

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Notice of abandonment of water system
in Polk County by The Colinas Group, Inc.

DOCKET NO. 050271-WU
ORDER NO. PSC-05-1227-FOF-WU
ISSUED: December 15, 2005

The following Commissioners participated in the disposition of this matter:

RUDOLPH "RUDY" BRADLEY, Chairman
J. TERRY DEASON
LISA POLAK EDGAR
ISILIO ARRIAGA

ORDER ACKNOWLEDGING ABANDONMENT AND APPOINTMENT OF RECEIVER,
CANCELLING CERTIFICATE NO. 624-W, AND CLOSING DOCKET

BY THE COMMISSION:

Background

Until September 1, 2005, the Colinas Group, Inc. (CGI), a Florida corporation providing engineering and environmental consulting services, was the receiver of a Class C water utility formerly owned and operated by Lazy S Utility Company (Lazy S). As receiver of the system, CGI provided water service to approximately 105 residential customers in Polk County (County) and purchased the water from the City of Lakeland (City) through a master meter. The utility system is located within the Southwest Florida Water Management District's Southern water use caution area. Wastewater service to this area is provided by septic tanks.

By an order issued on February 7, 2003, in Case No. 53-2002-CA-004961, the Circuit Court of the Tenth Judicial Circuit in Polk County (circuit court) declared Lazy S abandoned and appointed CGI as receiver of the water system. By Order No. PSC-04-1245-FOF-WU,¹ this Commission acknowledged the appointment of the CGI receivership, granted the company Certificate No. 624-W, and authorized rates and charges for CGI.² Soon thereafter, CGI applied for a staff-assisted rate case, which case was assigned Docket No. 041371-WU. However, on April 8, 2005, CGI withdrew the rate case application and noticed its intent to abandon the system pursuant to section 367.165, Florida Statutes.

On September 12, 2005, the circuit court issued an order, also in Case No. 53-2002-CA-004961, relieving CGI of its service as receiver of the water system and appointing the County

¹ Issued December 16, 2004, in Docket No. 031087-WU, In re: Application for certificate to provide water service in Polk County by The Colinas Group, Inc., receivers for Lazy S Utility Company.

² The utility was previously exempt from Commission regulation pursuant to section 367.022(8), Florida Statutes, because the owner was charging less than the cost of the water service.

DOCUMENT NUMBER-DATE

11651 DEC 15 05

FPSC-COMMISSION CI FRK

as the interim successor receiver effective September 1, 2005. The County is exempt from Commission regulation pursuant to section 367.022(2), Florida Statutes.

By this Order, we acknowledge the abandonment of the utility system by CGI and the appointment of the County as the interim successor receiver. We have jurisdiction pursuant to sections 367.165 and 367.071, Florida Statutes.

Abandonment, Receivership and Certificate Cancellation

Pursuant to section 367.165(1), Florida Statutes, on April 8, 2005, CGI provided its 60-day notice of intent to abandon the utility system. Consistent with section 367.165(2), Florida Statutes, by order issued September 12, 2005, the circuit court relieved CGI of its service as the receiver of the utility system and appointed the County as the interim successor receiver as of September 1, 2005.

Also on September 12, 2005, the circuit court issued an Order After Status Conference, which contains the circuit court's findings made at a status conference held on the matter on August 26, 2005. The circuit court found that a proposal was made by the City and the County that would allow the customers to connect to the City's water system if 41 customers paid \$2,500 prior to commencement of repairs and construction. The City reported that only 34 customers sent in paper commitments of \$2,500, but that the City would still be able to honor the proposal provided that all 34 customers sent in the money by October 1, 2005. We have subsequently learned from the County and City Attorneys' Offices that enough of the customers have indeed honored their upfront financial commitment such that the proposal will be executed. The City will begin construction of the new water lines with a projected end date of April 2006. Customers will also be required to pay approximately \$365 for connection to a water meter before connecting to the City. In the meantime, the County has hired a licensed operator to run the system during the time of its interim receivership until such time as the system is interconnected to the City's system. Both the County and the City water systems are exempt from Commission regulation pursuant to section 367.022(2), Florida Statutes, as systems owned by governmental authorities.

Pursuant to Rule 25-30.090(3), Florida Administrative Code, within 10 days of the appointment of a receiver by the circuit court, the receiver shall request from this Commission a copy of the utility's tariff and most recent annual report. A copy of the utility's tariff and 2004 annual report have been sent to the County.

We note that CGI has no outstanding regulatory assessment fees (RAFs), and no fines or refunds are owed. CGI has filed its 2004 annual report and paid its 2004 RAFs and there are no outstanding penalties or interest. CGI paid the RAFs for the period of January 1, 2005 through August 31, 2005 to Polk County. On November 16, 2005, Polk County paid this Commission the RAFs for the period of January 1, 2005 through August 31, 2005. CGI is not required to file an annual report for the water system for the period of January 1, 2005 through August 31, 2005, because of the transfer to the County.

Based upon the foregoing, we hereby acknowledge the abandonment of the utility system by CGI and the appointment of the County as interim successor receiver. Moreover, consistent with section 367.165(3), Florida Statutes, Certificate No. 624-W shall be cancelled effective September 1, 2005, the effective date of the County's interim successor receivership.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the abandonment of the utility system by the Colinas Group, Inc. and the appointment of Polk County as interim successor receiver are hereby acknowledged. It is further

ORDERED that Certificate No. 624-W is cancelled effective September 1, 2005. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th day of December, 2005.



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

(SEAL)

RG

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.