

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to transfer facilities and Certificate No. 515-S in Polk County from West Lakeland Wastewater, Inc. to West Lakeland Wastewater, LLC.

DOCKET NO. 20170246-SU  
ORDER NO. PSC-2018-0377-PAA-SU  
ISSUED: July 30, 2018

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ESTABLISHING NET BOOK VALUE, DECLINING TO  
APPROVE AN ACQUISITION ADJUSTMENT, AND  
DISCONTINUING SERVICE AVAILABILITY CHARGES  
AND  
ORDER APPROVING TRANSFER OF FACILITIES AND CERTIFICATE NO. 515-S IN  
POLK COUNTY AND APPROVING EXISTING RATES AND CHARGES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, establishing net book value, declining to approve an acquisition adjustment, and discontinuing service availability charges, is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

On November 16, 2017, West Lakeland Wastewater, LLC (West Lakeland, LLC) filed an application for a transfer of Certificate No. 515-S from West Lakeland Wastewater, Inc. (WLWI or Utility) in Polk County. According to the Utility's 2017 Annual Report, WLWI is a Class C utility serving approximately 310 wastewater customers, with an operating loss of \$7,104. Customers receive water from the City of Lakeland.

The Utility, previously known as ABCA, Inc., has been providing service to customers in Polk County since 1972. On January 9, 1990, the Polk County Commission granted a franchise

to Ameribanc Investors Group for a system known as Village Lakeland. Polk County came under the Florida Public Service Commission's (Commission) jurisdiction on July 11, 1996. In 1998, this Commission granted the Utility its grandfather Certificate No. 515-S for wastewater.<sup>1</sup> ABCA's Certificate was transferred to WLWI in 2001.<sup>2</sup>

By letter dated March 26, 2009, WLWI gave notice of abandonment effective June 30, 2009. On May 13, 2009, the Polk County attorney filed a Petition for Appointment of Receiver for WLWI in the Circuit Court of the Tenth Judicial Circuit which subsequently appointed Mr. Mike Smallridge as receiver for the wastewater system. On September 8, 2009, this Commission acknowledged WLWI's abandonment and the Court's appointment of Mr. Smallridge as receiver.<sup>3</sup>

On March 19, 2013, WLWI filed an application for transfer of Certificate No. 515-S from WLWI to West Lakeland, LLC.<sup>4</sup> A deficiency was noted that the Utility did not have ownership or rights to long-term use of land upon which a portion of the wastewater treatment plant was located. On September 11, 2014, WLWI withdrew its application to transfer to West Lakeland, LLC.<sup>5</sup> As referenced above, a subsequent transfer application was filed on November 16, 2017.

This order addresses the transfer of the wastewater system, the net book value of the wastewater system at the time of the transfer and the need for an acquisition adjustment. We have jurisdiction pursuant to Sections 367.071 and 367.091, Florida Statutes (F.S.)

### Decision

#### Approving Transfer of Wastewater System and Certificate No. 515-S

On November 16, 2017, West Lakeland, LLC filed an application for a transfer of Certificate No. 515-S from WLWI to West Lakeland in Polk County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates.

#### **Noticing, Territory, and Land Ownership**

West Lakeland provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. No objections to the transfer were filed, and the time for doing so has expired. The application contains a description of the wastewater service territory which is appended to this order as Attachment A. The application contains a copy of a long term lease agreement that was executed on July 1, 2017, as evidence that the Applicant owns or has rights

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<sup>1</sup>Order No. PSC-98-0752-FOF-SU, issued June 1, 1998, in Docket No. 19971531-SU, In re: Application for grandfather certificate to operate wastewater utility in Polk County by ABCA, Inc.

<sup>2</sup>Order No. PSC-01-1576-FOF-SU, issued July 30, 2001, in Docket No. 20010382-SU, In re: Application for transfer of Certificate No. 515-S in Polk County from ABCA, Inc. to West Lakeland Wastewater, Inc.

