

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application to transfer assets and Certificate Nos. 590-W and 508-S in Polk County from Lake Haven Utility Associates, Ltd., d/b/a Lake Wales Utility Company to Gold Coast Utility Corp.	DOCKET NO. 050902-WS ORDER NO. PSC-06-0331-PAA-WS ISSUED: April 24, 2006
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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

FINAL ORDER APPROVING TRANSFER  
AND  
NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING LATE PAYMENT CHARGE AND  
REVISED METER INSTALLATION CHARGE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein addressing the meter installation charge and late payment fee is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

Lake Haven Utility Associates, Ltd., d/b/a Lake Wales Utility Company (Lake Wales, seller, or utility) is a Class B water and wastewater utility serving approximately 131 residential and 32 general service customers in Polk County. The utility is in the South Florida Water Management District and is not in a water use caution area. The utility's 2004 annual report shows total operating revenue of \$139,784 and \$214,527 and net operating loss of \$21,182 and \$43,305 for water and wastewater, respectively.

The utility was granted Certificate Nos. 590-W and 508-S in 1997 subsequent to Polk County turning over jurisdiction to the Commission.<sup>1</sup> There have been no additional dockets

<sup>1</sup> Order No. PSC-97-0567-FOF-WS, issued May 20, 1997, in Docket No. 961485-WS, In re: Application for grandfather certificates to provide water and wastewater service in Polk County by Lake Haven Utility Association, Ltd., d/b/a Lake Wales Utility Co., Ltd.

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which effect the territory served by the utility. We have jurisdiction pursuant to section 367.071, Florida Statutes.

Transfer of Facilities

On December 1, 2005, Gold Coast Utility Corp. (Gold Coast or buyer) submitted an application for transfer of the Lake Wales water and wastewater facilities and certificates. The closing on the transfer of the utility facilities took place on November 18, 2005, subject to approval by the Commission. The purchase price was \$550,000.

All of the filing requirements for the application were completed on February 14, 2006. The application is in compliance with the governing statute, section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment, or transfer of certificates of authorization.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. No objections to the application were received and the time for filing such has expired.

The application contains a copy of the recorded warranty deed transferring the property upon which the utility treatment facilities are located to Gold Coast. The utility also provided a copy of a 99-year lease for a spray field used for disposal of treated wastewater. This lease has been assigned to Gold Coast.

Documentation regarding the terms of the sale and financing of the purchase, including a copy of the agreement for purchase and sale, is included in the application. The purchase price for the utility is secured by a 20-year, \$550,000 mortgage at 7.125% for the first 7 years and adjusted annually thereafter based upon the one year U.S. Treasury Security, plus a margin of 3.75%.

The application contains a statement that the buyer has performed a reasonable investigation of the utility's water and wastewater systems and found the overall condition to be satisfactory and in general compliance with the requirements of the Florida Department of Environmental Protection (DEP). Our staff contacted DEP and verified that there are no outstanding notices of violation.

The seller is no longer interested in continuing in the utility business. Its related partnership is selling the remaining developable lots and will no longer have a business interest in Polk County. Gold Coast is a Florida corporation authorized to do business in Florida as of October 13, 2005. The shareholders of Gold Coast are Reginald and Keith Burge (the Burges), who are father and son. Gold Coast has the necessary financial and technical abilities to provide adequate, safe, and reliable water and wastewater service to the Lake Wales customers. Our staff reviewed the current financial statement of Mr. Keith Burge and has determined that he has the financial ability to provide quality water and wastewater service in Florida. The Burges have demonstrated their technical ability to provide quality water and wastewater service in Florida

through their regulated history in Florida since 1990. The Burges own and operate Laniger Enterprises of America, Inc., in Martin County, and are former owners of Burkim Enterprises, Inc., in Brevard County. The application also includes a statement that the buyer will fulfill the commitments, obligations, and representations of the seller with regard to utility matters. Therefore, we believe that the transfer is in the public interest.

