

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
amendment of Certificates Nos.
277-W and 223-S to add territory
in Seminole County by CWS
Communities LP d/b/a Palm
Valley.

DOCKET NO. 001138-WS
ORDER NO. PSC-00-2243-PAA-WS
ISSUED: November 27, 2000

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

ORDER AMENDING CERTIFICATES TO INCLUDE ADDITIONAL TERRITORY
AND
PROPOSED AGENCY ACTION ORDER APPROVING A NEW CLASS OF SERVICE FOR
RECLAIMED WATER SERVICE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein approving a new class
of service and authorizing the provision of reclaimed water service
at a zero rate, is preliminary in nature 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

CWS Communities LP d/b/a Palm Valley (CWS, Palm Valley, or
utility) is a Class C utility which provides water and wastewater
services in Seminole County to 55 individually metered customers
and one general service customer. The annual report for 1999 shows
that the operating revenue was \$45,097 and \$21,738, with net
operating losses of \$11,940 and \$117,757, for the water and
wastewater systems, respectively. The utility's facilities consist

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of four systems: one water treatment plant, one water transmission and distribution system, one wastewater collection system, and one wastewater treatment plant.

On December 21, 1999, CWS filed an application for approval of the transfer of Certificates Nos. 277-W and 223-S held by Alafaya Palm Valley Associates, Ltd to CWS. By Order No. PSC-00-1675-PAA-WS, issued September 19, 2000, in Docket No. 991984-WS, the transfer was approved. On October 5, 2000, this docket title was changed to reflect the name of the utility after the transfer.

On August 14, 2000, the utility applied for an amendment to Water Certificate No. 277-W and Wastewater Certificate No. 223-S pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036(3), Florida Administrative Code. The utility's service area and requested service area is in the St. Johns Water Management District. All utilities in the St. Johns Water Management District are located in a Water Use Caution Area.

On August 18, 2000, a copy of the amendment application was sent to the Department of Community Affairs (DCA) for comment pursuant to a Memorandum of Understanding between the Commission and the DCA. On September 18, 2000, the DCA responded by stating that it has not identified any growth management concerns related to consistency with the Seminole County Comprehensive Plan.

We have jurisdiction pursuant to Sections 367.045 and 367.091, Florida Statutes.

Application

The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The application contains a check in the amount of \$400 (\$200 for water and \$200 for wastewater) which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that CWS has continuous use of the land upon which the utility plant is located, as required by Rule 25-30.036(3)(d), Florida Administrative Code. As evidence of such continued use of the land, the utility filed a special warranty deed which lists its parent company, CWS Communities LP,

as the owner of the land and a recorded affidavit stating that CWS operates a water and wastewater utility on real property that is dedicated to utility use.

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 territory requested by the utility is appended to this Order as Attachment A, which by reference is incorporated herein.

The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, stating that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objection to the application was received and the time for filing such has expired. The local planning agency and the cities in Seminole County were provided notice of the application and did not file a protest to the amendment.

The application states that the proposed addition to the utility's service area will be developed into 148 mobile home sites. The existing water system has a capacity of 675,000 gallons per day (gpd). The peak water use occurred in April, 1999 and the average for the month was 312,000 gpd. The water system is in the process of being expanded and upgraded and will be able to supply a maximum of 2,952,000 gpd. With the expansion, the utility will have ample water well into the future. The estimated water demand for the proposed development is 47,360 gpd (320 gpd/unit x 148 units). The current water lines are adjacent to the service area. The Department of Environmental Protection (DEP) has no outstanding notices of violation issued for this system.

According to the utility, the current permitted wastewater treatment capacity is 126,000 gpd and an expansion to 150,000 gpd will be completed in the middle of 2001. The peak wastewater use occurred in March, 1999 and the average for the month was 110,000 gpd. The estimated wastewater demand for the proposed development is 29,600 gpd (200 gpd/unit x 148 units). With the wastewater plant expansion, the utility will have sufficient capacity for the future.

The effluent disposal capacity is limited. After expansion, the effluent disposal will consist of several methods of disposal which will include a percolation pond (existing and proposed), reuse (proposed), a dripper system (existing), and an exfiltration trench (proposed). Reuse will be provided to 140 existing home sites in the new phase 8/8A (148 units), and common areas. As with the water system, the existing wastewater lines are adjacent to the proposed service area.

