

MEMORANDUM

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February 23, 1999

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BRUBAKER) *JSB* *JH*

RE: DOCKET NO. 980057-WU - PETITION BY GULF UTILITY COMPANY  
FOR INTERIM AND PERMANENT INCREASE IN WATER RATES,  
PURSUANT TO SECTIONS 367.0817, 367.082, AND 367.0822,  
F.S., IN LEE COUNTY.

99-0390-FOF-WU

Attached is an ORDER DEEMING PETITION WITHDRAWN AND CLOSING  
DOCKET to be issued in the above-referenced docket.

(Number of pages in order - 3)

*See 3*

JSB/lw

Attachment

cc: Division of Water and Wastewater (Kyle, Bethea, Crouch, Fuchs,  
Merchant, Willis)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Gulf Utility Company for interim and permanent increase in water rates, pursuant to Sections 367.0817, 367.082, and 367.0822, F.S., in Lee County.

DOCKET NO. 980057-WU  
ORDER NO. PSC-99-0390-FOF-WU  
ISSUED: February 23, 1999

The following Commissioners participated in the disposition of this matter:

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

ORDER DEEMING PETITION WITHDRAWN AND CLOSING DOCKET

BY THE COMMISSION:

Gulf Utility Company (Gulf or utility) is a Class A utility which serves approximately 7,040 water and 2,435 wastewater customers in Lee County, Florida. The utility is located in a water use caution area as designated by the South Florida Water Management District (SFWMD).

On January 9, 1998, Gulf filed a Petition for an Interim and Permanent Water Rate Increase Pursuant to Sections 367.0817, 367.082 and 367.0822, Florida Statutes. By Order No. PSC-98-0382-FOF-WU, issued March 10, 1998, we denied Gulf's request for interim and emergency/temporary rates.

On June 30, 1998, Gulf's facilities were sold to Gulf Environmental Services, Inc. (GES). On June 18, 1998, just prior to the date of the sale, Gulf and GES filed a joint application for transfer of facilities from Gulf to GES and for cancellation of Certificates Nos. 523-W and 457-S. The joint application was filed pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code, which concern a transfer to a governmental authority. In Order No. PSC-98-1642-FOF-WS, issued December 7, 1998, in Docket No. 980767-WS, we found that GES was a

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governmental authority and approved the requested transfer of facilities as a matter of right in accordance with Section 367.071(4)(a), Florida Statutes. Subsequently, Commission staff's counsel contacted counsel for Gulf and inquired as to whether Gulf intended to withdraw its petition for rate increase. Gulf's counsel indicated that the utility would not withdraw its petition.

Section 367.071(4)(a), Florida Statutes, provides in its pertinent part that:

The sale of facilities, in whole or in part, to a governmental authority shall be approved as a matter of right . . . Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest. (emphasis added)

In light of the transfer of its facilities to a governmental authority pursuant to Order No. PSC-98-1642-FOF-WS, we therefore find it appropriate to deem Gulf's rate case application as withdrawn pursuant to Section 367.071(4)(a), Florida Statutes. As discussed previously, Gulf's request for interim and emergency/temporary rates was denied pursuant to Order No. PSC-98-0382-FOF-WU; therefore, there were no interim rates in this docket.

Nothing remains to be done in this docket and therefore the docket shall be closed.

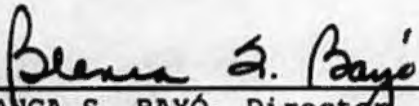
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Utility Company's petition for a rate increase is deemed withdrawn pursuant to Section 367.071(4)(a), Florida Statutes. It is further

ORDERED that this docket shall be closed.

ORDER NO. PSC-99-0390-FOF-WU  
DOCKET NO. 980057-WU  
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By ORDER of the Florida Public Service Commission this 23rd  
day of February, 1999.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

JSB

**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.