

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for cancellation of Certificate
No. 626-W by B & C Water Resources, L.L.C.

DOCKET NO. 20190122-WU
ORDER NO. PSC-2020-0070-PAA-WU
ISSUED: March 5, 2020

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING WATER CERTIFICATE NO. 626-W

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein 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.).

I. Background

B&C Water Resources, L.L.C. (B&C) was granted water Certificate No. 626-W in 2004.¹ B&C is a Class C utility that provides water service to five customers in Baker and Union Counties through wells located in areas leased by individual hunt clubs.

In 2017, we approved B&C's application for the transfer of majority organizational control of B&C in Baker and Union Counties on the parent level from Plum Creek Manufacturing Holding Company (Plum Creek) to Weyerhaeuser NR Company (WNR).² The transfer of majority organization control occurred pursuant to the merger of Plum Creek, of which B&C was a wholly-owned subsidiary, into WNR.

On May 31, 2019, WNR filed a request to cancel Certificate No. 626-W, stating that B&C does not currently provide water service to customers for compensation, and has no plans

¹Order No. PSC-04-1256-PAA-WU, issued December 20, 2004, in Docket No. 20041040-WU, In re: Application for certificate to operate water utility in Baker and Union Counties by B&C Water Resources, L.L.C.

²Order No. PSC-17-0225-FOF-WS, issued June 14, 2017, in Docket No. 20170238-WU, In re: Application of B&C Water Resources, L.L.C. and D&E Water Resources, L.L.C. for transfer of majority organizational control.

of doing so in the future. WNR contends that, given the circumstances under which it currently operates, as described above, it believes that B&C does not meet the definition of a utility as provided in Section 367.021, Florida Statutes (F.S.).

In its 2018 annual report, B&C reported providing service to one residential and six general service customers. In its response to Commission staff's July 18, 2019 data request, B&C reported that the reference to a residential customer in its annual report was erroneous, and that it now provides water for only five hunt clubs. B&C also reported in its 2018 annual report that it received water revenues of \$0. The net loss for 2018 was \$23,877. This Order addresses the cancellation of Certificate No. 626-W based on B&C's contention that it is no longer operating as a utility as defined by Section 367.021(12), F.S. We have jurisdiction over this matter pursuant to Section 367.011, F.S.

II. Decision

B&C was originally organized to provide water service to future customers created by prospective real estate development in the service area. Initially, B&C only provided water through individual wells to hunting lodges located on its property. The hunting lodges were leased by individual hunt clubs. Due to the economic downturn in 2008, the real estate development never materialized. Thus, the hunt clubs remain the only users of the water from B&C's wells. B&C stated in its request for cancellation that it has determined that there are no realistic market objectives supporting the purpose for which B&C was originally organized as a utility.

Section 367.021(12), F.S., defines a utility as,

...a water or wastewater utility and, except as provided in Section 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.

Currently, the hunt clubs lease land from WNR's parent company, Weyerhaeuser Company. Since the hunt clubs exist within discrete areas of Weyerhaeuser Company's land, the members of each hunt club use a single well for small-volume, infrequent cleaning associated with their seasonal hunting activities. The water is accessed at the well through the pump and is only used for cleaning animals. There is no distribution system providing water to the lodges, and the hunters do not use the water for personal consumption. The hunt clubs are currently not charged for the use of the water, either directly or indirectly through their leases.

The Utility is current with filing its annual reports and has no outstanding fines. B&C has also remitted its 2019 and 2020 regulatory assessment fees.

As B&C does not receive compensation for the water it provides, it no longer meets the definition of a utility as provided in Section 367.021(12), F.S. Therefore, Certificate No. 626-W is canceled, effective the date this Order becomes final.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Certificate No. 626-W is canceled, effective the date this Order becomes final. 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 this Order, a consummating order shall be issued and the docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of March, 2020.



ADAM J. FEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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.

KMS

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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.

The action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 26, 2020.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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