

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by GENERAL WATERWORKS) CORPORATION and GREENLAND UTILITIES COMPANY for transfer of GREENLAND UTILITIES COMPANY to JACKSONVILLE SUBURBAN UTILITIES CORPORATION and for a limited proceeding to adjust rates in Duval County.)	DOCKET NO. 880658-WS
)	ORDER NO. 20643
)	ISSUED: 1-23-89

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER APPROVING TRANSFER

AND

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING REQUEST BY TRANSFEREE,
 JACKSONVILLE SUBURBAN UTILITIES CORPORATION,
 TO APPLY ITS TARIFF WITHIN SERVICE TERRITORY
 OF TRANSFEROR, GREENLAND UTILITIES COMPANY AND
 DISAPPROVING ENFORCEMENT OF WAIVER OF SERVICE
 AVAILABILITY CHARGES AGAINST TRANSFEREE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein, except for the approval of the transfer, are 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.

BACKGROUND

On June 30, 1988, General Waterworks Corporation (GWC) and Greenland Development Corporation d/b/a Greenland Utilities Company (Greenland) filed a joint application for the transfer of Greenland to Jacksonville Suburban Utilities Corporation (JSUC), a wholly-owned subsidiary of GWC. In their application, GWC and Greenland also requested approval, pursuant to Section 367.0822, Florida Statutes, to apply JSUC's rates, charges, regulations and policies within Greenland's service area.

On May 5, 1988, the City of Jacksonville objected to the proposed notice of the transfer. On July 8, 1988, Jacksonville and JSUC entered into a territorial agreement, pursuant to which the City withdrew its objection.

On December 1, 1988, the staff of this Commission (Staff), Greenland and JSUC held a properly noticed customer meeting in Jacksonville. No customers attended this meeting.

TRANSFER

The application is in compliance with Section 367.071, Florida Statutes and Rule 25-30.040, Florida Administrative Code. In particular, the application includes:

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- a) A check in the amount of \$1,050 which, upon calculation, equates to the correct filing fee as prescribed by 367.141, Florida Statutes;
- b) Proof of notice to all customers of record, as required by Rule 25-30.030(2)(g), Florida Administrative Code.
- c) Proof of notice of all interested governmental and regulatory agencies, all utilities within a four-mile radius and proof of advertisement in a newspaper of general circulation in Duval County, as required by Rule 25-30.030, Florida Administrative Code.
- d) Proof of ownership of the real property up on which the utility plants are located.

In addition, the application contains a legal description, which is essentially the same description incorporated in Certificates Nos. 445-W and 376-S. The territory has been verified by Staff and it does not appear that Greenland provides service outside of its authorized service area. Staff did find a typographical error in this description, however, which we have corrected and attached as Appendix A.

The applicants state that the transfer is in the public interest because, failing the transfer, Greenland will have to make large capital outlays in order to bring the systems up to current and future environmental standards. We have examined Greenland's various options, and it appears that the proposed transfer is the least-cost alternative. We, therefore, approve the transfer. Greenland should, accordingly, return Certificates Nos. 236-W and 139-S to this Commission so that they may be cancelled. JSUC shall submit tariff pages, revised to include the additional territory. Further, JSUC shall return Certificates Nos. 236-W and 179-S to this Commission so that an entry may be made to include the additional territory.

Greenland's rate base at the time of this transfer will be addressed in a subsequent order.

RATES AND CHARGES

Under Rule 25-9.044(1), Florida Administrative Code, when there is a change of ownership or control of a utility the acquiring entity must adopt and use the rates, classifications and regulations of the acquired utility, unless authorized to change by the Commission. In the application, JSUC has requested approval to apply its tariff to Greenland's service territory.

Typically, a transfer is simply a change in ownership and the rationale for continuing existing rates is that existing utility plant will remain in service and the operation and maintenance of the utility should remain approximately the same. However, in this docket, the circumstances are somewhat different from the norm. JSUC's intent is to tie both the Greenland water and sewer systems into its present Royal Lakes system. Greenland's sewer plant will be retired and Greenland's well will become an additional water source for JSUC's system.

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Since JSUC will provide service to Greenland's territory, through integrated systems, the transfer is somewhat analogous to a territorial amendment, and the application of JSUC's tariff to the Greenland area will insure the provision of uniform, non-discriminatory rates to all of JSUC's customers. We, therefore, approve JSUC's request to apply its tariff in Greenland's territory.

SERVICE AVAILABILITY

The application also contains a copy of the contract for sale, which makes reference to a developer agreement between Greenland and Baywood Estates, Inc. (Baywood), an entity affiliated with Greenland. Under the developer agreement, Baywood has reserved from Greenland 175 equivalent residential connections (ERCs) for both water and sewer service, forever free of any connection fees, including service availability or guaranteed revenue charges, with the exception of meter installation fees. According to the contract for sale, the sale is subject to JSUC's honoring all aspects of this developer agreement.

Although Greenland has no approved service availability charges, JSUC is authorized to collect a combined service availability charge of \$572.00 for water and sewer. If we were to approve the waiver of service availability charges against JSUC, we believe that the effect would be discriminatory, as all future connections would be subject to service availability charges except the 175 ERCs covered by the developer agreement. Since our approval of JSUC's request to apply its own tariff to Greenland's service area was based upon the premise of JSUC providing service to all of its customers through an integrated system in a non-discriminatory manner, we believe that the developer of Baywood should pay JSUC's service availability charges as would any other customer. This provision of the developer agreement is, therefore, disapproved. Should JSUC nevertheless honor the agreement, we hereby put it on notice that the service availability charges shall be imputed in future rate proceedings.

