

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ) DOCKET NO. 920376-WS  
William C. Demetree and Jack ) ORDER NO. PSC-93-0239-FOF-WS  
C. Demetree d/b/a Demetree ) ISSUED: 02/15/93  
Enterprises for Water and )  
Wastewater Certificates in )  
Duval County, Florida. )  
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA J. JOHNSON  
LUIS J. LAUREDO

ORDER GRANTING CERTIFICATES AND REQUIRING  
PAYMENT OF 1991 REGULATORY ASSESSMENT FEES  
AND SUBMISSION OF 1991 ANNUAL REPORT

AND

NOTICE OF PROPOSED AGENCY ACTION

ORDER ESTABLISHING RATES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action herein establishing rates 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 April 29, 1992, Demetree Enterprises filed an application with this Commission for water and wastewater certificates in Duval County in the name of Villa del Rio Wastewater Treatment Facility. However, after discussions with Demetree Enterprises, it was

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determined that the certificates should be issued in the name of William C. and Jack Demetree d/b/a Demetree Enterprises (Demetree or utility).

Demetree provides water and wastewater service to 600 units in the Villa Del Rio and the Ortega Arms apartment complexes and water service to 22 single family residences. Demetree purchases potable water from the City of Jacksonville for distribution to its customers. Wastewater from the apartment complexes is collected, pumped, treated and disposed of by the utility's wastewater system.

Demetree's systems have been in operation since 1972. Although the Commission has had jurisdiction in Duval County since 1974, Demetree has stated that it was not aware of the requirement to file an application with this Commission for certificates to provide service. In January 1991, when the Commission was made aware of Demetree's existence by representatives of the City of Jacksonville, an investigation was initiated. From agreements between Demetree and the owners of the apartment complexes, it appears that the utility believed that its proximity to the City of Jacksonville relieved it of any requirement to file with other agencies.

Since Demetree has been in operation without certificates for approximately 18 years, it is in violation of Section 367.031, Florida Statutes. However, we will not initiate show cause proceedings against Demetree since it filed an application for certificates upon being advised of the requirement. As stated previously, the application was filed on April 29, 1992.

Upon initial review of the application, it appeared that Demetree could possibly qualify for exemption as a reseller pursuant to Section 367.022(8), Florida Statutes. Demetree receives its water from the City of Jacksonville and it appears that the utility recovers only the cost of that service. Although several applications for exemption have been sent to the utility, none have been completed and returned. It is clear, however, that Demetree is providing water service to the public for compensation.

#### Application

Except as discussed previously, the application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains a filing fee in the amount of \$1,800, pursuant

to Rule 25-30.020, Florida Administrative Code. Demetree also provided evidence in the form of a warranty deed that it owns the land upon which its facilities are located.

The utility provided adequate service territory and system maps and a territory description as prescribed by Rule 25-30.034(1)(h), (i) and (j), Florida Administrative Code. A description of the territory to be served by Demetree is shown on Attachment A of this Order, which by reference is incorporated herein.

Demetree provided proof of compliance with the notice provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers in the territory it has requested to serve. The City of Jacksonville filed an objection to the application on May 26, 1992, stating that the territory requested overlapped the territory served by the City. After reaching an agreement with the City of Jacksonville, Demetree filed a revised territory description reflecting only that territory which it currently serves. The City of Jacksonville withdrew its objection on November 6, 1992.

Demetree has been operating the water and wastewater systems since 1972 when the property was developed by the owners. The utility had a water treatment facility until it was dismantled in 1987. The utility receives potable water from the City of Jacksonville for distribution to customers in its service area. Demetree owns a collection, pumping, treatment and disposal facility for wastewater received from its customers.

From information provided with the application, it appears that Demetree has the financial ability to ensure continued operation of the systems. Also, since Demetree has been in operation providing adequate service to its customers since 1972, it has demonstrated that it has the technical ability to continue to operate the systems. In addition, according to the Department of Environmental Regulation (DER) and local health authorities the systems have been operating satisfactorily and there are no problems or enforcement actions against the utility.

Therefore, we find that it is in the public interest to grant Demetree Certificates Nos. 547-W and 477-S to provide service in Duval County to the territory described in Attachment A of this Order.

