

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Four Points Utility Corporation in Polk County for violation of Commission rules and regulations as outlined in the Florida Public Service Commission's management audit for Four Points Utility Corporation and Bimini Bay Utilities Corporation issued June 2011.

DOCKET NO. 20110254-WS

In re: Application for acknowledgment of transfer of receivership to Polk County, and cancellation of Certificate Nos. 634-W and 544-S, by Four Points Utility Corporation.

DOCKET NO. 20170270-WS  
ORDER NO. PSC-2018-0101-FOF-WS  
ISSUED: February 26, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK

ORDER ACKNOWLEDGING TRANSFER OF RECEIVERSHIP, CANCELLING  
CERTIFICATE NOS. 634-W AND 544-S, AND CLOSING DOCKETS

BY THE COMMISSION:

**Background**

Four Points Utility Corporation (Four Points or Utility) is a Class C water and wastewater utility located in Davenport in northeast Polk County (County). The Utility purchases water and wastewater service from Polk County and resells those services to its customers. The Utility serves approximately 241 residential water and wastewater customers and a clubhouse in the Island Club West Resort and Spa townhome development (Island Club West). Four Point's 2016 annual report indicates that the Utility had combined gross operating revenues of \$295,998 and a net operating loss of \$89,909.

In 2007, the Utility was granted Certificate Nos. 634-W and 544-S. In 2011, we issued Order No. PSC-11-0541-SC-WS, and initiated a show cause proceeding against Four Points, for potential violations of numerous Commission rules and statutes related to meter reading, customer billing, record keeping, delinquent accounts, annual reports, and regulatory assessment

fees (RAFs).<sup>1</sup> While the show cause docket remained open, on January 23, 2012, David Meadows, the Utility owner, formally filed notice of abandonment of the Utility effective March 23, 2012. Subsequently, on March 7, 2012, Polk County filed a petition with the Circuit Court for the appointment of a receiver in accordance with Section 367.165, Florida Statutes (F.S.), and by Judicial Order<sup>2</sup> dated March 19, 2012, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida (Circuit Court), appointed Michael Smallridge as the receiver. We acknowledged the abandonment and appointment of receiver by Order No. PSC-12-0347-FOF-WS, issued July 5, 2012, in Docket No. 20120030-WS, In re: Notice of abandonment of water and wastewater systems in Polk County by Four Points Utility Corporation and Bimini Bay Utilities Corporation. The show cause proceeding is discussed further in this Order.

On September 29, 2016, Michael Smallridge and Polk County filed a Joint Motion for Appointment of Polk County as Successor Receiver for the Four Points Utility Corporation and the Bimini Bay Utilities Corporation, and by Order<sup>3</sup> dated November 4, 2016, the Circuit Court appointed Polk County as the successor receiver. On November 14, 2016, we received a filing from Michael Smallridge with documentation of the Circuit Court Order as well as other information related to the transfer of receivership.<sup>4</sup> The transfer of receivership to Polk County is addressed in Issue 1 (Docket No. 20170270-WS). Pursuant to Section 2.07(C)(4)e of the Administrative Procedures Manual (APM), the appointment of receivers and the cancellation of certificates may be administratively acknowledged. However, the APM additionally states that such matters shall be brought to us for consideration if they appear to be controversial or unique in nature. We find that Docket No. 20170270-WS is unique in nature because of the related show-cause docket. We have jurisdiction pursuant to Sections 367.022 and 367.161, Florida Statutes (F.S.).

