

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Ordinance by Board of County  
Commissioners of Columbia County to  
regulate private water, wastewater, and effluent  
reuse utilities in Columbia County.

DOCKET NO. 070345-WS  
ORDER NO. PSC-07-0667-FOF-WS  
ISSUED: August 20, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER ACKNOWLEDGING RESCISSION OF COMMISSION JURISDICTION,  
CANCELING CERTIFICATES IN COLUMBIA COUNTY, WAIVING PENALTY FOR  
GATOR UTILITIES, AND CLOSING DOCKET

BY THE COMMISSION:

Background

On May 21, 1981, the Board of County Commissioners of Columbia County (County) adopted a resolution declaring the County subject to the provisions of Chapter 367, Florida Statutes (F.S.). That resolution invoked Commission jurisdiction over investor-owned water and wastewater utilities in the County. We acknowledged the resolution by Order No. 10191, issued August 7, 1981, in Docket No. 5818-WS, In re: Resolution passing water and sewer regulation in Columbia County, Florida, to Public Service Commission.

On May 3, 2007, the County adopted Ordinance No. 2007-15 (Ordinance), which specifies its power and authority under Section 367.171, F.S., to regulate private water, wastewater and effluent reuse facilities doing business in the County. The effective date of the Ordinance is May 11, 2007, which is the date it was filed with the Florida Department of State. Therefore, our jurisdiction over private water, wastewater, and reuse facilities in the County was rescinded effective May 11, 2007.

We have jurisdiction pursuant to Sections 367.120, 367.145, 367.161, and 367.171, F.S.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Rescission of Commission Jurisdiction and Cancellation of Certificates

Section 367.171(1), F.S., provides that a County, after ten continuous years under Commission jurisdiction, may by resolution or ordinance rescind said jurisdiction and thereby exclude itself from the provisions of Chapter 367, F.S., with the exception of Section 367.171, F.S. The County has met that requirement. Therefore, we hereby acknowledge County Ordinance No. 2007-15, which rescinds our jurisdiction in Columbia County effective May 11, 2007.

The following six utilities currently hold certificates of authorization from this Commission to provide water or wastewater service in the County:

<u>Utility</u>	<u>Certificate Number</u>
C.S.M. Enterprises, Inc.	581-W
College Manor Water Company, Inc.	392-W
Consolidated Water Works, Inc.	393-W
Gator Utilities	402-W
Kirby D. Morgan, Inc.	501-S
Lenvil H. Dicks	391-W

Pursuant to Section 367.171(5), F.S., when a utility becomes subject to regulation by a County, all cases in which the utility is a party then pending before us shall remain within our jurisdiction until disposed of in accordance with the law in effect on the day such case was filed. At the time of the enactment of the Ordinance, we had no cases pending for any utilities in the County.<sup>1</sup> Therefore, the certificates for the utilities, as listed above, shall be cancelled effective May 11, 2007.

Pursuant to Section 367.145(1)(a), F.S., and Rule 25-30.120(2), Florida Administrative Code (F.A.C.), cancellation of these certificates does not affect our authority to collect, nor the obligation of the utilities to pay, regulatory assessment fees (RAFs), penalties, and interest accrued prior to May 11, 2007. However, pursuant to Rule 25-30.110(3), F.A.C., these utilities will not be responsible for filing an annual report for 2007, as they will not be jurisdictional as of December 31, 2007.

C.S.M. Enterprises, Inc.; College Manor Water Company, Inc.; Consolidated Water Works, Inc.; Gator Utilities; Kirby D. Morgan, Inc.; and Lenvil H. Dicks have paid their 2006 RAFs for the period of January 1, through December 31, 2006, and have paid their RAFs for all previous years. These utilities shall be responsible for a final payment of RAFs for the period of January 1, through May 11, 2007, on or before the due date of March 31, 2008.

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<sup>1</sup> On May 17, 2007, subsequent to the County's rescission of our jurisdiction, a joint application for transfer of the Lenvil H. Dicks water facility to the City of Lake City and for cancellation of Certificate No. 391-W was filed in Docket No. 070319-WU. On June 7, 2007, the County approved the transfer by Resolution No. 2007R-15. On June 27, 2007, the application in Docket No. 070319-WU was voluntarily withdrawn as moot and the docket was administratively closed.

C.S.M. Enterprises, Inc.; College Manor Water Company, Inc.; Consolidated Water Works, Inc.; Gator Utilities; Kirby D. Morgan, Inc.; and Lenvil H. Dicks have filed their 2006 annual reports and have filed their annual reports for all previous years. Gator Utilities filed its 2005 annual report late and has requested a waiver of the \$1,215 fine. The requested waiver is addressed below.

Request for Waiver of Penalty

Rule 25-30.110(3), F.A.C., requires utilities subject to our jurisdiction as of December 31st of any year to file an annual report for that year. The report is due by March 31st for the preceding year ending December 31st. Gator Utilities (Gator or utility) filed its 2005 Annual Report on June 18, 2007. In accordance with Rule 25-30.110(7)(b), F.A.C., the standard penalty for a Class C utility is \$1,215 (405 days x \$3.00 = \$1,215). The fine was calculated from March 31, 2006 through May 11, 2007, which is the effective date of the County's jurisdiction. The utility indicates that there is good cause for the noncompliance and states that the requested waiver relates solely to the penalties associated with the 2005 Annual Report.

In a written request, Gator stated that the utility depended on an independent CPA for assistance in compiling its annual reports. The wife of the CPA was killed in an automobile accident in the summer of 2005 and the CPA struggled to deal with the emotional stress of that incident during 2006. In December 2006, the CPA died from a sudden illness.

Due to these events, the utility engaged another CPA to prepare the utility's 2006 income tax return and compile the 2006 Annual Report. While compiling the 2006 information, the utility became aware that the 2005 report was never completed. It took some time to recover the information relating to water use so that the report could be completed.

Rule 25-30.110(6)(c), F.A.C., states that a utility shall be subject to the penalties imposed therein unless the utility demonstrates good cause for the noncompliance. Further, the rule states that we may, in our discretion, impose penalties for noncompliance that are greater or lesser than provided by the rule. We find that Gator has shown good cause as to why the 2005 Annual Report was not filed timely. Therefore, Gator's request for waiver of the \$1,215 penalty for the late-filing of its 2005 Annual Report is hereby granted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Board of County Commissioners of Columbia County's Ordinance No. 2007-15 rescinding Commission jurisdiction effective May 11, 2007, is acknowledged. It is further

ORDERED that Certificate Nos. 581-W, held by C.S.M. Enterprises, Inc., 392-W held by College Manor Water Company, Inc., 393-W held by Consolidated Water Works, Inc., 402-W held by Gator Utilities, 501-S held by Kirby D. Morgan, Inc., and 391-W held by Lenvil H. Dicks, shall be cancelled effective May 11, 2007. It is further

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ORDERED that C.S.M. Enterprises, Inc., College Manor Water Company, Inc., Consolidated Water Works, Inc., Gator Utilities, Kirby D. Morgan, Inc., and Lenvil H. Dicks shall be responsible for a final payment of regulatory assessment fees for the period of January 1, through May 11, 2007, on or before March 31, 2008. It is further

ORDERED that Gator Utilities' request for waiver of the \$1,215 penalty for the late-filing of its 2005 Annual Report is hereby granted. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of August, 2007.



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ANN COLE  
Commission Clerk

( 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.

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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.