Pursuant to section 367.071, Florida Statutes, we may set rate base in transfer dockets. Although rate base is typically set in transfer proceedings, no audit was performed in this docket as a cost savings measure for this Commission. According to the application, Gold Coast plans to apply for a rate case in 2006. Rate base was last set for Lake Wales in 1998 at \$68,638 and \$241,248 for water and wastewater, respectively.<sup>2</sup> The 2004 Lake Wales annual report shows rate base of \$28,472 and \$129,353 for water and wastewater, respectively. The 2004 rate base amounts are reasonable amounts based upon the 1998 order. Therefore it appears that the \$550,000 paid by Gold Coast exceeds the rate base of the two systems and there would be no negative acquisition adjustment pursuant to Rule 25-30.0371, Florida Administrative Code.

The buyer stated it had obtained from the seller all records pertaining to utility plant in service, depreciation, and contributions-in-aid-of-construction for the water and wastewater utility since rate base was last set. The buyer understands the need to maintain this information for any future rate proceeding.

Lake Wales reported and paid regulatory assessment fees (RAFs) for the entire year of 2005. Lake Wales' 2005 semiannual RAF report and payment were filed late. Gold Coast also reported and paid RAFs for the period November 18, 2005 through December 31, 2005. Based on the foregoing and conversations with Lake Wales, Lake Wales may request a refund for the overpayment of 2005 RAFs for the November 18, 2005 through December 31, 2005 period, reduced by late-filing penalties and interest. The appropriateness and amount of the refund cannot be determined until after the 2005 Annual Report is received and reviewed. Lake Wales timely filed its 2004 Annual Report. Gold Coast is responsible for filing the 2005 Annual Report and future RAFs and Annual Reports.

Based on the above, we find that the transfer of the Lake Wales facilities and Certificate Nos. 590-W and 508-S to Gold Coast is in the public interest and is approved effective April 4, 2006. Gold Coast shall be responsible for the 2005 Annual Report and future regulatory assessment fees and Annual Reports. The territory being transferred is described in Attachment A, appended hereto and incorporated herein by reference.

#### Rates and Charges

Rule 25-9.044(1), Florida Administrative Code, provides that in the case of change of ownership or control of a utility that places the operation under a different or new utility, the company which will thereafter operate the utility business must adopt and use the rates,

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<sup>2</sup> Order No. PSC-99-1742-PAA-WS, issued September 7, 1999, in Docket No. 981258-WS, In re: Investigation of water and wastewater rates of Lake Haven Utility Association, Ltd. d/b/a Lake Wales Utility Co., Ltd. In Polk County for possible overearnings.

classifications, and regulations of the former operating company unless authorized to change by the Commission.

The utility's rates and charges for water and wastewater service were grandfathered in 1997 when the utility's grandfather certificates were approved. The water and wastewater rates were subsequently increased pursuant to a 2002 price index. The current rates and charges are shown on Attachment B.

We find that the Lake Wales rates and charges shall be continued by Gold Coast, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by this Commission in a subsequent proceeding. The tariffs reflecting the transfer shall become effective on or after the stamped approval date, pursuant to Rule 25-30.0475, Florida Administrative Code.

#### Revised Meter Installation Charge and Late Payment Fee

The buyer has determined that the current meter installation fee of \$65.00 is too low in today's market and should be increased to \$170.00. The buyer provided estimated costs for meter parts from National Waterworks and for labor cost to install a meter. The estimated costs provided for the meter and installation are reasonable. Therefore, we find that the \$170.00 meter installation fee is hereby approved.

The utility has requested authorization to implement a \$5.00 late payment charge. The purpose of a late payment charge is not only to provide an incentive for customers to make timely payments, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing such delinquencies solely upon those who are the cost causers. In Order No. PSC-06-0170-PAA-WS, the Commission found that the majority of utilities that have Commission-approved late fees have those late fees set at \$5.00.<sup>3</sup> The \$5.00 late payment fee appears reasonable and is hereby approved.

Based on the above, we find that the proposed meter installation fee of \$170.00 and the late payment fee of \$5.00 are reasonable and are hereby approved. The charges are shown on Attachment C, attached hereto and incorporated herein by reference. By April 14, 2006, within 10 days of the date of our vote, the utility shall file a proposed notice of the Commission-approved charges for our staff's review. Within 10 days of our staff's approval, the utility shall provide the notice to all customers and any person who has requested or has been provided an estimate for service within the past 12 months. Within 10 days after the notice is given, the utility shall file a statement confirming that the notice has been given. The tariff sheets reflecting these charges shall become effective for services rendered on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code.

