

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930772-WU
Certificate to Provide Water) ORDER NO. PSC-94-0259-FOF-WU
Service in Okaloosa Under) ISSUED: March 8, 1994
Grandfather Rights by DESTIN)
UTILITY COMPANY, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER GRANTING GRANDFATHER CERTIFICATE

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING REQUESTED ADDITIONAL TERRITORY
AND ESTABLISHING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature, except for the granting of water Certificate No. 561-W, and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On October 20, 1992, the Board of County Commissioners of Okaloosa County adopted a resolution pursuant to Section 367.171 Florida Statutes, declaring all water and wastewater utilities within its boundaries subject to the jurisdiction of this Commission. On February 15, 1993, Destin Ecological Systems (DES) filed its application for water and wastewater certificates under grandfather rights, pursuant to Section 367.171, Florida Statutes. At the time of jurisdiction, water service was being provided under the name of Destin Utility Company, Inc. (Destin or Utility), and

DOCUMENT FILED
02213 MAR-8 5
PSC-REGISTRATION DIVISION

wastewater service was being provided under the name of Sun States Utility, Inc. (Sun States). Destin was organized December 6, 1985, to develop and operate a water company for the purpose of providing adequate service to 2,000 acres of property. DES was established in 1992, for the purpose of combining the resources of Destin and Sun States. On February 2, 1993, DES signed sales agreements with Destin and Sun States to consolidate both companies. On February 15, 1993, DES filed for grandfather certificates for water and wastewater. However, on June 11, 1993, DES withdrew its application due to a delay in the merger of Destin and Sun States.

Subsequently, on August 3, 1993, Destin filed an application with the Commission for a grandfather certificate to provide water service in Okaloosa County. Destin is a class C utility which is currently serving 56 customers in Okaloosa County.

Application

The application is in compliance with Section 367.171, Florida Statutes, and other pertinent statutes and administrative rules. In particular, \$2,250 of the \$4,500 filing fee which was included in DES's application was applied to the filing fee, pursuant to Rule 25-30.020, Florida Administrative Code. Destin has also provided evidence that it owns the land upon which its facilities are located, as required by Rule 25-30.035(6), Florida Administrative Code.

A description of the territory we are authorizing Destin to serve is appended to this Order as Attachment A, which by reference is incorporated herein. This territory includes only the territory actually being served by the utility prior to our receiving jurisdiction.

In addition, according to the Department of Environmental Protection (DEP), Destin is operating in accordance with DEP's regulatory requirements.

Based on the foregoing, we find that it is in the public interest to grant Destin water Certificate No. 561-W to serve the territory described in Attachment A of this Order.

Additional territory was requested by Destin than is currently being served by the utility. The additional territory being requested is adjacent to the current service territory. However, at the present time, the additional territory requested is undeveloped land, and there are no immediate plans to develop this area. According to Section 367.171, Florida Statutes, a utility is

entitled to a grandfather certificate for "the area served by such utility on the day this chapter becomes applicable to it."

Furthermore, we have concerns over the utility's financial ability to provide service to the additional territory. These problems surfaced when the merger of Destin and Sun States failed. In addition, the wastewater company could not service the additional territory due to economic difficulty, which is a concern here, because the individuals who own and operate the wastewater company are the same individuals who own and operate Destin.

Based on the foregoing, we find that it is in the public interest not to grant the additional territory with the grandfather certificate. In the future, the utility may file for an amendment of certificate pursuant to Section 367.045(2), Florida Statutes, when it wants to service the territory not granted in this Order.

