

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint application for transfer of facilities of Florida Public Utilities Company (Fernandina Beach Division) in Nassau County to City of Fernandina Beach, and cancellation of Certificate No. 001-W.

DOCKET NO. 030305-WU  
ORDER NO. PSC-03-0691-FOF-WU  
ISSUED: June 9, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER APPROVING JOINT APPLICATION FOR TRANSFER OF FLORIDA PUBLIC UTILITIES COMPANY (FERNANDINA BEACH DIVISION) TO CITY OF FERNANDINA BEACH, CANCELLING CERTIFICATE, AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

Florida Public Utilities Company, Fernandina Beach Division (FPUC or utility) is a Class A water utility that provides water service to approximately 7,000 customers on Amelia Island in Nassau County, Florida. According to its 2000 annual report, the utility received \$2,805,047 in total water operating revenues.

This Commission granted FPUC Certificate No. 001-W by Order No. 3798, issued April 28, 1965, in Docket No. 7848-W. Pursuant to Section 367.071(4)(a), Florida Statutes, on April 1, 2003, FPUC and the City of Fernandina Beach, Florida (City), jointly filed an application to transfer its facilities to the City and to cancel FPUC's certificate.

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FPSC-001, POSITION CLERK

We address herein the joint application for transfer to the City of Fernandina Beach, cancellation of certificate, and annual reports. We have jurisdiction pursuant to Section 367.071, Florida Statutes.

JOINT APPLICATION

The jointly-filed application included a copy of Resolution No. 2002-165 adopted by the City Commission and issued on December 3, 2002. The resolution states that the proposed utility acquisition is in the public interest and authorizes the Mayor and the City Clerk to execute a contract for sale. Also included with the application is a copy of FPUC's "Agreement for Purchase and Sale of Water Assets" (Agreement). According to the Agreement, the total purchase price for the transfer of assets is \$18,950,000, as well as a contingent "futures" consideration of \$7,500,000. The closing was finalized on March 27, 2003.

Because the City is a governmental authority, a statement was provided in the application declaring that the transaction between the utility and the City must be approved by this Commission as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Pursuant to Rule 25-30.037(4), Florida Administrative Code, the application also indicates that the City has obtained from FPUC the most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction for its water utility operations. Moreover, the liability for all customer deposits was transferred to the City. In addition, the utility will refund all accumulated interest accrued as of the closing directly to the customers. Subsequent to the closing of the sales transaction, the utility will retain no assets that would constitute a system providing or proposing to provide water service to the public for compensation.

Rule 25-30.110(3), Florida Administrative Code, requires an annual report be filed for any year a utility is jurisdictional as of December 31st. We have verified that the utility is current with respect to annual reports through 2001 and was granted an extension until May 30, 2003, in which to file its 2002 annual report. On March 27, 2003, the utility's assets were sold to the City, a non-jurisdictional entity. Since the utility is no longer

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jurisdictional, this Commission has no need for the 2002 annual report, except for Schedule W-9, Water Operating Revenue, to support the regulatory assessment fee (RAF) filing for 2002. On May 6, 2003, the utility filed its 2002 annual report, Schedule W-9. Therefore, we find no reason to require the utility to file any additional schedules for its 2002 annual report.

Further, we have verified that the utility has paid RAFs up through the transfer date of March 27, 2003, and there are no penalties, interest or refunds due. Therefore, we find that there are no further requirements for the utility with respect to RAFs.

In consideration of the foregoing, we find that the joint application is in compliance with Section 367.071(4)(a), Florida Statutes and Rule 25-30.037(4), Florida Administrative Code. Therefore, the joint application for transfer of facilities from FPUC to the City is hereby approved as a matter of right, and Certificate No. 001-W shall be cancelled.

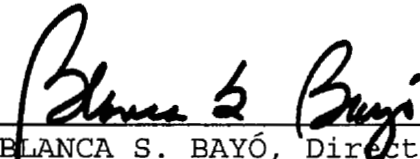
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the joint application for transfer of facilities from Florida Public Utilities Company (Fernandina Beach Division) to the City of Fernandina Beach is hereby approved as a matter of right, and Certificate No. 001-W shall be cancelled. It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 9th Day  
of June, 2003.

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

( 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15)

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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 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.