

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
amendment of Certificate No.
27-W to extend service area in
Lee County by Florida Cities
Water Company - Lee County
Division.

DOCKET NO. 981994-WU
ORDER NO. PSC-99-1069-FOF-WU
ISSUED: May 25, 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 AMENDING CERTIFICATE NO. 27-W TO INCLUDE
ADDITIONAL TERRITORY IN LEE COUNTY AND CLOSING DOCKET

BY THE COMMISSION:

Background

On December 6, 1994, Florida Cities Water Company (Florida Cities or utility) filed an application with this Commission for amendment of its territory to include additional territory in Lee County, pursuant to Section 367.045, Florida Statutes. Florida Cities is a Class A utility, which provides service to approximately 18,788 water customers in Lee County, Florida. The utility has three divisions, Barefoot Bay, Golden Gate and Lee County Divisions.

In its application, Florida Cities requested an extension of its service area to include certain areas which it is serving outside of its certificated territory, as well as certain adjacent territory. Gulf Utility Company (Gulf) filed an objection to Florida Cities application with regard to that portion of the additional territory in Section 9, Township 46 South, Range 25 East, which includes the Alico International Trade Center (Alico).

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FPSC-RECORDS/REPORTING

According to the objection, this section is within Gulf's certificated water territory.

Florida Cities and Gulf entered into a Settlement Agreement, which allowed Gulf to serve the Alico area. Alico objected to the Agreement because it would have to pay higher service availability charges for Gulf's water service. Florida Cities, Gulf and Alico entered into an Amended Settlement Agreement, which was approved by the Commission in Order No. PSC-95-1526-AS-WS, issued on December 11, 1995, in Docket No. 941271-WS. According to the Amended Agreement, Gulf would replace Florida Cities as Alico's water provider within one year of the Commission's Order approving the settlement. The Agreement also made provision for Florida Cities to continue service to Alico pending service by Gulf. By letter dated April 27, 1998, Mr. D. J. Whelan of Alico informed the Commission that as of that date Gulf had not provided service to Alico. Upon being contacted by the Commission staff, Gulf responded by letter dated May 12, 1998, indicating that it would provide service to Alico upon payment of \$29,000 for extension of Gulf's water line to Alico's property.

On June 30, 1998, Gulf's assets were purchased by Gulf Environmental Services, Inc. (GES). The transfer was acknowledged by the Commission by Order No. PSC-98-1642-FOF-WS, issued on December 7, 1998, in Docket No. 980767-WS. That Order also found that GES is a governmental authority, pursuant to Section 367.171(4)(a), Florida Statutes. Prior to issuance of Order No. PSC-98-1642-FOF-WS, GES informed the Commission by letter dated July 17, 1998, that it had not made provision for service to Alico and had no objection to Florida Cities' continued service to Alico. Therefore, on December 29, 1998, Florida Cities filed an application for amendment of its territory to include the Alico area.

Application

The application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$100, pursuant to Rule 25-30.020, Florida Administrative Code. Florida Cities also provided copies of warranty deeds in the name of the utility as proof of continued use of the land upon which its facilities are located, in accordance with 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 additional territory Florida Cities has requested to serve is shown on Attachment A of this Order, which by reference is incorporated herein.

Florida Cities provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code. One objection to the application was filed on January 7, 1999, by GES. Florida Cities renoticed with a corrected territory description. No objections were received after the utility renoticed, and the time for filing such has expired.

The Department of Community Affairs reviewed the amendment and indicated that there are no growth management concerns related to consistency with the Lee County Comprehensive Plan. In addition, the Department of Environmental Protection has no outstanding notices of violation against the utility.

According to information provided with the application, Florida Cities has the financial and technical ability to continue to provide water service to Alico. Florida Cities is a large, multi-county operation, which has been in the water utility business since 1965. Florida Cities' Green Meadows and College Parkway Water Treatment Plants currently serve Alico through a common distribution system. During the twelve month period ending November 1998, the peak flow was 7.594 million gallons per day (mgd). Because the combined treatment system can deliver 10.5 mgd, Florida Cities has sufficient water treatment capacity to continue to serve Alico.

Based on the foregoing, we find the amendment of Certificate No. 27-W to include additional territory in Lee County to be in the public interest and it is approved. The additional territory which Florida Cities is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein. Florida Cities has returned Certificate No. 27-W to the Commission for entry reflecting the additional territory. The utility has also filed revised tariff sheets reflecting the amendment.

Rates and Charges

Florida Cities' current rates became effective on August 15, 1996, pursuant to File No. WS-96-0168. At that time, the utility's

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rates were reduced, pursuant to Order No. PSC-96-0859-FOF-WU, issued on July 2, 1996, in Docket No. 951029-WU. Service availability charges for water became effective on December 11, 1986, by Orders Nos. 16768 and 16918, issued on October 24, 1986, and December 3, 1986, respectively, in Docket No. 851007-WU. Florida Cities shall charge the customers in the additional territory the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Certificate No. 27-W, held by Florida Cities Water Company, 5837 Swift Road, Suite 100, Sarasota, Florida 34231-5157, is hereby amended to include the territory described in Attachment A of this Order, which by reference is incorporated herein.

ORDERED that Florida Cities Water Company shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that Docket No. 981994-WU is hereby closed.

By ORDER of the Florida Public Service Commission this 25th day of May, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: _____

Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(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.

FLORIDA CITIES WATER COMPANY
SOUTH FORT MYERS SERVICE AREA
LEE COUNTY

Additional Water Territory

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of Section 9, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Commencing at the Northeast corner of the aforesaid Section 9, said point being on the centerline of Alico Road (100 feet wide); thence run South 01°11'10" East for 50.00 feet to the South right-of-way line of said Alico Road, thence run South 89°49'10" West along said right-of-way line for 817.54 feet to the Northeast corner of Lot 25, Replat of Blocks 202 and 203, Unit 16, San Carlos Park (Unrecorded) and the Point of Beginning; thence run South 00°10'50" East for 210.00 feet; to the South right-of-way line of the aforesaid Alico Road; thence run North 89°49'10" East along said right-of-way line for 100.00 feet to the Point of Beginning.

The above described being Lots 25 through 30, Replat of Blocks 2020 and 203, Unit 16, San Carlos Park (Unrecorded).

Bearings based on the East line of Section 9, Township 46 South, Range 25 East, Lee County, Florida as being South 01°11'10" West.

Said tract contains 21,000 square feet, more or less and is subject to easements, restrictions and reservations of record.