<sup>3</sup>Order No. PSC-09-0607-FOF-SU, as amended by PSC-09-0607A-FOF-SU, issued February 16, 2010, in Docket No. 20090154-SU, In re: Notice of abandonment of wastewater system for The Village of Lakeland Mobile Home Park in Polk County, by West Lakeland Wastewater, Inc.

<sup>4</sup>Document No. 01362-13, filed March 19, 2013, in Docket No. 20130065-SU.

<sup>5</sup>Document No. 05141-14, filed September 11, 2014, in Docket No. 20130065-SU.

to long-term use of the land upon which the wastewater treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C.

### **Purchase Agreement and Financing**

Pursuant to Rule 25-30.037(2)(i), and (j), F.A.C., the application contains a statement regarding financing and a copy of the Purchase Agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, leases, or debt of West Lakeland that must be disposed of with regard to the transfer. According to the Purchase Agreement, the total purchase price for the assets is \$0. According to the Buyer, the sale took place on December 13, 2011, subject to Commission approval, pursuant to Section 367.071(1), F.S.

### **Facility Description and Compliance**

The wastewater treatment plant is a Type III contact stabilization plant and is permitted by the DEP at 70,000 gallons per day based on the three-month rolling average daily flow. Chlorine disinfection is applied prior to wastewater effluent flowing into the percolation ponds and spray field. The collection system is composed of four and six inch polyvinyl chloride (PVC) pipes and there are three lift stations in the service area. The last compliance evaluation inspection of the facility was conducted on March 4, 2016 on by the Florida Department of Environmental Protection (DEP). There were three deficiencies noted, which have been corrected. Therefore, the system appears to be in compliance with the DEP rules.

### **Technical and Financial Ability**

Pursuant to Rule 25-30.037(2)(l), F.A.C., the application contains statements describing the technical and financial ability of West Lakeland, LLC to provide service to the proposed service area. The application states that the owner was appointed to the Citrus County Water and Wastewater Authority, the local regulatory body for Citrus County, where he served for seven years. The owner also served as the "Class C" representative for the Governors Study Committee for Investor Owned Water and Wastewater Utility Systems in 2013. He attends yearly training classes through the Florida Rural Water Association and completed the National Association of Regulatory Utility Commissioners Utility Rate School in 2001. He owns, is the receiver of, or is the manager of, a total of seven Class C water and wastewater facilities that are regulated by the Commission.

According to the application, West Lakeland, LLC has acquired the assets of WLWI. We also reviewed the financial statements of West Lakeland, LLC. Based on the above, we find that West Lakeland, LLC has demonstrated the financial ability to provide service to the existing service territory.

## **Rates and Charges**

The Utility's rates were last approved in a limited proceeding rate case in 2014.<sup>6</sup> The rates were subsequently amended by several price indexes and a four-year rate reduction, as required by Section 367.0816, F.S., in 2017. The Utility's service availability charges were established in 2000.<sup>7</sup> In 2014, this Commission approved the Utility's request for a convenience charge.<sup>8</sup> The Utility's existing rates and charges are shown on Schedule No. 1. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, we find that the Utility's existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding.

## **Regulatory Assessment Fees and Annual Reports**

We have verified that the Utility is current on the filing of annual reports and RAFs through December 31, 2017. West Lakeland, LLC will be responsible for filing all future annual reports and RAFs.

## **Conclusion**

We find that the transfer of the wastewater system and Certificate No. 515-S is in the public interest and shall therefore be approved effective the date of our vote, July 10, 2018. The resultant order shall serve as the Buyer's certificate and shall be retained by the Buyer. The existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariffs reflecting the transfer shall be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, F.A.C. West Lakeland, LLC shall be responsible for filing the 2018 Annual Report, all future annual reports, and RAFs subsequent to the date of closing.

