

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for amendment of
Certificates 611-W and 527-S to extend water
and wastewater service areas to include
territory in Charlotte County by MSM Utilities,
LLC.

DOCKET NO. 050820-WS
ORDER NO. PSC-06-0129-FOF-WS
ISSUED: February 16, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER APPROVING AMENDMENT OF CERTIFICATES 611-W AND 527-S

BY THE COMMISSION:

On October 18, 2005, MSM Utilities, LLC. (MSM or utility) filed an application with this Commission to amend Certificate Nos. 611-W and 527-S to add water and wastewater territory to its service area in Charlotte County, pursuant to Section 367.045, Florida Statutes. MSM is a Class C utility which provides water and wastewater service in Charlotte County to approximately 50 customers. The utility's 2004 annual report shows combined water and wastewater annual operating revenue of \$80,103, and a net operating loss of \$64,287. The proposed area is in the Southwest Florida Water Management District. We have jurisdiction pursuant to Section 367.045, Florida Statutes.

The area requested by MSM consists of approximately 280 acres. It includes service to approximately 1,100 water and wastewater residential connections in areas soon to be developed. Initially, the application included developed areas consisting of smaller lots with existing private wells and septic tanks. After the utility provided notice of its intent to add territory pursuant to section 367.045, Florida Statutes, we received 109 objections to the application from property owners who have wells and septic tanks in the proposed service area. Believing that utility service will someday be forced upon them, the property owners indicated that they did not need or desire service from the utility in their area. As a result of the 109 objections, the utility voluntarily amended its application on December 2, 2005, to reflect a proposed area which excludes the property of those who objected and retained those areas planned for future development. The individuals who objected were informed that the utility amended its application to remove certain territory and that their property was now outside of the utility's proposed territory. The objections were resolved due to the utility's action.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code. The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code.

We find that the utility has demonstrated its ability to serve the proposed extended areas and that it has the necessary financial and technical expertise to do so. The Department of Community Affairs has indicated that the utility's application is consistent with the Charlotte County Comprehensive Plan. The utility operates a .040 MGD reverse osmosis water treatment facility and a .015 MGD extended aeration wastewater treatment facility. There are currently four development projects being planned in the proposed territory. Some projects are being developed by entities related to the owners of the utility. Anticipated construction starts for these projects range from early 2006 through the last quarter of 2007. To accommodate growth, the utility plans to expand and relocate both of its facilities. The water treatment plant will be expanded to .175 MGD and the wastewater treatment facility to .090 MGD. The utility provided related cost information in Docket No. 050587-WS, In Re: Application for staff-assisted rate case in Charlotte County by MSM Utilities, Inc., along with information relevant to setting service availability charges that would be applicable to new customers. Service availability charges will be addressed in Docket No. 050587-WS.

Based on the foregoing, we find that the amendment of Certificates 611-W and 527-S, held by MSM, to include territory shown on Attachment A of this Order is in the public interest and it is hereby approved. The utility shall charge the customers in the territory added herein the rates and charges contained in its current tariff until authorized to change by this Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Certificates 611-W and 527-S, held by MSM, are hereby amended to include the territory shown on Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that MSM Utilities, LLC shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 16th day of February, 2006.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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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) 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.

MSM UTILITIES, LLC
EXTENSION OF SERVICE TERRITORY

THE NORTH ¼ OF SECTION 12, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF THE SEABOARD COASTLINE RAILROAD AND NORTH OF TURBAK ROAD

TOGETHER WITH:

A PORTION OF SECTION 12, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS :

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE WEST ALONG THE SOUTHLINE OF SAID SECTION 12, A DISTANCE OF 2577.55 FEET; THENCE NORTH, A DISTANCE OF 385.34 FEET; THENCE WEST, A DISTANCE OF 531.75 FEET; THENCE NORTH, A DISTANCE OF 897.20 FEET; THENCE WEST, A DISTANCE OF 511.21 FEET; THENCE NORTH, A DISTANCE OF 438.40 FEET; THENCE EAST A DISTANCE OF 511.21 FEET; THENCE NORTH, A DISTANCE 178.65 FEET; THENCE EAST, A DISTANCE OF 606.14 FEET; THENCE SOUTH, A DISTANCE OF 600 FEET MORE OR LESS; THENCE EAST, A DISTANCE OF 2860 FEET MORE OR LESS TO THE EAST LINE OF SAID SECTION 12, THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION 12 TO THE POINT OF BEGINNING.

TOGETHER WITH:

THE SOUTH ¼ OF SECTION 1, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF SEABOARD COASTLINE RAILROAD

THE SOUTH ¼ OF SECTION 11, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF HUNTERS CREEK.

THE NORTH ¼ OF SECTION 14, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, LYING EAST OF HUNTERS CREEK.