

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Transfer of water and wastewater service areas from Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida, Inc. to DeSoto County, and cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties.

DOCKET NO. 041294-WS
ORDER NO. PSC-07-0863-FOF-WS
ISSUED: October 29, 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 UNWINDING TRANSFER AND
VACATING ORDER NO. PSC-05-0313-FOF-WS

BY THE COMMISSION:

BACKGROUND

Lake Suzy Utilities, Inc. (Lake Suzy or utility) is a Class B water and wastewater utility providing service to 495 water customers and 221 wastewater customers in DeSoto and Charlotte Counties. DeSoto County has jurisdiction over the privately owned water and wastewater utilities in that County. However, the Lake Suzy water system is subject to our jurisdiction pursuant to Section 367.171(7), Florida Statutes, because it provides water service which transverses the DeSoto and Charlotte County boundary.¹

On September 30, 2004, DeSoto County and Lake Suzy entered into a master utility conveyance agreement to transfer the Lake Suzy water facilities to DeSoto County and, in exchange, to transfer the County wastewater facilities to Lake Suzy. On November 9, 2004, an application was filed requesting a transfer of the water facilities from Lake Suzy to DeSoto County and for the cancellation of Certificate Nos. 599-W and 514-S. By Order No. PSC-05-0313-FOF-WS, issued March 21, 2005, we approved the transfer to DeSoto County as a matter of right and ordered that the certificates were to be cancelled administratively upon staff's receipt of the executed master utility conveyance agreement. The utility and DeSoto County worked on the agreement for several months, without resolve. All efforts to execute the agreement have been abandoned.

¹ We granted Lake Suzy Utilities, Inc. its Certificate Nos. 599-W and 514-S in Order No. PSC-00-0575-PAA-WS, issued March 22, 2000, in Docket No. 970657-WS, In Re: Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

On August 10, 2007, Lake Suzy filed a request to withdraw its application to transfer the water and wastewater service areas from Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida, Inc. to DeSoto County, and the cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties. We have jurisdiction pursuant to Section 367.071, Florida Statutes.

APPROVING REQUEST TO UNWIND TRANSFER AND
VACATING ORDER NO. PSC-05-0313-FOF-WS

DeSoto County and Lake Suzy had a preliminary conveyance agreement to transfer the Lake Suzy water facilities to DeSoto County and, in exchange, to transfer the County wastewater facilities to Lake Suzy. In Order No. PSC-05-0313-FOF-WS, issued March 21, 2005, we approved the transfer of the facilities and the cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties, pursuant to Section 367.071(4)(a), Florida Statutes. According to the order, upon receipt of the executed agreement the certificates were to be cancelled and the docket was to be closed administratively.

DeSoto County and Lake Suzy have mutually agreed to terminate the master conveyance agreement that formed the basis for the transfer transaction in this docket. Therefore, the utility continues to be under the jurisdiction of this Commission and the certificates remain active. Lake Suzy continues to be responsible for the regulatory assessment fees and annual reports.

Since the agreement was never executed, and the parties have terminated the agreements that were formed, the transfer approved in Order No. PSC-05-0313-FOF-WS did not occur. Therefore, Lake Suzy remains subject to our jurisdiction. Accordingly, we find it appropriate to approve Lake Suzy's request. Order No. PSC-05-0313-FOF-WS shall be vacated, and Certificates Nos. 599-W and 514-S shall remain active. In addition, the utility shall be on notice that, if it should enter into a new agreement for the transfer of the utility, it is required to file an application with this Commission to seek approval of the transfer.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida, Inc.'s request to unwind the transfer approved by Order No. PSC-05-0313-FOF-WS is hereby approved. It is further

ORDERED that Order No. PSC-05-0313-FOF-WS is hereby vacated. It is further

ORDERED that Certificate Nos. 599-W and 514-S shall remain active. It is further

ORDERED that the utility shall be on notice that, if it should enter into a new agreement for the transfer of the utility, it is required to file an application with this Commission to seek approval of the transfer. It is further

ORDERED that because no further action is necessary, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of October, 2007.



ANN COLE
Commission Clerk

(S E A L)

JSB

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.