

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Ordinance by Board of County Commissioners of Hardee County relating to regulation of privately owned water and sewer utilities within the unincorporated areas of Hardee County.

DOCKET NO. 090489-WS  
ORDER NO. PSC-09-0820-FOF-WS  
ISSUED: December 14, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
NANCY ARGENZIANO  
NATHAN A. SKOP  
DAVID E. KLEMENT

FINAL ORDER ACKNOWLEDGING RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS DECLARING PRIVATELY-OWNED WATER AND WASTEWATER UTILITIES IN HARDEE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES (F.S.)

BY THE COMMISSION:

On October 22, 2009, the Board of County Commissioners of Hardee County passed and adopted Ordinance No. 2010-02, declaring the privately-owned water and wastewater facilities in Hardee County to be subject to the provisions of Chapter 367, F.S. The effective date of the Ordinance was to be the date the Ordinance was filed with the Florida Public Service Commission (Commission). Therefore, the effective date of the transfer of jurisdiction is October 26, 2009. This recommendation addresses the acknowledgement of that Ordinance. We have jurisdiction pursuant to Section 367.171, F.S.

Pursuant to Section 367.171(1), F.S., the provisions of the Chapter become effective in a county upon the adoption of a resolution or ordinance by the board of county commissioners declaring the county subject to the provision of the Chapter. Any board of county commissioners which adopts such a resolution or ordinance is required to immediately notify us of its adoption and submit the resolution or ordinance to this Commission.

Pursuant to Section 367.171(2)(a), F.S., each privately-owned and operated utility in Hardee County is required to register with the Commission within thirty (30) days of the date this Commission received jurisdiction, or by November 25, 2009. All utilities must obtain either a certificate of authorization from the Commission, pursuant to Section 367.031, F.S., or must be exempt from Commission regulation.

Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system is entitled to receive a grandfather certificate for the area served by the

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utility on the day the Chapter becomes applicable to it. Within 90 days after the day the Chapter becomes applicable to it, the utility is required to make application for a grandfather certificate by filing an application with this Commission. In addition, since it is subject to the Chapter, each utility must continue to collect the rates and charges for water and wastewater service which were being collected on October 26, 2009, until changed by this Commission.

We have contacted the County Administrator for a list of the privately-owned water and wastewater utilities which were regulated by Hardee County on October 26, 2009, along with available information on each utility's current rates, charges, and territory served. We have also contacted the Florida Department of Environment Protection (FDEP) to advise it of the Ordinance, and to obtain a list of all privately-owned water and wastewater facilities in Hardee which FDEP monitors for environmental compliance. The utilities identified by the County and FDEP will receive a letter from our staff advising them of the transfer of jurisdiction and providing them with information to determine whether or not they are exempt from Commission regulation pursuant to Section 367.022, F.S.

Entities which are not exempt from Commission regulation will receive instruction for filing an application for grandfather certificates. The resulting applications will be processed in individual dockets. These applicants will also be advised of their responsibility to file an annual report for 2009, pursuant to Rule 25-30.110, Florida Administrative Code (F.A.C.), as well as their responsibility to remit annual regulatory assessment fees from October 26 through December 31, 2009, pursuant to Rule 25-30.120, F.A.C. The applicants will also be advised of their right to file for a pass-through of RAFs, should they not be currently collecting RAFs, or if they are collecting a lesser amount than they would be paying to the Commission.

Accordingly, we acknowledge Ordinance No. 2010-02 by the County Commissioners of Hardee County, effective October 26, 2009. All non-exempt, privately-owned water and wastewater utilities in Hardee County shall comply with the provisions of Chapter 367, F.S.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Ordinance No. 2010-02 by the Board of County Commissioners of Hardee County declaring that the privately-owned water and wastewater facilities in Hardee County shall be subjected to the provisions of Chapter 367, F.S., effective October 26, 2009, is hereby acknowledged. It is further

ORDERED that all non-exempt, privately-owned water and wastewater utilities in Hardee County are hereby directed to comply with Commission procedures as set forth in the body of this Order and Chapter 367, F.S. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 14th day of December, 2009.



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ANN COLE  
Commission Clerk

(SEAL)

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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.