

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to operate water utility in Marion County, and application for pass through increase of regulatory assessment fees, by Citra Highlands Water System, LLC.

DOCKET NO. 20200238-WU
ORDER NO. PSC-2021-0191-PAA-WU
ISSUED: May 26, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
ANDREW GILES FAY
MIKE LA ROSA

NOTICE OF PROPOSED AGENCY ACTION
ORDER REVISING NON-SUFFICIENT FUNDS CHARGE
AND
ORDER GRANTING ORIGINAL WATER CERTIFICATE NO. 679-W
AND ESTABLISHING INITIAL RATES AND CHARGES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, revising the non-sufficient funds (NSF) charge, 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

Citra Highlands Water System, LLC (Citra or Utility) is located in Marion County, Florida. Based on its application, the Utility's proposed service territory consists of 217 lots in the Citra Highlands subdivision (Citra Highlands) in Marion County (County). The Utility provides water service to approximately 56 residential customers, consisting of single family homes and mobile homes. There are 15 mobile homes in the proposed service territory currently on private wells. The water system was put into service in the 1980s.

The owner of Citra, Mr. Marshall Hash, first became involved with the Citra Highlands water system in 2007. To the best of Mr. Hash's knowledge, the following is the history of the system prior to his involvement. The original developer installed the water system to serve the developed lots (mobile homes) that wished to connect to the system. Only some of the lots were connected to the system; the other developed lots were served by private wells. A homeowners association (HOA) was established to maintain the streets (only one of which was paved) and covenants. Water service was included in the HOA fees.

Around 2002, a new developer purchased lots at the other end of the subdivision and began building homes, paving the streets, and installing utility connections. Again, only some of the houses connected to the water system. By 2007, the original HOA was in the process of dissolving amid various disagreements among the residents. Of particular concern was that some residents who were connected to the water system were not paying HOA fees, but were still receiving water service. The new developer assumed control of the HOA, but did not want to remain in control of the water system. In April 2008, Mr. Hash purchased the water plant, the property on which the plant is located, and the water system assets from the builder. He agreed to bill the water customers separately at rates set by the HOA. Operation and maintenance (O&M) of the system was provided by a third-party O&M company.

In 2011, the O&M provider went out of business, and Mr. Hash took over that function as well. Throughout his involvement with the water system, new homes were built and connections were added to the water system.

On July 30, 2020, we received a billing complaint from a Citra Highlands resident who is a Citra customer. During its investigation of the complaint, Commission staff determined that Citra did not have a certificate of authorization to provide water service and did not appear to be exempt from our jurisdiction pursuant to Section 367.022, F.S. Therefore, on October 30, 2020, Citra filed its application for an original water certificate and for approval of initial rates and charges. In its application, the Utility also requested approval for a pass-through increase for regulatory assessment fees (RAFs).¹ Commission staff found the application to be deficient and issued a deficiency letter on November 30, 2020. The Utility cured the deficiencies on February 4, 2021, which is considered the official filing date of the completed application. Pursuant to Section 367.031, Florida Statutes, (F.S.), we are required to grant or deny an application for a certificate of authorization within 90 days after the official filing date.

We have jurisdiction pursuant to Sections 367.031 and 367.045, F.S.

Decision

Original Water Certificate

On October 30, 2020, Citra filed its application for an original water certificate in Marion County. Upon review, Commission staff determined the original filing was deficient and issued a deficiency letter on November 30, 2020. The Utility cured the deficiencies on February 4, 2021, which is considered the official filing date for the application. The Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S.

¹The Utility's request for a pass-through increase will be processed administratively by Commission staff subsequent to our approvals of the Utility's certificate and proposed rates and charges.