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<sup>3</sup> Order No. PSC-06-0170-PAA-WS, issued March 1, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of facilities and Certificate Nos. 590-W and 508-S from Lake Haven Utility Associates, Ltd., d/b/a Lake Wales Utility Company to Gold Coast Utility Corp. is in the public interest and is hereby approved effective April 4, 2006. It is further

ORDERED that all attachments appended hereto are incorporated herein by reference. It is further

ORDERED that Gold Coast Utility Corp. shall be responsible for the 2005 annual report and future annual reports and assessment fees. It is further

ORDERED that the existing rates and charges shall be continued by Gold Coast Utility Corp. until authorized to change by this Commission in a subsequent proceeding. The tariffs reflecting the transfer of ownership shall be effective on or after the stamped approval date. It is further

ORDERED that the increased meter installation fee of \$170.00 is hereby approved. The tariff shall be effective for services rendered on or after the stamped approval date. It is further

ORDERED that the proposed late payment fee of \$5.00 is hereby approved. The tariff shall be effective for services rendered on or after the stamped approval date. It is further

ORDERED that Gold Coast Utility Corp. shall file a proposed notice of the Commission-approved meter installation fee and late payment fee for staff review by April 14, 2006. It is further


ORDERED that Gold Coast Utility Corp. shall provide notice of the Commission-approved meter installation fee and late payment fee to all customers and any person who has requested or has been provided an estimate for service within the past 12 months. It is further

ORDERED that Gold Coast Utility Corp. shall file a statement confirming that notice has been provided within 10 days after the notice is given. It is further

ORDERED that the provisions of this Order addressing the meter installation charge and late payment fee, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 24th day of April, 2006.

  
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BLANCA S. BAYO, 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.

As identified in the body of this order, our action addressing the meter installation charge and late payment fee is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 15, 2006. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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 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 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

Gold Coast Utility Corp.  
Water and Wastewater Territory Description  
Polk County

All lands lying within the following perimeter boundary lines:

All of that portion of Section 16, Township 30 South, Range 29 East, lying South of State Road 60 (formerly called New State Road 79);

All of Section 21, Township 30 South, Range 29 East;

That portion of Section 9, Township 30 South, Range 29 East, lying South of State Road 60 (formerly called New State Road 79) and West of Walk In the Water Creek (also known as Weohyakapka Creek);

That portion of Section 15, Township 30 South, Range 29 East, lying South of State Road 60 (formerly called New State Road 79) and West of Walk In the Water Creek (also known as Weohyakapka Creek);

All of that portion of Section 22, Township 30 South, Range 29 East, lying West of Walk In the Water Creek (also know as Weohyakapka Creek);

All of that portion of Section 27, Township 30 South, Range 29 East, lying West of Walk In the Water Creek (also known as Weohyakapka Creek).



ATTACHMENT B

	<b>Water</b>	<b>Wastewater</b>
<b><u>Monthly Service Rates</u></b>		
<b><u>Residential Service</u></b>		
All Meter Sizes	\$7.19	\$12.52
Charge per 1,000 gallons (in excess of 5,000 gallons)	\$1.03	NONE
<b><u>General Service</u></b>		
Meter Size:		
5/8" x 3/4"	\$18.46	11.26
1"	46.15	28.11
1 1/2"	92.28	56.22
2"	147.64	89.94
3"	295.20	179.87
Charge per 1,000 gallons:	\$1.03	\$1.60
<b><u>Miscellaneous Service Charges</u></b>		
Initial Connection Fee	\$15.00	\$15.00
Normal Reconnection Fee	15.00	15.00
Violation Reconnection Fee	15.00	Actual Cost
Premises Visit Fee (in lieu of disconnection)	10.00	10.00
<b><u>Service Availability Charges</u></b>		
Connection Charge	\$400.00	\$600.00

ATTACHMENT C

	<b>Current</b>	<b>Commission Approved</b>
	<b><u>Service Availability Charges</u></b>	
Meter installation	65.00	170.00
	<b><u>Miscellaneous Service Charges</u></b>	
Late Payment Fee	\$0.00	\$5.00