

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 921111-WS
Modification of Certificates) ORDER NO. PSC-93-0017-FOF-WS
Nos. 236-W and 179-S and) ISSUED: 01/05/93
Amendment of Certificate No.)
No. 236-W in Duval County by)
JACKSONVILLE SUBURBAN)
UTILITIES CORPORATION.)
_____)

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 IN PART UTILITY'S REQUEST
FOR WAIVER OF COMMISSION RULES

BY THE COMMISSION:

On October 28, 1992, Jacksonville Suburban Utilities Corporation (JSUC or utility) filed an application to amend and modify its certificates as a result of its acquisition of with Atlantic Utilities of Jacksonville, Inc. (Atlantic Utilities). This transfer was approved by Order No. PSC-92-0895-FOF-WS, issued August 27, 1992. While reviewing this transfer application, we determined that Atlantic Utilities' legal description was inadequate and failed to meet the requirements of Rule 25-30.036(1)(e), Florida Administrative Code, as well as Commission policy. Specifically, our rules require that sections, townships and ranges be used along with metes and bounds where necessary. The utility's legal descriptions contained references to plat books and other references contained only in local or county records. Moreover, the utility subsequently discovered that the legal descriptions failed to contain the area involving 56 water customers being served by Atlantic Utilities.

Thus, by filing this application, JSUC sought to correct the legal description for the water system and to bring all legal descriptions for the Atlantic Utilities service area into compliance with Commission rules. The utility also requested that all provisions of Rule 25-30.030 be waived and the following portions of Rule 25-30.036(1), Florida Administrative Code, be waived including subsections (1)(b), (1)(d), (1)(f), (1)(j), (1)(k), (1)(l), and (1)(n). The utility asserts that these rules

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are inapplicable in this proceeding and are unduly burdensome. The utility adds that all noticing of customers, other utilities, cities, counties and governmental entities, Office of Public Counsel and the Commission was accomplished in the noticing of the transfer proceeding. The utility also asserts that the utility's financial and technical ability to serve was examined in the transfer Docket and it is not necessary to reconsider this in the instant proceeding. The utility contends that renoticing would result in additional costs and is not necessary to alert any party of the opportunity to the protest the amendment and modification of the certificates and legal descriptions.

These waivers are technical in nature because all of the noticing requirements and the filing of information for this amendment were accomplished in the transfer docket. That notice would have alerted anyone with knowledge of the territory that certain areas were intended to be included in the notice of transfer and because each of the 56 customers involved received notice of the transfer in that docket. To require technical compliance with these rules when their purposes have already been fulfilled, given the recent transfer case and its noticing, and the information filed, and the minimal nature of the addition of 56 customers to a relatively large territory who have received service for many years already, would be unduly burdensome in these unique circumstances.

Therefore, we hereby grant in part the utility's request for waiver of the noticing requirements in Rule 25-30.030, except for subsection (5). We also find it appropriate to waive Rule 25-30.036(1)(b), (1)(d), (1)(f), (1)(j), (1)(k), (1)(l), and (1)(n).

However, because those entities referenced in Rule 25-30.030(5), Florida Administrative Code, rely on the technical legal description, which did not include the very small areas of territory involved here, we believe notice to the entities in Rule 25-30.030(5) is necessary. Therefore, we hereby require the utility to notice those entities named in Rule 25-30.030(5), Florida Administrative Code.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application by Jacksonville Suburban Utilities Corporation for modification of Certificates Nos. 236-W and 179-S and the amendment of Certificate No. 236-W is approved to the extent set forth in the body of this Order. It is further

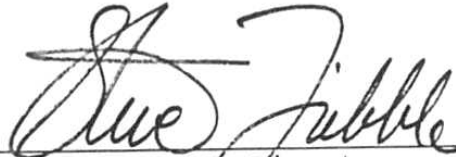
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ORDERED that the utility's request for waiving a portion of the requirements in Rules 25-30.030 and 25-30.036(1), Florida Administrative Code, is granted in part to the extent set forth in the body of this Order. It is further

ORDERED that the utility shall notice those entities named in Rule 25-30.035(5), Florida Administrative Code. It is further

ORDERED that this docket shall remain open until the utility completes all noticing requirements as set forth in this Order and processing of the case is complete.

By ORDER of the Florida Public Service Commission this 5th day of January, 1993.

A handwritten signature in cursive script, reading "Steve Tribble", written over a horizontal line.

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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.