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MEMORANDUM

March 31, 1998

RECEIVED

MAR 31 1998

5:05  
FPSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (VACCARO) *OV*

RE: DOCKET NO. 961531-WU - APPLICATION FOR AMENDMENT OF  
CERTIFICATE NO. 347-W TO ADD TERRITORY IN MARION COUNTY  
BY MARION UTILITIES, INC.

PSC - 98-0452-FCF-WU

Attached is an ORDER APPROVING SETTLEMENT AGREEMENT, AMENDING  
CERTIFICATE NO. 347-W TO INCLUDE ADDITIONAL TERRITORY AND CLOSING  
DOCKET, to be issued in the above-referenced docket.

(Number of pages in order - 15)

TV/dr

Attachment

cc: Division of Water and Wastewater (Redemann)

I:961531-o.tv

*Attachment Not Done*

*4 fax  
0 mail*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
amendment of Certificate No.  
347-W to add territory in Marion  
County by Marion Utilities, Inc.

DOCKET NO. 961531-WU  
ORDER NO. PSC-98-0452-FOF-WU  
ISSUED: March 31, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT AGREEMENT, AMENDING CERTIFICATE  
NO. 347-W TO INCLUDE ADDITIONAL TERRITORY AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

Marion Utilities, Inc. (MUI or utility) provides water and wastewater service to approximately 4,311 water customers and 118 wastewater customers in Marion County, Florida. The utility's 1996 annual report shows an annual operating revenue of \$932,844 and a net operating income of \$80,004. The utility is a Class A utility company.

On December 24, 1996, the utility applied for an amendment to Water Certificate No. 347-W in Marion County pursuant to Rule 25-30.036(3), Florida Administrative Code. On January 22, 1997, Decca Utilities, Inc. (Decca) objected to MUI's application. On November 13, 1997, a stipulation was filed between Decca and MUI. This Order addresses the parties' settlement agreement and MUI's application for amendment of its certificate.

SETTLEMENT AGREEMENT

As a result of negotiations, MUI has agreed to delete certain portions of its existing service territory which Decca will seek to add to its territory. In addition, Decca has agreed to withdraw

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FPSC-RECORDS/REPORTING

its objection in this Docket. In October of 1997 pursuant to their agreement, Decca filed an application for amendment of its territory to add portions of MUI's territory. Decca's amendment application is being processed under Docket No. 971157-WS. On November 13, 1997, MUI filed a corresponding application for deletion of its territory sought by Decca. This application is being processed under Docket No. 971498-WU.

On October 31, 1997, the parties entered into a settlement agreement which was filed with the Division of Records and Reporting on November 13, 1997. The settlement agreement is appended to this Order as Attachment A, which by reference is incorporated herein. The settlement agreement is self explanatory; it basically codifies the provisions set forth in the preceding paragraph.

Upon reviewing the settlement agreement entered into by the parties, we find it appropriate to approve it as a reasonable resolution of their dispute. Accordingly, we shall proceed with Marion's application for amendment of its certificate.

#### AMENDMENT APPLICATION

MUI's application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a check in the amount of \$1,000, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided a copy of a 50-year lease for the Spruce Creek North Water Plant, and a copy of a warranty deed for the Woods and Meadows Water Plant which provides for the continued use of the land as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. A description of the water territory is appended to Order as Attachment B, which by reference is incorporated herein. The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with this Commission.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. The local planning agency was provided notice of the application and did not file an objection to the amendment. As discussed earlier, Decca filed an objection, and a settlement agreement was filed on November 13, 1997.

The utility states that the provision of service will be consistent with the utility section of the local comprehensive plan. Service will be provided by the utility's Spruce Creek North Water Plant (Spruce Creek), and the Woods and Meadows Water Plant (Woods and Meadows). Spruce Creek has a current capacity of 420,000 gallons per day (gpd) with a recent addition of a new well. Two additional 10,000 gallon storage tanks will be added shortly. When the construction is complete, Spruce Creek will have a capacity of 1,000,000 gpd. This expansion will provide fire flow to the area. The current maximum peak day flow is 240,000 gpd with the average monthly flow of 107,700 gpd. Woods and Meadows has a current capacity of 370,000 gpd with a peak day flow of 183,000 gpd, and the average monthly flow is 116,800 gpd. The majority of the area will be serviced from Spruce Creek. Woods and Meadows will be used for back-up. There will initially be 400 residential homes built in this area with another 150 planned to be constructed. Ultimately the utility believes that 1500 homes will be built in the area. With the expansion of the Spruce Creek plant the utility has adequate capacity to serve this area in the future.

