

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of wastewater facilities in Highlands County from Highlands Utilities Corporation to Town of Lake Placid and cancellation of Certificate No. 361-S.

DOCKET NO. 110075-SU
ORDER NO. PSC-11-0341-FOF-SU
ISSUED: August 15, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER ACKNOWLEDGING TRANSFER TO A GOVERNMENTAL AUTHORITY
AND CANCELLATION OF CERTIFICATE NO. 361-S

BY THE COMMISSION:

BACKGROUND

Highlands Utilities Corporation (HUC or Utility) is a Class B wastewater utility located in central Highlands County in the South Florida Water Management District. The Utility serves approximately 258 customers, including 179 residential and 79 commercial customers. Water service is provided by the Town of Lake Placid (Town). HUC's 2009 annual report indicates that the Utility had gross operating revenues of \$120,862 and a net operating loss of (\$296,037).

HUC applied for a wastewater certificate after the Highlands County Board of County Commissioners transferred jurisdiction of its water and wastewater utilities to this Commission on September 7, 1982. We granted the Utility original Certificate No. 361-S in 1984.¹ HUC has had seven territory amendments, including one partial transfer to a governmental authority, since it was certificated.² Of the four plants originally owned by the Utility to serve the Sebring and

¹ See Order No. 13507, issued July 11, 1984, in Docket No. 830009-SU, In re: Application of Highlands Utilities Corporation for a certificate to operate a sewer system in Highlands County, pursuant to Section 367.171, Florida Statutes.

² See Order No. 14092, issued February 15, 1985, in Docket No. 830466-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory in Highlands County, Florida; Order No. 15908, issued March 28, 1986, in Docket No. 860171-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory in Highlands County, Florida; Order No. 22556, issued February 15, 1990, in Docket No. 890800-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory and cancellation of Pugh Septic Tank Services, Inc.'s Certificate No. 346-S in Highlands Co.; Order No. PSC-92-1185-AS-SU, issued October 19, 1992, in Docket No. 920093-SU, In re: Application for amendment of Certificate No. 349-S to include additional territory in Highland County by Harder Hall-Howard, Inc. and in Docket No. 920069-SU, In re: Complaint against Harder Hall-Howard, Inc. for alleged infringement upon certificated area in Highlands County

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FPSC-COMMISSION CLERK

Lake Placid areas, three were transferred to the City of Sebring by Order No. PSC-09-0710-FOF-SU, issued October 26, 2009. The remaining plant, the South Plant, serves the Lake Placid area. On March 18, 2011, the Utility filed an application for transfer of its remaining facilities and territory to the Town and cancellation of its Certificate No. 361-S.

The purpose of this Order is to acknowledge the transfer of HUC's wastewater facilities and territory to the Town as a matter of right and to cancel Certificate No. 361-S. We have jurisdiction pursuant to Sections 367.071 and 367.022(2), Florida Statutes (F.S.).

DECISION

HUC applied for the transfer of its wastewater system to the Town and cancellation of Certificate No. 361-S on March 18, 2011, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.). The application included a copy of the Agreement for the Sale and Purchase of Wastewater Collection and Treatment System (Agreement), which was executed by HUC and the Town on April 26, 2010. The closing on the sale of the Utility's facilities took place on October 5, 2010, the effective date of the transfer.

The Town is exempt from our regulation as a governmental authority, in accordance with Section 367.022(2), F.S.³ 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. We find that the application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contained a statement that prior to purchase, the Town obtained a copy of the Utility's 2009 annual report filed with this Commission, which included its most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction, pursuant to Section 367.071(4)(a), F.S., and Rule 25-30.037(4)(e), F.A.C. In accordance with Rule 25-30.037(4)(g), F.A.C., the application specified that there were no customer deposits; therefore, no transfer or refunds of deposits were required at closing.

HUC has paid regulatory assessment fees (RAFs) accrued through October 5, 2010, and all prior years, pursuant to Rule 25-30.120, F.A.C. Since the closing and transfer of the Utility occurred on October 5, 2010, no RAFs were accrued or due from that time forward. HUC has filed its annual reports for 2009 and all prior years. The Utility shall not be required to file a

served by Highlands Utilities Corporation; Order No. PSC-02-0250-PAA-WS, issued February 26, 2002, in Docket No. 990374-WS, In re: Application for certificates to operate a water and wastewater facility in Highlands County by the Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation; Order No. PSC-02-1732-FOF-SU, issued December 9, 2002, in Docket No. 001660-SU, In re: Application for amendment of certificate No. 361-S to extend and to delete wastewater service area in Highlands County by Highlands Utilities Corporation; Order No. PSC-09-0710-FOF-SU, issued October 26, 2009, in Docket No. 090227-SU, In re: Application for partial transfer of wastewater facility to City of Sebring, and amendment of Certificate No. 361-S, by Highlands Utilities Corporation, in Highlands County.

³ See also Order No. PSC-03-1275-FOF-WS, issued November 10, 2003, in Docket No. 030921-WS, In re: Joint application for acknowledgment of sale of land and facilities in Osceola County to Osceola County by Florida Water Services Corporation, and for cancellation of Certificates Nos. 66-W and 289-S.

2010 annual report since it was not jurisdictional as of December 31, 2010, pursuant to Rule 25-30.110(3), F.A.C.

Base on the foregoing, we hereby acknowledge the transfer of HUC's wastewater facilities and territory to the Town of Lake Placid as a matter of right pursuant to Section 367.071(4)(a), F.S., and cancel Certificate No. 361-S effective October 5, 2010.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Highlands Utilities Corporation's wastewater facilities to the Town of Lake Placid is hereby acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 361-S shall be cancelled effective October 5, 2010. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th day of August, 2011.



ANN COLE
Commission Clerk
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CMK

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.