Rates and Charges

The rates and charges currently charged by Demetree are as follows:

Water

Residential - Quarterly Rates

\$0.38 per 100 cubic feet

Multi-Residential - Monthly Rates

\$0.38 per 100 cubic feet

Wastewater

Multi-Residential - Monthly Rates

\$2.50 per 100 cubic feet

These rates were established by a letter dated March 28, 1986. According to the letter, the rates are those agreed to in a water and sewage agreement between the utility and the apartment complexes dated May 1, 1981. The letter also indicated that the agreement states that the rates for water and sewer service shall be the same as; and would never exceed, those charged by the City of Jacksonville. We find these rates to be reasonable and they are, therefore, approved. Demetree shall continue to charge these rates until authorized to change by this Commission.

Demetree does not collect customer deposits, and, since the operation involves billing to owners of apartments, miscellaneous service charges are unnecessary. In addition, since the territory is built-out, no service availability charges are necessary. It should be noted that the utility has not requested customer deposits, miscellaneous service charges, or service availability charges and none are approved herein.

Demetree has filed tariffs which reflect the rates set forth above. The tariffs shall be effective for service rendered on or after the stamped approval date on the tariff sheets.

Regulatory Assessment Fees

Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, require regulated utilities to file annual reports and pay regulatory assessment fees regardless of whether or not certificates have been granted. Demetree has been subject to this Commission's jurisdiction since 1974 although we were unaware of its existence until January 1991. On March 14, 1991, the utility was advised of the Commission's jurisdiction and its responsibility to file for certificates. Therefore, we find it appropriate to require Demetree to file a 1991 annual report and pay 1991 regulatory assessment fees within 45 days of the date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that William C. and Jack C. Demetree d/b/a Demetree Enterprises, 3740 Beach Boulevard, Suite 300, Post Office Drawer 47050, Jacksonville, Florida 32247-7050, is hereby granted Certificates Nos. 547-W and 477-S to serve the territory described in Attachment A of this Order. It is further

ORDERED that Demetree Enterprises shall charge the rates approved in the body of this Order until authorized to change by this Commission. The tariff filed reflecting these rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Demetree Enterprises shall file a 1991 annual report and pay regulatory assessments fees for 1991 within 45 days of the date of this Order. It is further

ORDERED that the provision of this Order establishing rates is issued as proposed agency action and shall become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the 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 below. It is further

ORDERED that this docket will be closed if no timely protest is received from a substantially affected person.

By ORDER of the Florida Public Service Commission this 15th  
day of February, 1993.

  
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STEVE TRIBBLE, Director,  
Division of Records and Reporting

( S E A L )

MJF

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.

As identified in the body of this order, our action establishing rates 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 March 8, 1993. In the absence of such a petition, this order shall become effective on the date 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 the relevant portion of 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.

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 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 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.

ATTACHMENT A

WILLIAM C. DEMETREE AND JACK C. DEMETREE  
d/b/a DEMETREE ENTERPRISES

Territory Description

The following described lands located in portions of Section 42, Township 3 South, Range 26 East, Duval County, Florida:

For point of reference commence at the intersection of the Westerly boundary of the Ortega River, with the Northerly right-of-way line of said State Road 134; thence North 89°42'30" West, along said Northerly right-of-way line, 3400 feet more or less to the point of intersection with the center line of Catoma Street (A 60-foot right-of-way, as now established); thence North 00°50' East, along said center line of Catoma Street, 200 feet to the Point of Beginning of the land to be described; thence continue North 00°50' East, along said center line of Catoma Street, 2930 feet to the point of intersection with the center line of Ortega Farms Boulevard (an 80-foot right-of-way, as now established); thence North 54°40'00" West, along said center line, 820 feet to an intersection with the Southwesterly prolongation of the Northwesterly line of Lot 14, according to the Plat of Pinecrest, as recorded in Plat Book 19, Page 21 of said current Public Records; thence North 35°20' East, along said Southwesterly prolongation and the Northwesterly line of said Lot 14, 196.55 feet to the most Northerly corner of said Lot 14; thence South 29°50'30" East, along the Northeasterly line of said Lot 14 and the Southeasterly prolongation of said Northeasterly line, 135 feet to an intersection with the Westerly prolongation of the Northerly line of that land described in Official Records Volume 5340, Page 169, said current Public Records; thence South 89°56'30" East, along said Westerly prolongation and said Northerly line, 325 feet to the Northeast corner of said land described in Official Records Volume 5340, Page 169; thence North 00°03'30" East, 145 feet; thence South 89°56'30" East, 150 feet to the West line of that land as described in Official Records Volume 7072, Page 917, said current Public Records; thence North 00°03'30" East, along said Westerly line, 143.93 feet to the South line of "Asbury Replat", as recorded in Plat Book 23, Page 86 of said current Public Records; thence South 89°56'30" East, along said South line, 225 feet to the most Westerly corner of Lot 10, according to said Plat of "Asbury Replat"; thence North 28°16'11" East, along the Northwesterly line of said Lot 10, and the Northeasterly prolongation thereof, 200