The utility employs four Class C Operators to operate and maintain its water plants and facilities. According to the Department of Environmental Protection there are no outstanding notices of violation issued for this system. The utility's annual report indicates a positive return on its investment of approximately \$80,004. Construction for the facilities to serve the area will initially be financed by the developers. However, the utility intends to file a service availability case once all the costs for construction are known. This will be the primary source of funds to repay the developers. Consequently, we find that the utility has demonstrated the technical expertise and financial ability to provide quality service to these customers.

Based on the above information, we find that it is in the public interest to grant the application of Marion Utilities, Inc. for amendment of Water Certificate No. 347-W, to add the additional

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territory described in Attachment B. The utility has returned the certificate for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

RATES AND CHARGES

MUI's approved rates were effective September 30, 1995, pursuant to Order No. PSC-95-1193-FOF-WS, issued September 22, 1995, in Docket No. 950170-WS, an investigation for possible overearnings. MUI's approved charges for the Woods and Meadows facility were effective January 21, 1992, pursuant to Order No. 25565, issued January 3, 1992 in Docket No. 910770-WU. MUI's approved charges for the Spruce Creek facility were effective January 21, 1992, pursuant to Order No. 25563, issued January 3, 1992 in Docket No. 910793-WU. MUI shall charge the customers in the territory added herein the rates and charges contained in its tariff until a change is authorized by this Commission. Because no further action is necessary, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement agreement between Marion Utilities, Inc. and Decca Utilities attached hereto as Attachment A and incorporated herein by reference, is hereby approved. It is further

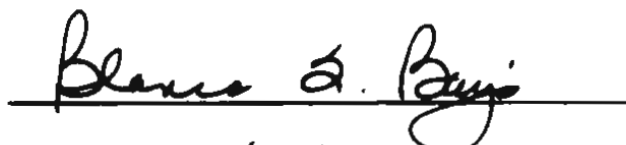
ORDERED that Certificate No. 347-W, held by Marion Utilities, Inc., is hereby amended to include the territory described in attachment B of this Order, which by reference is incorporated herein. It is further

ORDERED that Marion Utilities, Inc. shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission. It is further

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ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 11th  
day of March, 1998.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a solid horizontal line.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

TV

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.

**SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT is made and entered into by and between Marion Utilities, Inc. and DECCA Utilities.**

**W I T N E S S E T H**

**WHEREAS, Marion Utilities, Inc. has filed an application with the Florida Public Service Commission ("PSC") for an amendment to its Water Certificate, which application has been assigned PSC Docket No. 961531-WU; and,**

**WHEREAS, DECCA Utilities has filed a protest of that application with the PSC; and,**

**WHEREAS, the parties desire to amicably resolve this dispute without additional time and expense.**

**NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the parties agree as follows:**

- 1. The foregoing recitations are true and correct and incorporated herein.**
- 2. Marion Utilities, Inc. agrees to a deletion from its service area of the property described in Exhibits "A", "B", and "C" hereto. The parties will cooperate in accomplishing that deletion in connection with DECCA Utilities' application to the PSC for an amendment to its existing Water and Wastewater Certificates which is pending before the PSC in PSC Docket No. 971157-WU or as part of PSC Docket No. 961531-WU, whichever is determined to be most expedient. Should the PSC require a separate application be filed by Marion Utilities, Inc. to accomplish the deletion of the service area described in Exhibits "A", "B", and "C" hereof, then**



**ATTACHMENT A**

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Marion Utilities, Inc., at its sole expense, shall file such application within 30 days of notice of such requirement. DECCA Utilities shall cooperate with Marion Utilities, Inc.'s application for deletion of that portion of Marion Utilities, Inc.'s service area described in Exhibits "A", "B", and "C" hereto, including but not limited to providing maps and legal descriptions of the property to be debated.