Notice

On February 4, 2021, Citra filed proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). Rule 25-30.030(4)(h), F.A.C., requires that the notice must contain a statement that objections must be filed with the us no later than 30 days after the last date that the notice was mailed or published. On January 7, 2021, the Utility mailed the notice to its customers and landowners in the proposed service territory, as well as to the governmental entities and utilities required by Rule 25-30.030(2), F.A.C. The notice was also published as required by Rule 25-30.030(5)(c), F.A.C. Therefore, the protest period expired on February 10, 2021. We received two responses to the notice, one from Marion County and one from a customer of the Utility.

On February 5, 2021, Marion County filed its response to the notice. In its response, the County states that from its review of the statements made in the Utility's application, it believes that, as of 2008, the public water system was subject to the Marion County Code of Ordinances (Code). The County explains that the Code requires that a permit be obtained from the County for a public water system. According to the County's records, Citra never applied for or obtained the required permit.

The County acknowledges that upon issuance of a certificate by the Commission, Citra will be exempt from the County's regulation. However, the County requests that the Commission require the Utility to obtain a permit from the County as a pre-condition to granting Citra's application for an original certificate. Of particular interest to the County is obtaining and reviewing the system information, including engineering drawings that would be required in a permit application. With this information, the County would be in a better position to serve should the system be abandoned at some point in the future and the County appointed as receiver.

On March 3, 2021, Commission staff met with Marion County Utilities staff via teleconference. The County affirmed that it does not object to the issuance of a water certificate to Citra, but merely wants the us to make obtaining a permit from the County a pre-condition of granting a certificate of authorization. After discussion with Commission staff regarding its rules, statutes, authority, procedures and precedents, the County agreed that it should pursue enforcement of its Code separately from the proceedings in the instant docket.

On February 17, 2021, seven days after the expiration of the protest period, we received a response to the notice from a customer of the Utility. The customer did not express an objection to the application for a certificate of authorization, but rather an objection to a rate increase, which is not the subject of the instant application. In early March, the Utility clarified this distinction with the customer.

Land Ownership and Service Territory

Citra provided adequate service territory and system maps and a territory description as required by Rule 25-30.034(1)(k), F.A.C. The legal description of the service territory is appended to this Order as Attachment A. The application contains warranty deeds for the land where the water treatment facilities are located pursuant to Rule 25-30.034(1)(m), F.A.C.

Financial and Technical Ability

Pursuant to Rule 25-30.034(1)(i) and (j), F.A.C., the application contains statements describing the technical and financial ability of the Utility to provide service to the proposed service area. Citra's application states that its parent company, Hash Utilities, Inc. (Hash), acquired its first water system in 2004 and currently owns ten public water systems in Citrus, Levy, and Marion Counties. We regulate the water system in Levy County.² Hash provides all meter reading, billing, collection, operation and maintenance, sampling, and reporting to all regulatory agencies for all of its systems. Chemical testing is done by Flowers Laboratory, and any engineering services required are provided by a licensed professional engineer. Hash is a member of the Florida Rural Water Association and the Sunshine 811 ("call before you dig") system. Also, the owners of Hash hold a Class "C" and "D" water operator's license, and a Class "D" wastewater operator license. Pursuant to Rule 25-30.034(1)(i), F.A.C., the Utility provided statements describing its financial and technical ability to provide service.³ We have reviewed the financial ability of the current owner and find the owner has documented adequate resources to support the Utility's water operations. Based on the above, Citra has demonstrated the technical and financial ability to provide service to the existing service territory.

Conclusion

We find that it is in the public interest to grant Citra Certificate No. 679-W to serve the territory described in Attachment A, effective the date of our vote, May 4, 2021. This order shall serve as Citra's water certificate and shall be retained by the Utility.

Rates and Charges

With the exception of the NSF charge addressed immediately below, we approve the Utility's rates and charges that were in effect at the time of its application for an original certificate, shown on Schedule No. 1. The rates in the schedule are monthly. However, the Utility bills on a bi-monthly basis. The rates and charges are effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. Citra shall bill the approved rates and charges until authorized to change them by us in a subsequent proceeding.