Accordingly, it is

ORDERED by the Florida Public Service Commission that the transfer of Greenland Utility Company to Jacksonville Suburban Utilities Corporation is hereby approved as set forth in the body of this Order. It is further

ORDERED that Greenland Utility Company shall return Certificates Nos. 445-W and 376-S to this Commission so that they may be cancelled. It is further

ORDERED that Jacksonville Suburban Utilities Corporation shall return Certificates Nos. 236-W and 179-S to this Commission so that an entry may be made to include the additional territory. It is further

ORDERED that Jacksonville Suburban Utilities Corporation shall submit revised tariff pages reflecting the addition of territory to its service area. It is further

ORDERED that the remaining provisions of this Order are issued as proposed agency action and will become final unless

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an appropriate petition, in the form required by Rule 25-22.036, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 13, 1989. It is further

ORDERED that the request by Jacksonville Suburban Utilities Corporation for approval to apply its rates, charges, regulations and policies to the service area of Greenland Utility Company is hereby approved, subject to the filing and approval of revised tariff pages, as discussed above. It is further

ORDERED that the rates approved herein shall be effective, for quarterly billings, for service rendered on or after the date the sale is closed and for monthly billings, for meter readings taken on or after thirty (30) days after the closing date. All other charges shall be effective on or after the closing date. It is further

ORDERED that the enforcement of the developer agreement against Jacksonville Suburban Utilities Corporation is hereby disapproved, as set forth in the body of this Order. It is further

ORDERED that, subsequent to February 13, 1989, this Commission shall issue either a notice of further proceedings or an order indicating that the provisions of this Order have become final and effective.

By ORDER of the Florida Public Service Commission,
this 23rd day of JANUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 actions approving the request by Jacksonville Suburban Utilities

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Corporation to apply its rates, charges, regulations and policies to Greenland Utility Company's service territory and disapproving the enforcement of the waiver of service availability charges against Jacksonville Suburban Utilities Corporation are preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 13, 1988. In the absence of such a petition, this order shall become effective February 14, 1988, as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent 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.

If the relevant portions of this order become final and effective on February 14, 1988, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.

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 Director, Division of Records and Reporting 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.

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APPENDIX "A"

Baywood Mobile Home Park

A portion of Section 7, Township 4 South, Range 28 East, Duval County, Florida, and a portion of Section 12, Township 04 South, Range 27 East, Duval County, Florida, more particularly described as follows:

Begin at the Northeast corner of the South 1/2 of the Northeast 1/4 of said Section 12; thence S. 89° 13' 35" W., along the Northerly line of the Southeast 1/4 of the Northeast 1/4 as described and recorded in Official Records Volume 3652, Page 993 of the Current Public Records of said County, 1225.05'; thence S. 40° 57' 30" E., 548.0' to the Northwesterly line of Exhibit "A" as described and recorded in Official Records Volume 3065, Page 278 of the Current Public Records of said County; thence S. 49° 02' 30" W., along last said line, 411.0' to the Northeasterly right-of-way line of Phillips Highway (US Highway No. 1, State Road No. 5, a 150.00' right-of-way as now established); thence S. 40° 57' 30" E., along said Northeasterly right-of-way line, 820.52'; thence N. 68° 17' 30" E., 536.09'; thence S. 89° 57' 30" E., 157.66'; thence S. 00° 53' 37" E., 212.06'; thence S. 88° 46' 20" E., 371.76'; thence N. 05° 03' 07" W., 17.61'; thence N. 82° 55' 31" E., 56.31'; thence N. 66° 10' 10" E., 91.40'; thence N. 81° 01' 28" E., 38.97'; thence N. 82° 30' 51" E., 180.0'; thence N. 79° 25' 48" E., 57.62'; thence N. 62° 29' 23" E., 71.33'; thence N. 45° 39' 42" E., 55.6'; thence N. 41° 34' 07" E., 20.95'; thence N. 29° 12' 34" E., 71.3'; thence N. 09° 10' 42" E., 71.3'; thence N. 10° 51' 08" W., 71.3'; thence N. 26° 29' 57" W., 54.1'; thence N. 28° 20' 47" W., 75.0'; thence N. 28° 31' 12" E., 132.28'; thence N. 01° 13' 30" W., 400.34'; thence S. 88° 46' 20" E., 205.43'; thence N. 01° 02' 27" W., 300.22'; thence N. 88° 51' 29" W., 1177.7'; thence N. 01° 42' 40" E., 357.9'; thence N. 88° 05' 38" W., 620.0'; thence S. 01° 42' 40" W., 36.58'; thence S. 89° 13' 35" W., 116.69'; thence S. 00° 59' 00" E., 150.00'; thence S. 89° 13' 35" W., 300'; thence N. 00° 59' 00" W., 10.00'; thence S. 89° 13' 35" W., 75.00'; thence S. 00° 59' 00" E., 210.00'; thence S. 89° 13' 35" W., 1124.63' to the Point of Beginning.