

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
certificate to provide water and
wastewater service in Charlotte
County by Hunter Creek
Utilities, LLC.

DOCKET NO. 980731-WS
ORDER NO. PSC-99-2380-PCO-WS
ISSUED: December 6, 1999

The following Commissioners participated in the disposition of this matter:

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

ORDER TO INITIATE PROCEEDINGS
FOR POSSIBLE DELETION OF TERRITORY

BY THE COMMISSION:

BACKGROUND

Hunter Creek Utilities, LLC, (Hunter Creek or utility) is a Class C water and wastewater utility currently providing service to the Rivers Edge mobile home development in Charlotte County. According to its 1998 annual report, the utility serves approximately 44 customers. Its total gross revenues were \$13,787 with a net operating loss of \$21,470.

On June 10, 1998, the utility filed an application for original water and wastewater certificates for a utility in existence and charging rates, which opened this docket. During the pendency of the application, the radioactive contaminants in Hunter Creek's water system exceeded on a sustained basis the maximum contaminants level (MCL) allowed by the Florida Department of Environmental Protection (FDEP). The utility's attempted corrective measures failed and the FDEP issued an official warning letter of enforcement action on February 15, 1999.

By Order No. PSC-99-0756-FOF-WS, issued April 19, 1999, in this docket, we granted Certificates Nos. 611-W and 527-S. However, due to the existence of radioactive contaminants, we

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granted the unserved territory with the provision that only existing customers could be served unless the utility met the FDEP's standards on a sustained basis on or before September 30, 1999. We required that if the utility did not achieve the above standards on or before September 30, 1999, another recommendation would be prepared for our consideration to limit the territory to existing customers until such compliance is achieved, and to consider other actions which we may wish to take to assist FDEP in its enforcement activity.

We have tracked the progress of the utility's efforts to meet the FDEP's drinking water standards for radioactive contaminants. Prior to the April 19, 1999, issuance date of Order No. PSC-99-0756-FOF-WS, our staff discussed the matter at length with the utility owner, Mr. Leonette, who stated that he could have the work completed in two months. The September 30, 1999, deadline contained in Order No. PSC-99-0756-FOF-WS, afforded the utility several more months to achieve compliance. On October 1, 1999, we contacted the FDEP to verify whether the utility had achieved MCL compliance. According to the FDEP, not only had the utility failed to achieve MCL compliance, it also failed to submit an application for a construction permit.

Because the utility failed to meet the FDEP's standards by September 30, 1999, we hereby initiate proceedings for possible deletion of the unserved portion of Hunter Creek's territory authorized by Certificate No. 611-W. Notice shall be given pursuant to Section 367.045(6), Florida Statutes, which provides that the Commission shall give 30 days' notice before it initiates a revocation, suspension, deletion or amendment of a certificate of authorization, and in accordance with Rule 25-30.030, Florida Administrative Code. Subsections (2) and (6) of Rule 25-30.030, Florida Administrative Code, require that certain governing bodies, governmental agencies, and affected persons, including customers in the utility's certificated territory, be noticed by regular mail or personal service. Subsection (7) of Rule 25-30.030, Florida Administrative Code, requires that notice be published in a newspaper of general circulation in the territory proposed to be deleted. In addition to the above noticing requirements, notice shall be published in the Florida Administrative Weekly.

This docket shall remain open in order to investigate whether the unserved portion of Hunter Creek's certificated territory should be deleted.

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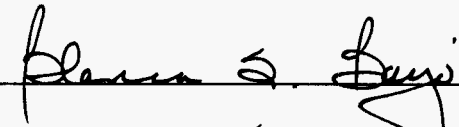
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby initiate proceedings for possible deletion of the unserved portion of Hunter Creek's territory authorized by Certificate No. 611-W. It is further

ORDERED that the proceedings for a possible deletion of the unserved portion of Hunter Creek's territory shall be noticed pursuant to Section 367.045(6), Florida Statutes, and in accordance with Rule 25-30.030, Florida Administrative Code. Such notice shall also be published in the Florida Administrative Weekly. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 6th day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(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.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.