

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of wastewater facilities in Seminole County from Alafaya Utilities, Inc., to City of Oviedo and cancellation of Certificate No. 379-S.	DOCKET NO. 100402-SU ORDER NO. PSC-10-0719-FOF-SU ISSUED: December 9, 2010
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The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
RONALD A. BRISÉ
EDUARDO E. BALBIS

FINAL ORDER ACKNOWLEDGING TRANSFER TO CITY OF OVIEDO
AND CANCELLING CERTIFICATE NO. 379-S

BY THE COMMISSION:

Background

Alafaya Utilities, Inc. (Alafaya or Utility), a wholly-owned subsidiary of Utilities, Inc., is a Class A Utility providing wastewater service to approximately 7,283 residential customers in Seminole County, Florida. Water service is provided by the City of Oviedo (the City). Alafaya is within the St. Johns River Water Management District in the Water Resource Caution Area, as designated pursuant to Rule 40C-23.001, Florida Administrative Code (F.A.C.). The Utility's 2009 annual report indicates that the Utility had gross operating revenues of \$3,914,424 and net operating income of \$518,143.

Alafaya was originally granted Certificate No. 379-S for its wastewater facilities and territory in 1985.¹ The Utility has had 11 amendments and two transfers since it was certificated. On September 21, 2010, Alafaya filed an application for transfer of its facilities and territory to the City and cancellation of its Certificate No. 379-S, in accordance with Rule 25-30.036(2), F.A.C.

The purpose of this Order is to acknowledge the transfer of Alafaya's wastewater facilities and territory to the City as a matter of right and to cancel Alafaya's Certificate No. 379-S. We have jurisdiction, pursuant to Sections 367.071 and 367.022(2), Florida Statutes (F.S.).

¹ Order No. 14841, issued September 3, 1985, in Docket No. 850209-SU, In re: Application of Oviedo Utilities, Inc., for a certificate to provide sewer service in Seminole County, pursuant to the provisions of Section 367.041, Florida Statutes.

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FPSC-COMMISSION CLERK

Transfer to City of Oviedo and Cancellation of Certificate No. 379-S

Alafaya filed an application for transfer of its wastewater system to the City and cancellation of its Certificate No. 379-S on September 21, 2010. Pursuant to Section 367.071(4)(a), F.S., the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. In addition, in accordance with Section 367.022(2), F.S., the City is exempt from regulation by this Commission because it is a governmental authority. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

On April 15, 2010, the Utility and the City executed an Agreement for Purchase & Sale of Reclaimed Water and Wastewater Assets. A copy of this contract was included in the application. The closing on the sale of the Utility's wastewater system took place on September 14, 2010, the effective date of the transfer.

The application contains a statement that prior to closing, the City obtained copies of the Utility's most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction, pursuant to Rule 25-30.037(4)(e), F.A.C. The Utility's application also includes a statement that all customer deposits and interest accrued through the closing date will be transferred to the City. Our staff has confirmed with a Utility representative that the customer deposits were, in fact, transferred to the City.

Alafaya has paid regulatory assessment fees (RAFs) for 2009 and all prior years, pursuant to Rule 25-30.120, F.A.C. The Utility has also paid RAFs for the period January 1, 2010, through June 30, 2010. The application states that the Utility will pay any and all outstanding RAFs and file its final Regulatory Assessment Fee Return. Therefore, Alafaya is responsible for RAFs accrued for the period July 1, 2010, through September 14, 2010, the closing date. Payment of the required RAFs for the stated period shall be made by January 30, 2011.

In accordance with Rule 25-30.110, F.A.C., Alafaya has filed annual reports for 2009 and all prior years. The Utility will be exempt from our regulation upon our acknowledgement of the transfer to the City as a matter of right, in accordance with Section 367.022(2), F.S. Because Alafaya will no longer be jurisdictional as of December 31, 2010, it is not required to file a 2010 annual report, pursuant to Rule 25-30.110(3), F.A.C.

In addition, in accordance with Rule 25-30.037(4)(d), F.A.C., Alafaya's application indicates that after closing, the Utility will not retain any utility assets that would constitute a system providing or proposing to provide reclaimed water or wastewater service to the public for compensation. The application states that Alafaya is currently unable to locate its original Certificate No. 379-S.

Based on the above, the transfer of Alafaya's wastewater facilities and territory to the City shall be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 379-S shall be cancelled effective September 14, 2010.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of the facilities and territory of Alafaya Utilities, Inc., to the City of Oviedo shall be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S. It is further

ORDERED that Alafaya's Certificate No. 379-S shall be cancelled effective September 14, 2010. It is further

ORDERED that Alafaya Utilities, Inc., shall pay the accrued regulatory assessment fees for the period July 1, 2010, through September 14, 2010, by January 30, 2011. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 9th day of December, 2010.



ANN COLE
Commission Clerk

(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 Office of

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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.