²Order No. PSC-11-0584-PAA-WU, issued December 21, 2011, in Docket No. 20110098-WU, *In re: Application for authority to transfer assets and water Certificate No. 428-W in Levy County, from Par Utilities, Inc., to Hash Utilities, LLC.*

³Document No. 13149-2020

NSF Charge

According to the Utility's application, its existing NSF charge is \$30. Section 367.091, F.S., requires rates, charges, and customer service policies to be approved by us. We have the authority to establish, increase, or change a rate or charge. We authorize Citra to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

1. \$25, if the face value does not exceed \$50,
2. \$30, if the face value exceeds \$50 but does not exceed \$300,
3. \$40, if the face value exceeds \$300, or
4. five percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with our prior decisions.⁴ Furthermore, NSF charges place the cost on the cost causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. The Utility's NSF charge shall be revised to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the charges shall not be implemented until Commission staff has administratively approved the proposed customer notice and the notice has been received by customers. The Utility shall provide proof of the date the notice was given within 10 days of the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Citra Highlands Water System, LLC is hereby granted Certificate No. 679-W to serve the territory described in Attachment A, which is appended to this order, effective May 4, 2021. This order shall serve as Citra's water certificate and it shall be retained by the Utility. It is further

ORDERED that the monthly water rates and charges that were in effect at the time of the Utility's application for an official certificate, as shown on Schedule 1 appended to this order, are approved. The rates in the schedule are monthly. However, the Utility bills on a bi-monthly basis. The rates and charges are effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. Citra shall bill the approved rates and charges until authorized to change them by us in a subsequent proceeding. It is further

⁴Order Nos. PSC-2020-0086-PAA-WU, issued March 24, 2020, in Docket No. 20190114-WU, *In re: Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.*; PSC-2018-0334-PAA-WU, issued June 28, 2018, in Docket No. 20170155-WU, *In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory fees, by Seminole Waterworks, Inc.*; PSC-14-0198-TRF-SU, issued May 2, 2014, in Docket No. 20140030-SU, *In re: Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.*; and PSC-13-0646-PAA-WU, issued December 5, 2013, in Docket No. 20130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*

ORDERED that the Utility shall be authorized to collect NSF charges. The Utility shall file revised tariff sheets and a proposed customer notice to reflect the approved NSF charges. The approved charges shall be effective for service rendered on or after the stamped approval date on the tariff sheets provided customers have received notice pursuant to Rule 25-30.475, F.A.C. The Utility shall provide proof of noticing within 10 days of rendering its approved notice. 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 the docket shall remain open for Commission staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 26th day of May, 2021.



ADAM J. TEITZMAN
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.

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 revising the non-sufficient funds charge 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 June 16, 2021. 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.

Citra Highlands Water System, LLC
Water Service Territory
Marion County, Florida

The South 1/2 of the Southwest 1/4 of Section 4, Township 13 South, Range 22 East, Marion County, Florida

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

Citra Highlands Water System, LLC

pursuant to

Certificate Number 679-W

to provide water service in Marion County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	20200238-WU	Original Certificate

* Order Number and date to be provided at time of issuance.

**Citra Highlands Water System, LLC
Monthly Water Rates**

Residential & General Service

Base Facility Charge

5/8" x 3/4"

\$18.95

Gallage Charge per 1,000
gallons

\$4.30

Miscellaneous Service Charges

Initial Connection Charge \$45.00

Normal Reconnection Charge \$45.00

Violation Reconnection Charge \$45.00

Premises Visit Charge (For Disconnection) \$45.00

Premises Visit Charge \$30.00

Late Payment Charge \$5.00

Meter Tampering Charge \$150.00

Service Availability Charges

Customer Service Line Installation (Tap In) Charge
5/8" x 3/4" \$450.00Meter Installation Charge
5/8" x 3/4" \$450.00
1" \$560.00System Capacity Charge
Residential-per ERC \$795.00