

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for amendment of Certificate
No. 249-S to add territory in Volusia County
by North Peninsula Utilities Corporation.

DOCKET NO. 041301-SU
ORDER NO. PSC-05-0426-FOF-SU
ISSUED: April 20, 2005

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING AMENDMENT OF CERTIFICATE NO. 249-S
TO ADD TERRITORY IN VOLUSIA COUNTY

BY THE COMMISSION:

BACKGROUND

North Peninsula Utilities Corporation (North Peninsula) is a Class C wastewater utility company serving 560 wastewater customers in Volusia County. The City of Ormond Beach provides water to the area. North Peninsula's 2003 annual report on file with this Commission lists operating revenues of \$182,063, with a net loss of \$11,023.¹ The utility filed this application on November 12, 2004, to amend its wastewater certificate, pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code. Several deficiencies in the filing were noted, and the utility filed additional information on February 9, 2005. The application is now in compliance with the governing statute, and other statutes and rules concerning amendment of certificates. As explained in detail below, we approve the proposed amendment to Certificate No 249-S to include the territory listed on Attachment A to this Order. North Peninsula should 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. We have jurisdiction over this matter pursuant to Section 367.045, Florida Statutes.

¹ We recently considered possible overearnings by North Peninsula in Docket No. 030601-SU, *In re: Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County*. We approved a settlement in that docket by Order No. PSC-05-0143-PAA-SU, issued February 7, 2005.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

DECISION

We find that North Peninsula's 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.

North Peninsula provided adequate service territory maps and a territory description, as prescribed by Rule 25-30.036(3)(e) and (i), Florida Administrative Code. The utility has received inquiries for service in the territory requested, and development is expected to be 29 single family homes in the Elena By the Sea development. There are no outstanding notices of violation or consent orders with the Department of Environmental Protection (DEP). There had been an issue with chlorination of the final effluent, but that issue has been monitored by the DEP, and is now resolved.

We find that North Peninsula has adequate plant capacity to serve the additional territory. The developer will construct the facilities to serve the area and deed them to the utility when construction is complete. North Peninsula's service availability policy allows the company to accept donated facilities, but no plant capacity charge. North Peninsula will file a copy of the developer agreement with the Commission after the agreement is signed.

We find that North Peninsula is sufficiently experienced and has the financial and technical ability to provide service to the area requested. North Peninsula has owned the company that will manage the utility since 1989, and there are no consumer complaints pending at the Commission.

Finally, the application contained proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the notice were received, and the time for objections has now passed. The Department of Community Affairs (DCA) has stated that the project is consistent with Volusia County's Comprehensive Plan, and identified no growth management concerns with the proposed expansion of the utility.

Based upon the above information, we find that it is in the public interest to grant the utility's application. The area described in Attachment A shall be added to the wastewater certificated territory of North Peninsula Utilities Corporation.

It is therefore

ORDERED by the Florida Public Service Commission that North Peninsula Utilities Corporation's Application for amendment of Certificate No. 249-S to add territory in Volusia County is granted. It is further

ORDERED that North Peninsula Utilities Corporation 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

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of April, 2005.

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)

MCB

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.

ATTACHMENT A

AMENDMENT TO WASTEWATER SERVICE TERRITORY FOR NORTH
PENINSULA UTILITIES CORPORATION IN VOLUSIA COUNTY

Elena By the Sea

A portion of Section 21, Township 13 South, Range 32 East, Volusia County, described as follows:

Commence at the Northwest corner of said Section 21 and run east along the north section line of Section 21 a distance of 3300 feet more or less to the westerly right of way line of State Road A1A (Ocean Shore Boulevard); thence run southerly along said right of way 1413 feet, more or less, to the north line of Government Lot 4, said Section 21, and the Point of Beginning; thence southerly along the right of way, a distance of 400 feet to a point; thence westerly and parallel with the north line of said Government Lots 3 and 4, a distance of 800 feet to a point; thence northerly and parallel with the said west boundary of said right of way, a distance of 400 feet to a point on the north line of said Government Lots 3 and 4; thence easterly along the north line of said Government Lots 3 and 4, a distance of 800 feet to the Point and place of Beginning.

Together with all lands lying easterly of said State Road A1A to the high tide lines of the Atlantic Ocean, being all the land lying between the northerly and southerly boundary lines of the described premises extended easterly.

Containing 8.113 acres, more or less.