

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application by Floridana Homeowners, Inc. for transfer of facilities to Floridana Homeowners Association, Inc., and for cancellation of Certificate Nos. 586-W and 504-S in Manatee County.

DOCKET NO. 060009-WS
ORDER NO. PSC-06-0663-FOF-WS
ISSUED: August 7, 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 TRANSFER, CANCELING CERTIFICATES,
AND CLOSING DOCKET

BY THE COMMISSION:

Background

Floridana Homeowners, Inc. (Floridana or utility) is a Class C utility providing water and wastewater service to approximately 300 customers within the Floridana mobile home park (MHP) in Manatee County. The utility is located in a portion of the Southwest Florida Water Management District which is considered a water use caution area, and obtains bulk water and wastewater service from Manatee County. The utility's 2005 annual report indicates total gross revenues of \$101,803 with a net operating loss of \$25,728.

The utility was established in 1978 to serve the MHP and park clubhouse facility. This Commission granted the utility grandfather Certificate Nos. 586-W and 504-S by Order No. PSC-97-0211-FOF-WS.¹ There have been no further certification actions.

On January 3, 2006, Floridana filed an application to transfer the utility's water and wastewater facilities to the Floridana Homeowners Association, Inc. (HOA). The application also requests cancellation of the utility certificates pursuant to Section 367.022(7), Florida Statutes, which provides an exemption from regulation for non-profit associations providing service solely to its members. The application was found to be deficient, and the utility did not complete the filing requirements until May 31, 2006.

¹ Order No. PSC-97-0211-FOF-WS, issued February 24, 1997, in Docket No. 961232-WS, In Re: Application for grandfather certificates to provide water and wastewater service in Manatee County by Floridana Homeowners, Inc.

DOCUMENT NUMBER-DATE

07036 AUG-7 8

FPSC-COMMISSION CI FRK

This Order addresses approval of the transfer of facilities and cancellation of Certificate Nos. 586-W and 504-S. We have jurisdiction to consider this matter pursuant to Section 367.071 and 367.022, Florida Statutes.

Transfer of Facilities and Canceling of Certificates

The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and rules concerning an application for transfer. Pursuant to Rule 25-30.030, Florida Administrative Code, the application contains proof of compliance with the noticing provisions. No objections to the notice of application have been received and the time for filing such has expired.

The HOA is a Florida not-for-profit corporation established on December 29, 2004, for purposes of owning and maintaining the MHP's real property, including the water distribution and wastewater collection lines, pumps and support stations. Membership in the HOA is exclusive to property owners in the MHP. Each lot owner in the MHP is an automatic member of the HOA and, as such, entitled to voting rights and eligibility to serve on the Board of Directors. A copy of the HOA's registration with the Florida Department of State is included in the application along with its Articles of Incorporation and By-Laws.

The application contains a copy of the Purchase and Sale Agreement between Floridana and the HOA. The closing occurred on February 4, 2005, subject to ultimate approval by this Commission. The transfer was accomplished by a 100% buyout of utility stock which the HOA is financing through a loan with a local banking institution. The loan is secured by an assessment against the HOA members. The application also includes a copy of a recorded warranty deed transferring the land and facilities from Floridana to the HOA. There are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, or leases that must be disposed of in relation to the transfer.

According to the application, the transfer from the shareholders of Floridana to the members of the HOA will result in less costly operation of the water and wastewater systems by removing the profit motive from the rate structure inherent in ownership by a business entity. The application also indicates that the financial ability of the HOA will be greater than that of Floridana because the HOA is authorized to assess its members for the requisite income to cover the utility's operating expenses and reserves. The application concludes that the HOA is fully aware of Floridana's commitments, obligations and representations with regard to utility matters, and pledges to fulfill said commitments, obligations and representations.

According to our records, the utility has paid its regulatory assessment fees (RAFs) and filed its annual reports for all of 2005 and prior years. Based on our approval of the transfer effective February 4, 2005, the utility may be entitled to a refund for the RAFs paid on revenues received after February 4, 2005. If the utility believes it is so entitled, it may apply for a refund. Because the homeowners association is exempt from our regulation, no further RAFs or annual reports will be due after our approval of the transfer.

Based on the above, the transfer of Floridana Homeowners, Inc.'s water and wastewater facilities to Floridana Homeowners Association, Inc. is in the public interest and shall be approved. Certificate Nos. 586-W and 504-S shall be cancelled effective February 4, 2005.


Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of facilities of Floridana Homeowners, Inc. to Floridana Homeowners Association, Inc. is in the public interest and shall be approved. It is further

ORDERED that Certificate Nos. 586-W and 504-S shall be cancelled effective February 4, 2005. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of August, 2006.


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

(S E A L)

RRJ

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.