount (\$61,483 of the \$79,718 gross-up). For these reasons, we find that the amount agreed upon by NFMU and the association, \$165,000, is the appropriate amount to be collected from the residents of Forest Park as payment for the interconnection including CIAC gross-up. This amount equates to a pro rata share per mobile home lot of \$377.57.

Based on the above, we find it appropriate to approve a total service availability charge per mobile home lot of \$1,118.57.

By agreement between NFMU and the association, the customers have been given an option of paying the service availability charge on an installment basis over seven years at 10% interest, which represents monthly payments of \$18.57. We find this payment option to be reasonable.

Pursuant to Order No. PSC-92-0588-FOF-SU, which granted NFMU temporary authority to charge its current rates and charges to the residents of Forest Park, NFMU has held in escrow a portion of the monthly rates and the entire amount of the service availability charges. Because the final rates and charges approved in this Order are the same as those rates and charges authorized on a temporary basis, we find it appropriate to authorize the release of all escrowed funds held pursuant to Order No. PSC-92-0588-FOF-SU.

#### REQUEST TO CANCEL CERTIFICATE

By Order No. PSC-92-0588-FOF-SU, this Commission approved the amendment to the certificate held by NFMU to include Forest Park. However, the request to cancel the certificate held by the association was not decided at that time, pending further review of its jurisdictional status.

The agreement between NFMU and the association provides that the association shall retain ownership and responsibility of maintaining the on-site installations within the boundaries of Forest Park. According to correspondence received from attorneys for both the association and NFMU, the only remaining portions of the wastewater system owned by the association are the on-site gravity lines which connect the lift stations to the individual lots. According to information received by the association, these gravity lines will require very little maintenance.

If any charge for maintenance of the remaining utility facilities owned by the association is made to customers who are non-members of the association, the association will remain a utility subject to Commission regulation. The association has stated that maintenance of this small portion of the collection system will be handled from the general maintenance fees of both members and non-members. Therefore, we find it appropriate to deny the request to cancel the Certificate held by Forest Park Property Owners Association, Inc.

Further, we find it appropriate to require the association to file within sixty days of the effective date of this Order a proposed charge for the maintenance of the gravity lines. In so doing, the association shall include documentation in support of the charge. The amount of this charge shall be broken out from the general maintenance fee and treated as a separate utility maintenance fee, which may only be charged or changed by prior approval of this Commission. Further, Docket No. 920273-SU shall remain open to process the association's proposal.

The limited proceeding docket, Docket No. 920379-SU, may be closed if no timely protest is filed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the request by North Fort Myers Utility, Inc. to charge, on a permanent basis, its approved residential rate to the customers in Forest Park Mobile Home subdivision is hereby approved. It is further

ORDERED that North Fort Myers Utility, Inc. is hereby authorized to collect a service availability charge of \$1,118.57 per mobile home lot in Forest Park Mobile Home subdivision. It is further

ORDERED that the customers in Forest Park Mobile Home subdivision shall be allowed the option of paying the service availability charge on an installment basis over seven years at 10% interest, representing monthly payments of \$18.57. It is further

ORDERED that all funds required by Commission Order No. PSC-92-0588-FOF-SU to be deposited in an escrow account shall be released to North Fort Myers Utility, Inc. It is further

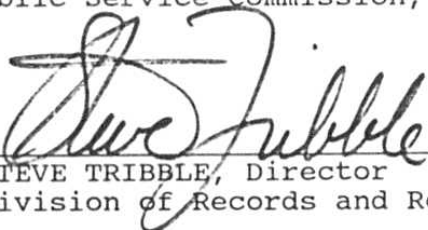
ORDERED that the request of North Fort Myers Utility, Inc. to cancel the Certificate held by Forest Park Property Owners Association, Inc. is hereby denied. It is further

ORDERED that the Forest Park Property Owners Association, Inc. shall file a proposed charge for the maintenance of the gravity lines along with documentation in support of the charge within sixty days of the effective date of this order. It is further

ORDERED 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. It is further

ORDERED that if no timely protest is received, Docket No. 920379-SU may be closed. Docket No. 920273-SU shall remain open to process the association's proposal for an appropriate charge.

By ORDER of the Florida Public Service Commission, this 23rd day of November, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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

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DOCKETS NOS. 920273-SU AND 920379-SU  
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Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 14, 1992.

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 wastewater 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.