

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Water Services Corporation (FWSC) for determination of exclusive jurisdiction over FWSC's water and wastewater land and facilities in Hernando County, and application for certificate of authorization for existing utility currently charging for service.

DOCKET NO. 020554-WS  
ORDER NO. PSC-04-0070-FOF-WS  
ISSUED: January 26, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING NOTICE OF DISMISSAL OF PETITION  
AND WITHDRAWAL OF APPLICATION

BY THE COMMISSION:

On June 21, 2002, Florida Water Services Corporation (FWSC or Utility) filed its petition for Determination of Exclusive Commission Jurisdiction Over Florida Water's Land and Facilities in Hernando County and Application for Original Certificates of Authorization for an Existing Utility Currently Charging for Service. Pursuant to Section 367.045, Florida Statutes, and Rule 25-30.030, Florida Administrative Code, FWSC provided notice, dated June 25, 2002, of its application to the governing body of the county or cities affected, the Office of Public Counsel (OPC), the Commission, and such other persons and in such other manner as prescribed by Commission rule.

In response to FWSC's Notice of Application, on July 25, 2002, Hernando County filed its Notice of Protest of Petition by Florida

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Water Services Corporation, in which it set forth its arguments against the application filed by FWSC, and also requested a formal administrative hearing pursuant to the provisions of Chapter 120, Florida Statutes. Additionally, on July 15, 2002, Pasco County filed its formal notification of protest to FWSC's application, and in a subsequent letter dated August 5, 2002, requested a formal administrative hearing. Accordingly, by Order No. PSC-02-1316-PCO-WS, issued September 30, 2002, this docket was set for hearing.

On November 21, 2003, FWSC filed its Notice of Dismissal of Application and Withdrawal of Application (Notice of Dismissal). We have jurisdiction to consider this matter pursuant to Section 367.031, Florida Statutes.

In its Notice of Dismissal, FWSC states that on November 7, 2003, the Circuit Court of the Fifth Judicial Circuit in and for Hernando County, Florida, entered a judgment in Case No. H-27-CA-2003-00703-DM and Case No. H-27-CA-2003-0084-DM, approving Hernando County's efforts to acquire FWSC's utility assets in Hernando County through the power of eminent domain. Consequently, Hernando County has acquired title to all of FWSC's land and facilities in Hernando County. Thus, according to FWSC, its petition for Determination of Exclusive Commission Jurisdiction Over Florida Water's Land and Facilities in Hernando County and Application for Original Certificates of Authorization for an Existing Utility Currently Charging for Service, is moot. Further, FWSC requests that we issue an order closing this docket.

The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lunsford, 314 So. 2d, 578, 579 (Fla. 1975). It is also established civil law that once a timely voluntary dismissal is taken, the trial court loses its jurisdiction to act and cannot revive the original action for any reason. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So. 2d 68, 69 (Fla. 1978).

Accordingly, we hereby acknowledge FWSC's notice of dismissal of petition and withdrawal of its application, and close this docket.

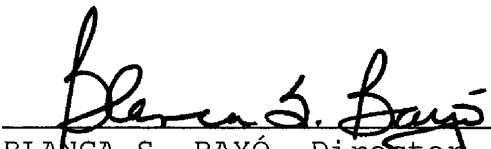
Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that Florida Water Services Corporation's Notice of Dismissal of Petition and Withdrawal of Application is hereby acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of January, 2004.

  
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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

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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 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.