3. DECCA Utilities will reimburse Marion Utilities, Inc. within 30 days after the PSC's approval of the Agreement the sum of \$ 600.00 for connections made by DECCA Utilities within the property described on Exhibit "A" hereto.

4. Marion Utilities, Inc. agrees not to protest DECCA Utilities application to the PSC to amend its Water and Wastewater Certificate, in PSC Docket No. 971187-WB. Marion Utilities, Inc. also agrees not to object to DECCA Utilities' application for an amendment of its Water and Wastewater Certificates filed in PSC Docket No. 971053-WB.

5. DECCA Utilities will not object to future Certificate Amendments by Marion Utilities, Inc. provided that such Amendment is not contrary to Marion County's plans for regional service.

6. DECCA Utilities will not file any objections to any permit modifications requested by Marion Utilities, Inc. to provide service within its PSC certificated service area.

7. Upon the PSC's approval of the deletion from Marion Utilities, Inc.'s Water Certificate of the property described in Exhibits "A", "B", and "C" hereto, DECCA agrees to file with the









**MARION UTILITIES, INC.**

**TERRITORY DESCRIPTION - MARION COUNTY**

**THE AREA WILL BE SERVED FROM THE SPRUCE CREEK NORTH  
WATER PLANT AND THE WOODS AND MEADOWS WATER PLANT**

**Water Service Area Addition**

SECTION 27 AND PORTIONS OF SECTIONS 22, 28, 29, 32, 33 AND 34, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA; THENCE S.00°40'40"W., ALONG THE EAST BOUNDARY LINE OF THE N.E. 1/4 OF SAID SECTION, 2654.18 FEET TO THE NORTHEAST CORNER OF THE S.E. 1/4 OF SAID SECTION; THENCE S.00°40'23"W., ALONG SAID EAST BOUNDARY LINE, A DISTANCE OF 2653.63 FEET TO THE SOUTHEAST CORNER OF SAID SECTION; THENCE S.00°45'15"W., ALONG THE EAST BOUNDARY LINE OF N.E. 1/4 OF SECTION 34, TOWNSHIP 16 SOUTH, RANGE 21 EAST, 2664.49 FEET TO THE NORTHEAST CORNER OF THE S.E. 1/4 OF SAID SECTION; THENCE S.00°04'49"W., A DISTANCE OF 659.91 FEET; THENCE N. 89°24'06"W., A DISTANCE OF 2626.36 FEET; THENCE S.00°32'00"W., A DISTANCE OF 662.43 FEET; THENCE N.89°26'24"W., A DISTANCE OF 2641.08 FEET; THENCE N.89°36'01"W., A DISTANCE OF 2651.47 FEET; THENCE N.89°35'43"W., A DISTANCE OF 2645.28 FEET; THENCE N.89°34'59"W., A DISTANCE OF 1331.97 FEET; THENCE N. 19°46'49"W., A DISTANCE OF 83.19 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 570.00 FEET AND A CENTRAL ANGLE OF 47°42'05"; THENCE NORTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 474.55 FEET TO THE POINT OF TANGENCY; THENCE N.67°28'54"W., A DISTANCE OF 319.52 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 850.00 FEET AND A CENTRAL ANGLE OF 57°24'46"; THENCE NORTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 851.74 FEET TO THE POINT OF TANGENCY; THENCE N.10°04'08"W., A DISTANCE OF 1108.52 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'01", AND A CHORD OF 35.36 FEET BEARING N.55°04'09"W., THENCE NORTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 39.27 FEET TO A POINT ON THE EAST RIGHT OF WAY OF AQUEDUCT ROAD; THENCE N.79°55'52"E., ALONG THE SAID RIGHT OF WAY 449.36 FEET TO THE POINT OF

