

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Citizens of
the State of Florida to open
investigation into quality of
service provided by Florida
Water Services Corporation to
Deltona service territory.

DOCKET NO. 010153-WU
ORDER NO. PSC-02-0775-FOF-WU
ISSUED: June 10, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER ACKNOWLEDGING WITHDRAWAL OF PETITION
TO OPEN QUALITY OF SERVICE INVESTIGATION

BY THE COMMISSION:

BACKGROUND

Florida Water Services Corporation (FWSC or utility) is a Class A utility providing service from its Deltona Lakes system to approximately 25,895 water and 4,701 wastewater customers. According to its 2001 annual report, the utility reported gross operating revenues for its Deltona system of \$7,701,635 for water and \$3,572,516 for wastewater and net operating income of \$2,446,048 for water and \$948,808 for wastewater.

In September 2000, a customer of FWSC's Deltona system in Volusia County, Ms. Rosemarie Hester, reported the presence of midge fly larvae in the potable water supplied to her home. In the months following the first report, FWSC worked to identify the source of the contamination and resolve the problem. Notwithstanding these efforts, reports regarding the presence of larvae in the potable water continued as late as January 2001. While it was not documented to be a widespread problem, it was

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reported that larvae were found in water in at least one other home, and in fire hydrants connected to the utility's main water transmission lines, for several months after first being discovered.

On February 1, 2001, the Office of Public Counsel (OPC) filed a Petition with this Commission to open an investigation into the quality of service provided by FWSC to the Deltona service area (Petition). In its Petition, OPC stated that the Deltona customers needed to be reassured that their potable water is safe and free of organic contamination. OPC therefore requested that we determine the cause of the contamination, determine the best solution to resolve it, and verify the permanent elimination of the problem.

On February 21, 2001, FWSC requested additional time to answer OPC's Petition, stating that it was cooperating with the Volusia County Health Department (VCHD), the City of Deltona, and other health environmental agencies to investigate the source of the larvae and rectify any possible contamination. FWSC noted that VCHD stated that the larvae did not pose a health threat, and that the utility wished to gather all information pertinent to its investigation so as to provide a comprehensive, detailed answer to OPC's Petition.

On May 11, 2001, FWSC filed an Answer to OPC's Petition, stating that all water facilities within Deltona have been thoroughly inspected for the presence of midge fly larvae. The water plant in the immediate area where the larvae was first detected was twice taken out of service for inspection. The water tank that initially had evidence of larvae was twice drained, steam cleaned and sanitized. An extra-fine screening was installed at the aerator and its framework and other structures were resealed. An in-line filter costing over \$75,000 was placed in the water main leaving the plant site. Water lines were flushed throughout the northeast Deltona neighborhood where the larvae were detected. FWSC indicated that it was continuing to take samples from various locations within the area, especially upon request by individual customers. Based on independent laboratory analysis, FWSC reported that the presence of larvae had been verified in only one home.

Having no further reports of larvae within the neighborhood, FWSC decided to remove the filter from the service line in the

vicinity of Ms. Hester's home. However, within one week after removal of the filter, Ms. Hester reported seeing larvae again in her home. FWSC recovered samples from her house, which confirmed the presence of a larva in one of three samples. The utility expanded its investigation and took additional steps to remedy the situation. Also, on February 7, 2001, FWSC held a public meeting in cooperation with the City of Deltona and the VCHD to inform the citizens of the steps being taken to eliminate the problem. In summary, FWSC indicates that it has responded, and will continue to respond fully and professionally, to all of the issues raised in the midge fly investigation, and that the utility maintains its commitment to ensuring that all of its customers receive high quality and safe water.

On July 24, 2001, a Motion to Intervene was filed by counsel for Ms. Hester. By Order No. PSC-01-1674-PCO-WU, issued August 16, 2001, the Prehearing Officer found that the Motion was not in substantial compliance with Rule 28-106(2), and it was therefore dismissed without prejudice in accordance with Rule 28-106(4), Florida Administrative Code. A subsequent petition to intervene was filed on behalf of Ms. Hester, and intervention was granted by Order No. PSC-01-1968-PCO-WU, issued October 3, 2001.