## **Establishing Net Book Value and Declining to Approve an Acquisition Adjustment**

In transfer cases, we normally establish the net book value (NBV) of a utility as of the date of the sale. In this case, that date would have been as of December 13, 2011. However, rate base was established for West Lakeland, LLC as of the test year ending September 30, 2012, which was subsequent to the transfer date of December 13, 2011. Therefore, the components of rate base, as of the transfer date, were reflected in rate base approved by Order No. PSC-13-

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<sup>6</sup>Order No. PSC-14-0679-PAA-SU issued December 9, 2014, in Docket No. 20140106-SU, In re: Application for limited proceeding rate case in Polk County by West Lakeland Wastewater, LLC. The SARC was filed by the Buyer in his capacity as receiver for the Utility.

<sup>7</sup>Order No. PSC-00-1163-PAA-SU issued June 26, 2000, in Docket No. 19990937-SU, In re: Application for staff-assisted rate case in Polk County by ABCA, Inc. These rate changes were requested by the Buyer in his capacity as receiver for the Utility.

<sup>8</sup>Order No. PSC-13-0426-TRF-SU, issued September 19, 2013, in Docket No. 20120289-SU, In re: Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by West Lakeland Wastewater, LLC. The request was filed by the Buyer in his capacity as receiver of the Utility.

0327-PAA-SU.<sup>9</sup> We note that the use of an established rate base in a staff assisted rate case (SARC) for transfer purposes has been done previously for this certificate. In a prior 2001 transfer of this certificate, the rate base established in a SARC completed in 2000 was used for transfer purposes.<sup>10</sup> As such, we adopt the rate base set during the 2013 SARC for transfer purposes.

### **Net Book Value**

In the 2013 SARC, the rate base approved by this Commission was negative \$68,857. The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment should be approved. As such, we shall use the rate base established by the 2013 SARC Order for purposes of evaluating an acquisition adjustment.

### **Acquisition Adjustment**

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. However, the Utility and its assets were purchased for \$0. Additionally, we have determined that the rate base for evaluating the acquisition adjustment is negative \$68,857. Therefore, no acquisition adjustment shall be approved.

### **Conclusion**

The NBV of the wastewater system for transfer purposes is negative \$68,857, as established by Order No. PSC-13-0327-PAA-SU. An acquisition adjustment shall therefore not be included in rate base.

### **Discontinuing Service Availability Charges**

The Utility's current service availability charges consist of a main extension charge of \$450 and a plant capacity charge of \$430. As discussed previously, the Utility has a negative rate base; therefore, the service availability charges shall be discontinued. Our charges are shown below in Table 1. WLWI was determined to be completely built out by Order No. PSC-13-0327-PAA-SU;<sup>11</sup> in order to serve new customers, the Utility would need to install additional facilities.

**Table 1**  
**Service Availability Charges**

	Current Rates	Commission Approved Rates
Main Extension Charge	\$450.00	N/A
Plant Capacity Charge	\$430.00	N/A

Source: Utility's tariff

<sup>9</sup>Order No. PSC-13-0327-PAA-SU issued July 16, 2013, in Docket No. 20120270-SU, In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

<sup>10</sup>Order No. PSC-01-1271-PAA-SU issued June 6, 2001, in Docket No. 20010382-SU, In re: Application for transfer of Certificate No. 515-S in Polk County from ABCA, Inc. to West Lakeland Utilities, Inc.

<sup>11</sup>Order No. PSC-13-0327-PAA-SU, issued July 16, 2013, in Docket No. 20120270-SU, In re: Application for a staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

Based on the above, we find that the Utility's service availability charges shall be discontinued. In the event there is new development in the service territory, the Utility shall file an application for new service availability charges.