Rates and Charges

The utility filed tariffs with proposed rates and charges which it intended to charge its customers. It is the practice of the Commission to approve the existing rates and charges that the utility is charging at the time of jurisdiction. Upon our examination of the books and records of Destin, we have determined that the rates being charged on October 20, 1992, have been charged since July 1990, and are not the rates and charges requested by the utility. Therefore, we find that the rates and charges that were in effect since July 1990, and were being charged on October 20, 1992, the date of jurisdiction, shall be approved. They are as follows:

Residential Service

Monthly Rates

Base Facility Charge:

All meters (includes 4,00 gallons)	\$7.50
---------------------------------------	--------

Gallage Rates:

4,001 to 10,000 gallons	\$1.25
above 10,000 gallons	\$1.50

General Service

Monthly Rates

Taylor Brothers	\$1.50 per gallon
Lutheran Church	\$7.50 per month

Fire Protection Service

Public	No charge
Private	\$1.25 per 1,000 gallons

Service Availability Charge

Plant Capacity Charge

All meter sizes	\$990
-----------------	-------

In addition, Destin has requested, and we have approved the following rates and charges:

General Service

Monthly Rates

Cowboys Restaurant:

Base Facility Charge: (includes 5,000 gallons)	\$20
---	------

Gallage Rates:

5,001 to 25,000 gallons	\$1.75 per 1,000 gallons
Above 25,000 gallons	\$2.25 per 1,000 gallons

Miscellaneous Service Charges

Initial Connection Fee	\$15
Normal Reconnection Fee	\$15
Violation Reconnection Fee	\$15
Premises Visit Fee	\$10

ORDER NO. PSC-94-0259-FOF-WU
DOCKET NO. 930772-WU
PAGE 6

ORDERED that Destin Utility Company, Inc.'s, request to serve the additional territory in its application is denied. It is further

ORDERED that Destin Utility Company, Inc., shall charge its customers the rates and charges approved herein until authorized to change by this Commission. It is further

ORDERED that Destin Utility Company, Inc., shall file tariff sheets reflecting the rates and charges approved herein within 30 days of the effective date of this Order. It is further

ORDERED that the tariffs will be approved upon this Commission's verification that they are consistent with our decision. It is further

ORDERED that the service availability charges approved herein shall be effective on or after the stamped approval date of the tariffs, provided that no protest is timely received. It is further

ORDERED that the monies collected from Cowboys Restaurant shall be held subject to refund pending the final determination of rates in Destin's staff assisted rate case, Docket No. 931188-WU. It is further

ORDERED that Destin Utility Company, Inc., shall establish an escrow account, or other security for the potential refund of the rates collected from Cowboys Restaurant, a general service customer. It is further

ORDERED that the provisions of this Order, except for the granting of the water certificate, are issued as proposed agency action and will become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that, in the event no timely protest is received to the proposed agency action provisions of this Order, this docket shall be closed.

ORDER NO. PSC-94-0259-FOF-WU
DOCKET NO. 930772-WU
PAGE 7

By ORDER of the Florida Public Service Commission, this 8th
day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JBL/MSN

by: Kay Meyer
Chief, Bureau of Records

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 herein, except for the granting of the water certificate, 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 29, 1994. 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.

ORDER NO. PSC-94-0259-FOF-WU
DOCKET NO. 930772-WU
PAGE 8

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.

SERVICE TERRITORY DESCRIPTION - DESTIN UTILITY COMPANY INC.