There is one revised consent order with DEP for the wastewater system. The utility is expanding the disposal system and adding additional wastewater capacity to comply with the consent order. According to the DEP, the construction should be completed by July 30, 2001, and the utility is meeting the time frames outlined in the consent order. The DEP is satisfied with the utility's progress.

The utility has filed revised tariff sheets incorporating the additional territory into its tariff. The utility last changed its rates by an index on February 16, 1999. The utility's approved service availability charges were effective April 16, 1991, by Order No. 24181, issued March 1, 1991, in Docket No. 900402-WS. The utility's original rates were approved pursuant to Order No. 7518, issued November 22, 1976, in Docket No. 750660-WS, an original certificate case. The utility has never had a rate case.

Based on the above information, we find that Palm Valley's application is in the public interest. Therefore, we approve Palm Valley's application for an amendment of Water Certificate No. 277-W and Wastewater Certificate No. 223-S to include the additional territory described in Attachment A. CWS shall be required to charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

New Class of Service

According to the utility's application, the proposed development of 148 residents will be connected to the utility's new reuse system. In addition, an existing 140 homes will also be receiving reuse along with the common area. The existing lots that will receive reuse service include 375-384, 358-374, 392-399, 400-

411, 626-654, 701-705, 708-759, and 761-767. The lot numbers for the new phase that will receive reuse service are 801-948. According to the utility's engineer, the wastewater treatment expansion contract has been permitted, and the contract to build has been bid and awarded. The utility believes that reuse service will not be available until late in the second quarter of 2001.

Due to growing concerns over water conservation, reclaimed water is increasingly being viewed as an alternative source of water for irrigation of golf courses and, in some cases, residential communities. Along with the increased use of reclaimed water comes a recognition that there are costs associated with the provision of reclaimed water. Consequently, it has become a Commission practice to recognize reclaimed water service (sometimes referred to as effluent service) as a class of service which should be included in the utility's tariff, even if the utility is not currently assessing a charge for the service.

Although there are costs associated with the provision of reclaimed water service, there are cases in which the avoided costs outweigh the actual cost of the service, and thus not charging for the reclaimed water is justified. For example, disposing of effluent on non-utility property may delay or even eliminate the need for the utility to purchase additional land for spray fields or percolation ponds, thereby resulting in lower rates for the utility's existing wastewater customers.

In this case, according to the utility's engineer, the current effluent disposal capacity is limited and land is selling at a premium in the area. Therefore, numerous methods were needed to dispose of the effluent. As previously noted, after the wastewater treatment plant expansion, the effluent disposal will consist of several methods which will include a percolation pond (existing and proposed), reuse (proposed), a dripper system (existing), and an exfiltration trench (proposed).

The developer will be installing the reuse lines for some of the existing homes and all of the new homes. The wastewater treatment capacity will be 150,000 gpd after the expansion is complete. The upgrade at the wastewater facility will allow the utility to reuse the effluent. The utility proposed a reuse rate

of \$0 at this time. However, CWS plans to apply for a staff-assisted rate case in the future that will include establishing a rate for reuse. We find that a zero charge is appropriate at this time in order to encourage customers to take the reclaimed water. Our actions pertaining to a zero reclaimed water rate are consistent with past practice. See Order No. PSC-98-0475-FOF-WS, issued April 1, 1998, in Docket No. 971157-WS; Order No. PSC-00-0804-PAA-WS, issued April 24, 2000, in Docket No. 000041-WS; and Order No. PSC-00-1657-PAA-WS, issued September 18, 2000, in Docket No. 000430-WS.