feet to the point of intersection with the Southwest prolongation of the North line of the Northwest 1/2 of the Southeast 1/2 of Lot 8, Block 21, according to the Plat of "Ortega Farms", as recorded in Plat Book 3, Page 79 of said current Public Records; thence North 50°00' East, along said Southwest prolongation, along said North line of the Northwest 1/2 of the Southeast 1/2 and a Northeasterly prolongation thereof, 1000 feet more or less to the center of the run of Ortega River; thence Southeasterly, along the center of the run of said Ortega River, 2500 feet, more or less to the point of intersection of the Northeasterly prolongation of the Northwesterly line of Lot 5, according to the Plat of "Ortega Farms, A Replat of Lots 5 and 6, Block 22, Ortega Farms", as recorded in Plat Book 18, Page 92, of said current Public Records; thence South 47°55' West, along said Northeasterly prolongation and Northwesterly line of said Lot 5, 1200 feet, more or less to the center line of said Ortega Farms Boulevard; thence South 41°55' East, along said center line, 150 feet to the point of intersection with the Easterly prolongation of the Southerly Lot line of Lot 2, Block 25, of said Ortega Farms; thence North 89°20' West, along said Easterly prolongation and along said Southerly Lot line, 243.62 feet to the Easterly Lot line of Lot 6, Block 25, of said Ortega Farms Subdivision; thence South 00°25' East, along said Easterly Lot line of Lot 6, Block 25, 650 feet to the center line of 101st Street (a 60-foot right-of-way, as now established); thence North 88°55' West, along said center line, 328 feet to the Westerly Lot line of said Lot 6, Block 25, "Ortega Farms"; thence South 00°25' East, along said Westerly Lot line, 1050 feet to the Northerly right-of-way line of said State Road 134; thence North 89°42'30" West, along said Northerly right-of-way line, 469 feet; thence North 00°50' East, 200 feet; thence North 89°42'30" West, 210 feet to the Point of Beginning.

feet to the point of intersection with the Southwest prolongation of the North line of the Northwest 1/2 of the Southeast 1/2 of Lot 8, Block 21, according to the Plat of "Ortega Farms", as recorded in Plat Book 3, Page 79 of said current Public Records; thence North 50°00' East, along said Southwest prolongation, along said North line of the Northwest 1/2 of the Southeast 1/2 and a Northeasterly prolongation thereof, 1000 feet more or less to the center of the run of Ortega River; thence Southeasterly, along the center of the run of said Ortega River, 2500 feet, more or less to the point of intersection of the Northeasterly prolongation of the Northwesterly line of Lot 5, according to the Plat of "Ortega Farms, A Replat of Lots 5 and 6, Block 22, Ortega Farms", as recorded in Plat Book 18, Page 92, of said current Public Records; thence South 47°55' West, along said Northeasterly prolongation and Northwesterly line of said Lot 5, 1200 feet, more or less the the center line of said Ortega Farms Boulevard; thence South 41°55' East, along said center line, 150 feet to the point of intersection with the Easterly prolongation of the Southerly Lot line of Lot 2, Block 25, of said Ortega Farms; thence North 89°20' West, along said Easterly prolongation and along said Southerly Lot line, 243.62 feet to the Easterly Lot line of Lot 6, Block 25, of said Ortega Farms Subdivision; thence South 00°25' East, along said Easterly Lot line of Lot 6, Block 25, 650 feet to the center line of 101st Street (a 60-foot right-of-way, as now established); thence North 88°55' West, along said center line, 328 feet to the Westerly Lot line of said Lot 6, Block 25, "Ortega Farms"; thence South 00°25' East, along said Westerly Lot line, 1050 feet to the Northerly right-of-way line of said State Road 134; thence North 89°42'30" West, along said Northerly right-of-way line, 469 feet; thence North 00°50' East, 200 feet; thence North 89°42'30" West, 210 feet to the Point of Beginning.