OKALOOSA COUNTY

A parcel of land in undivided Township 2 South, Range 22 West, in Okaloosa County, Florida described as Commencing at a L.W.S. marking the Northwest corner of Section 30, Township 2 South, Range 21 West, according to dependent resurvey by the U.S. Bureau of Land Management, dated June 8, 1948, said point being on the East-West division line of Okaloosa and Walton Counties, State of Florida; Thence South 01°58'05" West along the West line of said Section, a distance of 1,822.08 feet to the POINT OF BEGINNING, said point being 500 feet Northerly of the parallel to the North Right-of-Way line of U.S. Highway 98; Thence Westerly along a line 500 feet Northerly and parallel to said North Right-of-Way line, a distance of 8,869.10 feet to a line which is 500 feet Easterly of and parallel to the East Right-of-Way line of Midbay Bridge Road; Thence North 10°02'00" West along said parallel line, a distance of 1,440.43 feet, Thence North 04°10'41" East, 1,414.63 feet, Thence North 20°01'22" East, 1,655.58 feet, more or less, to the Southerly shoreline of Choctawhatchee Bay; Thence Westerly along said shoreline 1,150 feet, more or less, to a line which is 500 feet Westerly of and parallel to the West Right-of-Way line of said Midbay Bridge Road; Thence South 20°01'22" West, 1,808.65 feet, Thence South 04°10'41" East, 1,704.83 feet, Thence South 10°02'00" East, 1,577.55 feet to said line which is 500 feet Northerly of and parallel to the North Right-of-Way of U.S. Highway 98; Thence Westerly along said parallel line, a distance of 2,376.15 feet; Thence North 10°01'55" West, 2,548.92 feet; Thence South 79°58'05" West, 1,000.00 feet; Thence South 10°01'55" East, 2,514.23 feet to said line which is 500 feet Northerly of and parallel to the North Right-of-Way to the North Right-of-Way of U.S. Highway 98; Thence Westerly along said parallel line, 3,566.08 feet; Thence North 03°57'53" West, 1,551.14 feet to the South line of Indian Bayou Unit 5, as recorded in Plat Book 10, Pages 62-63 of the Official Records; Thence North 81°29'11" West along South line and a Westerly extension of said line, a distance of 1,526.17 feet to the South line of Block A, Indian Bayou Unit 1, as recorded in Plat Book 5, Pages 114-117 of the Official Records; Thence continuing along said South line the following courses and distances: Thence South 74°01'27" West, 444.78 feet to a concrete monument #2535; Thence South 88°58'00" West, 333.62 feet to a concrete monument 340; Thence North 81°26'17" West, 530.27 feet to a concrete monument #0340 at the Southwest corner of said Block A; Thence

departing said South line and continuing along the last described course, 1,066.96 feet; Thence South 01°17'21" West, 1,860.77 feet to the South line of a 100 foot wide Gulf Power Easement; Thence continuing along said South line the following courses and distances: Thence South 75°08'52" East, 411.12 feet; Thence South 77°52'07" East, 958.31 feet; Thence South 83°18'37" East, 826.13 feet; Thence departing said South line, North 03°57'53" East, 843.60 feet; Thence South 86°02'07" East, 1,100.00 feet; Thence South 03°57'53" West, 850.00 feet to the North Right-of-Way line of U.S. Highway 98; Thence Easterly along said Right-of-Way line, a distance of 10,655.20 feet, more or less, to a Northerly extension of the West line of Emerald Breeze Estates, as recorded in Plat Book 11, Page 71 of the Official Records; Thence South 08°31'10" West, along said Northerly extension and West line, a distance of 1,462.95 feet to said South line of a 100 foot Gulf Power Easement; Thence South 81°25'22" East along said South line a distance of 5,875.18 feet to the Northwest corner of Terra Cotta Terrace, as recorded in Plat Book 12, Page 45 of the Official Records; Thence along the boundary of Terra Cotta Terrace the following courses and distances: Thence South 01°58'13" West, 1,252.16 feet; Thence South 81°26'47" East, 167.78 feet; Thence North 02°02'05" East, 202.29 feet; Thence North 01°54'24" East, 159.16 feet; Thence North 32°07'06" West, 15.70 feet; Thence North 01°57'36" East, 163.16 feet; Thence North 47°29'01" East, 16.09 feet; Thence South 88°14'03" East, 151.50 feet; Thence North 46°14'32" East, 15.73 feet; Thence North 01°51'14" East, 148.13 feet; Thence South 88°01'37" East, 163.94 feet; Thence North 01°58'15" East, 281.99 feet; Thence North 81°25'52" West, 129.86 feet; Thence North 01°59'51" East, 199.94 feet to the Northwest corner of said Subdivision, said point also being on said South of the Gulf Power Easement; Thence departing said Subdivision and along said South line, South 81°25'22" East, 649.78 feet to said West line of Section 30; Thence North 01°58'05" East along said West line, a distance of 1,415.83 feet to the POINT OF BEGINNING, containing 718 acres, more or less all in Okaloosa County, Florida.