Our staff has reviewed all discovery conducted in this matter, which includes documentation of supplemental tests performed by FWSC on November 15, 2001 and February 25, 2002, on water samples collected from the Deltona area. The analyses indicate that there was no observable contamination present.

On April 3, 2002, staff counsel spoke with Ms. Hester's counsel. Ms. Hester reports no recurrences of larvae in her water, and seems generally satisfied that the contamination problem has been resolved.

On April 26, 2002, OPC filed a Notice of Withdrawal of its Petition, stating that according to the VCHD and FWSC's responses to OPC's discovery, there have been no more incidences of contamination in the Deltona water system. Due to the corrective actions taken by FWSC and the apparently successful results of those actions, OPC requests that we acknowledge the withdrawal of its Petition.

We have jurisdiction to consider this matter pursuant to Sections 367.011 and 357.121, Florida Statutes.

ACKNOWLEDGING NOTICE OF WITHDRAWAL

We have has previously considered the issue of whether an entity initiating a proceeding can subsequently voluntarily dismiss its petition, and have decided it can. See Order No. PSC-01-1948-PCO-EI, issued September 28, 2001, in Docket No. 010827-EI; Order No. PSC-94-0310-FOF-EQ, issued March 17, 1994, in Docket 920977-EQ; Order No. PSC-01-0082-FOF-EI, issued January 9, 2001, in Docket No. 000442-EI. But for the fact that we have taken official action in this docket, it would be appropriate to handle this matter administratively. As noted below, we find it appropriate to acknowledge OPC's Notice of Withdrawal. However, because we have plenary authority over the quality of service a utility provides its customers, and could open an investigation on our own motion should the circumstances merit it, we provide herein our findings as to why such an investigation is not merited at this time.

Rule 25-30.225(5), Florida Administrative code, states that:

Each water utility shall operate and maintain in safe, efficient, and proper condition, all of its facilities and equipment used to distribute, regulate, measure or deliver service up to and including the point of delivery into the piping owned by the customer.

The presence of midge fly larvae in potable water does not violate the rules or regulations of either the Department of Environmental Protection (DEP) or the VCHD. Rather, as described in OPC's Petition, the matter appears to be that of "an unsavory organic contamination."

Our staff has monitored this matter since it was first brought to our attention. Both DEP and VCHD took an active role in the investigation, and the agencies report to staff that FWSC cooperated to the fullest degree possible in identifying and correcting the problem. As discussed above, FWSC has taken corrective measures such as inspecting its water plant, sanitizing the suspect water tank, installing an aerator screen and in-line

filter, flushing water lines, and resealing other structures. FWSC has provided copies of laboratory tests conducted on water samples from various locations within the area, including those requested by individual customers. As referenced above, a public meeting was held on February 7, 2001, in cooperation with the City of Deltona and the VCHD, to inform the citizens of the steps being taken to eliminate the problem.

The contamination appears to have been very limited in scope, and there has been no recurrence since remedial action and testing have been performed by the utility. Further, DEP and the Volusia County Health Department will continue to monitor the matter as necessary. All indications are that FWSC's Deltona system is operating in a safe, efficient, and proper condition. Under the circumstances, we find that a formal quality of service investigation is not necessary at this time, and OPC's Notice of Withdrawal of its Petition is hereby acknowledged.

All parties to this matter agree that there has been no further incidence of midge fly larva contamination, and that the problem seems to have been eliminated. Certainly, should any subsequent complaint be brought to FWSC regarding larval contamination, utility shall immediately notify our staff so that the matter can be further monitored. FWSC is encouraged to continue to work professionally and courteously with its customers to resolve any quality of service issues. If a future problem is identified regarding the utility's product quality, operational conditions, or customer satisfaction, our staff should recommend that a formal investigation be initiated at that time.

Based on the foregoing, it is

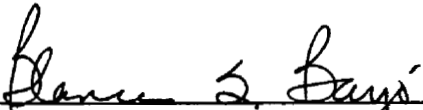
ORDERED by the Florida Public Service Commission that the Office of Public Counsel's Notice of Withdrawal is hereby acknowledged. It is further

ORDERED that FWSC shall notify Commission staff should a complaint of larval contamination be brought to FWSC subsequent to this Order. It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 10th
day of June, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(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 the Commission Clerk and Administrative Services, 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

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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 the Commission Clerk and Administrative Services 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.