**MARION UTILITIES, INC.**

**TERRITORY DESCRIPTION - MARION COUNTY**

**THE AREA WILL BE SERVED FROM THE SPROUCE CREEK NORTH  
WATER PLANT AND THE WOODS AND MEADOWS WATER PLANT**

**Water Service Area Addition**

CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 1300.00 FEET AND A CENTRAL ANGLE OF 41°31'17"; THENCE NORTHEASTERLY ALONG SAID CURVE, A DISTANCE OF 942.09 FEET TO THE POINT OF TANGENCY; THENCE N.38°24'35"E., A DISTANCE OF 827.35 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 1040.00 FEET AND A CENTRAL ANGLE OF 25°45'42", THENCE NORTHEASTERLY ALONG SAID CURVE, A DISTANCE OF 467.61 FEET TO THE POINT OF TANGENCY; THENCE N.12°38'53"E. A DISTANCE OF 505.73 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 1940.00 FEET AND A CENTRAL ANGLE OF 37°46'13"; THENCE NORTHERLY ALONG SAID CURVE, A DISTANCE OF 1278.88 FEET TO THE POINT OF CURVATURE OF A REVERSE CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 460.00 FEET, A CENTRAL ANGLE OF 31°00'43", AND A CHORD OF 245.95 FEET BEARING N.09°36'59"W.; THENCE NORTHERLY ALONG SAID CURVE, A DISTANCE OF 248.98 FEET TO THE POINT OF TANGENCY; THENCE N.05°53'23"E., A DISTANCE OF 110.00 FEET TO A POINT OF INTERSECTION ON THE EAST RIGHT OF WAY OF AQUEDUCT ROAD AND THE SOUTH RIGHT OF WAY OF HIALEAH ROAD; THENCE S.84°06'37"E., ALONG SAID SOUTH RIGHT OF WAY 1825.00 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 1949.88 FEET AND A CENTRAL ANGLE OF 15°24'09"; THENCE EASTERLY ALONG SAID CURVE, A DISTANCE OF 524.18 FEET TO THE POINT OF TANGENCY; THENCE N.80°29'14"E, A DISTANCE OF 1576.64 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 1949.83 FEET AND A CENTRAL ANGLE OF 05°58'43"; THENCE EASTERLY ALONG SAID CURVE, A DISTANCE OF 203.46 FEET; THENCE N.74°30'31"E., A DISTANCE OF 1390.97 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1870.00 FEET AND A CENTRAL ANGLE OF 16°12'06"; THENCE EASTERLY ALONG SAID CURVE, A DISTANCE OF 528.79 FEET TO THE POINT OF TANGENCY; THENCE S.89°17'23"E., A DISTANCE OF 230.34 FEET TO A POINT ON THE WEST BOUNDARY LINE OF THE S.W. 1/4 OF SECTION 27, TOWNSHIP 16 SOUTH, RANGE 21 EAST, THENCE N.00°36'27"E.,

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**ATTACHMENT B**  
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**MARION UTILITIES, INC.**

**TERRITORY DESCRIPTION - MARION COUNTY**

**THE AREA WILL BE SERVED FROM THE SPRUCE CREEK NORTH  
WATER PLANT AND THE WOODS AND MEADOWS WATER PLANT**

**Water Service Area Addition**

ALONG SAID WEST BOUNDARY LINE A DISTANCE OF 40.00 FEET TO THE S.W. CORNER OF THE N.W. 1/4 OF SAID SECTION; THENCE N.00°36'27"E., ALONG THE WEST BOUNDARY OF THE N.W. 1/4 OF SAID SECTION, 2657.38 FEET TO THE NORTHWEST CORNER OF SAID SECTION; THENCE N.00°27'12"E, ALONG THE WEST BOUNDARY LINE OF THE S.W. 1/4 OF SECTION 22, TOWNSHIP 16 SOUTH, RANGE 21 EAST, 2638.88 FEET TO THE N.W. CORNER OF THE S.W. 1/4 OF SAID SECTION; THENCE S.89°25'45"E.. A DISTANCE OF 5280.49 FEET TO THE NORTHEAST CORNER OF THE S.E. 1/4 OF SAID SECTION; THENCE S.00°39'27"W., ALONG THE EAST BOUNDARY LINE OF SAID SECTION 2653.96 FEET TO THE POINT OF BEGINNING.