

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of facilities in Osceola County to Tohopekaliga Water Authority and for cancellation of Certificate No. 595-W, by Morningside Utilities, Inc.	DOCKET NO. 040577-WU ORDER NO. PSC-04-1189-FOF-WU ISSUED: December 1, 2004
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The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING TRANSFER AND
CANCELLING CERTIFICATE NO. 595-W

BY THE COMMISSION:

BACKGROUND

Morningside Utilities, Inc. (Morningside or utility) is a Class C utility providing water service to approximately 219 residential customers in Osceola County. The water system is not in a priority water resource caution area of the South Florida Water Management District. The utility's 2003 annual report indicates that the utility had gross revenue of \$76,605 and net operating loss of \$4,015.

The utility's water system was originally issued Certificate No. 595-W pursuant to Order No. PSC-97-1211-FOF-WU, issued October 7, 1997, in Docket No. 970636-WU, In Re: Application for certificate to provide water service in Osceola County by Morningside Utility Inc. The certificate was amended once pursuant to Order No. PSC-99-1810-FOF-WU, issued September 20, 1999, in Docket No. 990247-WU, In re: Application for amendment of Certificate No. 595-W to add territory in Osceola County by Morningside Utilities, Inc.

Pursuant to Order No. PSC-03-1275-FOF-WS, issued November 10, 2003, in Docket No. 030921-WS, In re: Joint application for acknowledgment of sale of land and facilities in Osceola County to Osceola County by Florida Water Services Corporation, and for cancellation of Certificates Nos. 66-W and 289-S, we noted that Tohopekaliga Water Authority (TOHO) was a governmental authority as defined by Section 367.021(7), Florida Statutes, and therefore is a non-jurisdictional entity. TOHO is an independent special district, and thus falls under the definition of Section 1.01(8), Florida Statutes.

DOCUMENT NUMBER-DATE

12766 DEC-1 04

FPSC-COMMISSION CLERK

On June 18, 2004, Morningside submitted an application for transfer of facilities to TOHO and for cancellation of Certificate No. 595-W. We have jurisdiction pursuant to Sections 367.045, 367.071 and 367.081, Florida Statutes.

APPROVING TRANSFER AND CANCELLING CERTIFICATE

On June 18, 2004, Morningside filed an application to transfer the utility's land and facilities to TOHO pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. According to the application, the facilities were to be transferred to TOHO on June 30, 2004. Our staff verified that the closing did take place on July 29, 2004; therefore, July 29, 2004, is the effective date of the transfer.

Pursuant to Section 367.071(4)(a), Florida Statutes, the transfer of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. The application contains a statement that the customer deposits and any accrued interest of the transferred customers will be transferred to TOHO with the individual customer accounts at the time of the actual transfer.

In accordance with Rule 25-30.110, Florida Administrative Code, Morningside filed its annual reports for 2003 and prior years. No annual report is required for 2004 as the utility is being transferred to a non-regulated entity. In accordance with Rule 25-30.120, Florida Administrative Code, the utility's regulatory assessment fees (RAF) for January 1 through July 29, 2004, and all prior years, have been paid. No penalties or interest are outstanding for annual reports or RAF payments.

We find that the application is in compliance with the provisions of Rule 25-30.037, Florida Administrative Code. Pursuant to Section 367.071(4)(a), Florida Statutes, the transfer of Morningside's land and facilities to TOHO are hereby approved, as a matter of right, and Certificate No. 595-W shall be cancelled, effective July 29, 2004.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Morningside's water facilities to the Tohopekaliga Water Authority is hereby approved, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. It is further

ORDERED that Certificate No. 595-W shall be cancelled effective July 29, 2004. It is further

ORDERED that no further action need be taken and the docket shall be closed.

By ORDER of the Florida Public Service Commission this 1st day of December, 2004.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(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 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.