Based upon the foregoing, the utility shall file a wastewater tariff reflecting the reclaimed water class of service at a \$0 rate for 140 existing home sites, 148 planned home sites in the new phase, and common areas. The lot numbers for the existing home sites that will receive reuse service include 375-384, 358-374, 392-399, 400-411, 626-654, 701-705, 708-759, and 761-767. The lot numbers for the new phase that will receive reuse service are 801-948. Our staff shall administratively approve the tariff provided it is consistent with this Order. The tariff shall be effective for services rendered on or after the stamped approval date of the tariff. The utility shall return to this Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that CWS Communities LP d/b/a Palm Valley's application for amendment of Certificates Nos. 277-W and 223-S to include additional territory described in Attachment A is hereby approved. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that Attachment A, attached to this Order, is incorporated herein by reference. It is further

ORDERED that CWS Communities LP d/b/a Palm Valley shall charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

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ORDERED that CWS Communities LP d/b/a Palm Valley's request to implement a new class of service to provide reclaimed water at a zero rate is approved as set forth in the body of this Order. It is further

ORDERED that the provision of this Order, approving a new class of service and authorizing CWS Communities LP d/b/a Palm Valley to provide reclaimed water service at a zero rate, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

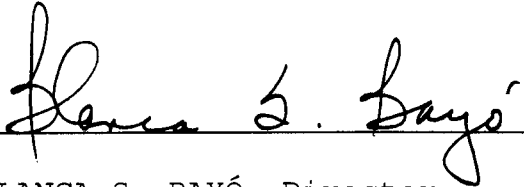
ORDERED that CWS Communities LP d/b/a Palm Valley shall file a revised tariff sheet reflecting the approved rate for reclaimed water service for 140 existing home sites, 148 planned home sites in the new phase, and common areas, as set forth in the body of this Order. The rate shall be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. It is further

ORDERED that CWS Communities LP d/b/a Palm Valley shall return to this Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers. It is further

ORDERED that if no timely protest is received to the Proposed Agency Action issue, this Order shall become final and effective upon the issuance of a Consummating Order and the docket shall be closed.

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By ORDER of the Florida Public Service Commission this 27th
day of November, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DTV

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.

As identified in the body of this order, our action discussed herein approving a new class of service and authorizing the provision of reclaimed water service at a zero rate, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 18, 2000. If such a petition is filed, 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. In the absence of such a petition,

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this order shall become effective and final upon the issuance of a Consummating Order.

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.

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.

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ATTACHMENT A
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CWS COMMUNITIES LP D/B/A PALM VALLEY

WATER AND WASTEWATER TERRITORY

SEMINOLE COUNTY

Addition 8

That part of the Northwest 1/4 of Section 35, Township 21 South, Range 31 East, Seminole County, Florida, being further described as follows:

Commence at the Northwest corner of Section 35, Township 21 South, Range 31 East, Seminole County, Florida and run thence N89 degrees 52'09"E 332.91 feet (N89 degrees 45'42"E 332.85 feet record) along the North boundary of Section 35 to the point of beginning; thence continue N89 degrees 47'40"E 662.10 feet (N89 degrees 45'42"E 665.73 record) along the North boundary of said Section 35; thence S00 degrees 15'18"E 1332.93 feet; thence N89 degrees 49'23"E 333.79 feet (N89 degrees 42'41"E record) to the Northwest corner of SE 1/4 of NW 1/4 of said Section 35; thence continue along the boundary of Brighton Park at Carillon according to the map or plat thereof as recorded in plat book 42, pages 86-89 of the Public Records of Seminole County, Florida, N89 degrees 49'23"E 283.75 feet to the appropriate centerline of a creek; thence continue along the boundary of said subdivision S09 degrees 24'12"E 271.06 feet (S09 degrees 24'12"E 273.12 feet record); thence continue along the said subdivision S06 degrees 51'54"W 400.91 feet (S06 degrees 51'54"W 389.91 feet record); thence S89 degrees 47'41" W 278.55 feet to the 40 acre line; thence continue S89 degrees 47'41"W 1003.11 feet along the Northerly boundary of Palm Valley Manufactured Housing; thence N00 degrees 00'32"W 1998.66 feet (N00 degrees 14'22"E deed) along the Easterly boundary of Palm Valley Manufactured Housing to the point of beginning.

Containing 1,755,983.6218 square feet of 40.3118 acres M.O.L.

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Addition 8A

The East quarter of the Northwest quarter of the Northwest quarter of Section 35, Township 21 South, Range 31 East, Seminole County, Florida.

Containing 443,725.39 square feet or 10.1865 acres M.O.L.