### **Conclusion**

We find that WLWI's service availability charges shall be discontinued. West Lakeland, LLC shall provide notice to customers who have requested service within 12 calendar months prior to the month the application was filed to the present pursuant to Rule 25-30.4345, F.A.C. In the event there is new development in the Utility's service territory, the Utility shall file an application for new service availability charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application for authority to transfer the facilities and Certificate No. 515-S in Polk County from West Lakeland Wastewater, Inc. to West Lakeland Wastewater, LLC is in the public interest and shall be approved effective the date of our vote, July 10, 2018. This order shall serve as the Buyer's certificate and shall be retained by the Buyer. The existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariffs reflecting the transfer shall be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, F.A.C. West Lakeland, LLC shall be responsible for filing the 2018 Annual Report, all future annual reports, and RAFs subsequent to the date of closing. It is further

ORDERED that the net book value of the wastewater system for transfer purposes is negative \$68,857, as established by Order No. PSC-13-0327-PAA-SU. An acquisition adjustment shall not be included in rate base. It is further

ORDERED that the Utility's service availability charges shall be discontinued. West Lakeland, LLC shall provide notice to customers who have requested service within 12 calendar months prior to the month the application was filed to the present pursuant to Rule 25-30.4345, F.A.C. In the event there is new development in the Utility's service territory, the Utility shall file an application for new service availability charges. It is further

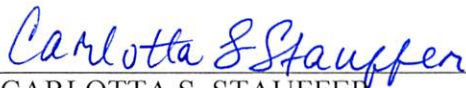
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order shall be issued and the docket shall be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed, the Buyer has notified this Commission

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in writing that it has adjusted its books in accordance with our decision, and proof that appropriate noticing has been done pursuant to Rule 25-30.4345, F.A.C.

By ORDER of the Florida Public Service Commission this 30th day of July, 2018.



CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

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

JSC

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.

As identified in the body of this order, our action establishing net book value, declining to approve an acquisition adjustment, and discontinuing service availability charges is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 20, 2018. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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, 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 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.



West Lakeland Wastewater, LLC  
Wastewater Territory Description  
Polk County

Polk County, Florida, Village Lakeland

Sections 14 and 23, Township 28 South, Range 24 East

Beginning at the SW corner of Section 14, Township 28 South, Range 24 East; run thence East along the South boundary of said Section 14 to the SE corner of the SW 1/4 of the SW 1/4 of said Section 14; thence North to the NW corner of the South 1/2 of the SE 1/4 of the SW 1/4 of said Section 14; thence East to the NE corner of said South 1/2 of the SE 1/4 of the SW 1/4; thence South along the East boundary of the West 1/2 of said Section 14 and the East boundary of the West 1/2 of Section 23 of said Township and Range to the SE corner of the NW 1/4 of said Section 23; thence East to the NE corner of the West 1/4 of the SE 1/4 of said Section 23; thence South to the SE corner of said West 1/4 of the SE 1/4; thence West along the South boundary of said Section 23 to a point 220 feet West of the SE corner of the SW 1/4 of said Section 23; thence North 1,247.05 feet, West 100 feet, North 600 feet, West 180 feet, North 500 feet, West to the West boundary of the East 1/2 of the SW 1/4 of said Section 23; thence North along said West boundary of said East 1/2 of said SW 1/4 and along the West boundary of the SE 1/4 of the NW 1/4 of said Section 23 to the NW corner of said SE 1/4 of the NW 1/4; thence West along the South boundary of the NW 1/4 of the NW 1/4 of said Section 23 to the West boundary of said Section 23; thence North along said West boundary to the point of beginning.

**FLORIDA PUBLIC SERVICE COMMISSION**

**Authorizes  
West Lakeland Wastewater, LLC  
Pursuant to  
Certificate Number 515-S**

To provide wastewater service in Polk County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-98-0752-FOF-SU Certificate	06/01/1998	971531-SU	Grandfather
PSC-01-1271-PAA-SU	06/06/2001	010382-SU	Transfer of Certificate
PSC-01-1576-FOF-SU	07/30/2001	010382-SU	Name Change
PSC-09-0607-FOF-SU	09/08/2009	090154-SU	Receiver Appointed
*	*	20170246-SU	Transfer of Certificate

**\* Order Numbers and dates to be provided at time of issuance**