### **Discussion of Issues**

On September 9, 2016, Michael Smallridge and Polk County filed a Joint Motion for Appointment of Polk County as Successor Receiver for the Four Points Utility Corporation and the Bimini Utilities Corporation. Based on documentation<sup>5</sup> submitted to the Circuit Court, in support of Polk County's appointment as Successor Receiver for the Utility, Mr. Smallridge made system repairs to improve service and to better account for water being used by Utility customers. Additionally, a rate increase was approved by this Commission in 2013.<sup>6</sup> Despite the system repairs and rate increase, the Utility has been unable to pay the monthly charges for the water and wastewater services purchased from Polk County. The documentation submitted to the

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<sup>1</sup> Issued November 22, 2011, in Docket No. 20110254-WS, In re: Initiation of show cause proceedings against Four Points Utility Corporation in Polk County for violation of Commission rules and regulations as outlined in the Florida Public Service Commission's management audit for Four Points Utility Corporation and Bimini Bay Utilities Corporation issued June 2011.

<sup>2</sup> Document No. 02089-2012, in Docket No. 20110254-WS.

<sup>3</sup> Document No. 08777-2016, in Docket No. 20170270-WS.

<sup>4</sup> Id.

<sup>5</sup> See Document No. 07830-2016, in Docket No. 110254-WS.

<sup>6</sup> See Order No. PSC-13-0449-PAA-WS Issued October 3, 2013, in Docket No. 130161-WS, In re: Application for staff assistance for alternative rate setting case in Polk County by Four Points Utility Corp.

Circuit Court further indicates that Mr. Smallridge believes it is in the best interest of the Utility's customers that Polk County be named Successor Receiver. The Court granted the motion and Polk County was appointed Successor Receiver effective January 1, 2017.

Mr. Smallridge's filing with us included documentation of the Circuit Court's decision as well as statements regarding the disposition of customer deposits and regulatory assessment fees. Customer deposits were refunded during the last billing cycle while Michael Smallridge was the receiver. RAFs were paid on March 10, 2017, in the amounts of \$4,454.28 and \$8,865.63 for water and wastewater services, respectively. The Utility's 2016 Annual Report was filed with this Commission on March 8, 2017.

Pursuant to Section 367.022, F.S., systems owned, operated, managed or controlled by governmental authorities are not subject to regulation by this Commission. Therefore, we acknowledge the transfer of receivership of Four Point's water and wastewater systems from Michael Smallridge to Polk County and hereby cancel Certificate Nos. 634-W and 544-S.

In 2011, we initiated a show cause proceeding against Four Points for potential violations of numerous Commission rules and statutes related to meter reading, customer billing, record keeping, delinquent accounts, annual reports, and regulatory assessment fees. An order initiating a show cause proceeding against the Utility was issued November 22, 2011.<sup>7</sup> A verified response by the Utility was filed on January 17, 2012 disputing many of the factual allegations set forth in the Show Cause Order.<sup>8</sup> Action on the docket was abated when the Utility was abandoned in March 2012, to allow Commission staff to monitor the receivership proceedings. The outstanding RAFs, penalties and interest were addressed administratively, and as of the date of this filing, the Utility is current with respect to payment of its RAFs and the filing of its annual reports.

As previously discussed, Mr. Meadows, who originally owned the Utility and whose operation of the Utility necessitated the opening of the show cause docket, abandoned the system in March 2012. The Utility has since been in receivership, and has met all regulatory requirements since that time. Additionally, Polk County has agreed to serve as successor receiver for Four Points. Accordingly, as discussed previously, we find that the Utility's certificates shall be cancelled. Based on the totality of the circumstances of this case, we find that no further action is necessary with respect to the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we acknowledge the transfer of receivership of Four Points Utility Corporation from Michael Smallridge to Polk County and hereby cancel Certificate Nos. 634-W and 544-S. It is further

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<sup>7</sup> See Order No. PSC-11-0541-SC-WS, issued November 22, 2011, in Docket No. 110254-WS, In re: Order Initiating Show Cause Proceeding Against Four Points Utility Corporation.

<sup>8</sup> See Document No. 00327-2012, in Docket No. 110254-WS.

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ORDERED that no further action is necessary with respect to Four Points Utility Corporation and both dockets, 20110254-WS and 20170270-WS, shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of February, 2018.

*Carlotta S. Stauffer*

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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

DJ

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.