

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Airport Road ) DOCKET NO. 890728-WU  
Development Corporation for water ) ORDER NO. 23092  
certificate in Osceola County. ) ISSUED: 6-19-90  
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The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
THOMAS BEARD  
BETTY EASLEY  
GERALD L. GUNTER

ORDER ACKNOWLEDGING WITHDRAWAL OF OBJECTION,  
GRANTING CERTIFICATE, SETTING INTERIM RATES AND  
CHARGES, AND REQUIRING PAYMENT OF 1988 AND 1989  
REGULATORY ASSESSMENT FEES

BY THE COMMISSION:

Background

On May 31, 1989, Airport Road Development Corporation (Airport Road or Utility) filed an application with this Commission for a certificate to provide service in Osceola County. The Utility has been in operation since 1981, and serves approximately 170 residential customers.

We became aware of the existence of Airport Road in November of 1988 through customer complaints regarding an increase in rates. At that time, the Utility was advised that it is subject to the Commission's jurisdiction and, therefore, must apply for a certificate. Although Airport Road has been operating since 1981 without a certificate, we will not institute show cause proceeding since the Utility filed its application upon being advised of the requirement.

Withdrawal of Objection

The City of Kissimmee (City) filed an objection to Airport Road's application for a water certificate in Osceola County. In its objection, the City stated that it provides service both inside and outside the municipal boundaries of the City of Kissimmee and the territory requested by Airport Road is within the geographical proximity of the City's service area. Further, the City stated that the territory requested is within the area covered in an inter-local agreement between the City

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and Osceola County. On November 9, 1989, the City and Airport Road entered into an Agreement whereby the Utility agreed to serve less territory than originally requested. On December 11, 1989, the City withdrew its objection to Airport Road's application for certificate. We, therefore, find it appropriate to acknowledge the Withdrawal of Objection filed by the City of Kissimmee.

#### Application

As mentioned previously, Airport Road filed its application on May 31, 1989, pursuant to Section 367.041, Florida Statutes. On June 22, 1989, the Utility was advised that the application, as filed, was deficient. The application did not include an affidavit that noticing was complete, evidence that the Utility owns the plant sites, a correct territory description and copies of territory and system maps.

The notice that was originally published in the newspaper and mailed to the utilities and governmental entities was not in the correct format nor did it contain all of the land the Utility desires to serve. Although the Utility renoticed in September, 1989, the notice set forth a description of the wrong parcel. On May 7, 1989, Airport Road sent a corrected notice to regulatory and governmental agencies and all utilities within a four-mile radius of the territory. The corrected notice was also published in the Orlando Sentinel on April 29, May 6 and May 13, 1990. The protest period expired on June 4, 1990. No protests have been received and the time for filing such has expired.

The application is now in compliance with Section 367.041, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for original certificate.

A plant inspection was conducted in September, 1989. The problems found during that inspection have been corrected. Further, the Department of Environmental Regulation (DER) has no outstanding violations or citations against the Utility. Since the Utility has been operating the system since 1981, we believe that it has proven its ability to provide satisfactory service to the territory requested. Therefore, we find that it

is in the public interest to grant Airport Road Certificate No. 529-W to provide service in the territory described in Attachment A of this Order.

#### Refund

As mentioned previously, we learned of the existence of this Utility through customer complaints of a rate increase. Apparently, in October, 1988, the Utility began charging a \$10.00 service fee or customer charge. Prior to that time, Airport Road only charged \$1.25 per 1,000 gallons of water used.

The Commission Staff had numerous telephone conversations with the Utility regarding the implementation of the \$10.00 service fee. Further, letters were sent to Airport Road on June 26 and August 9, 1989, regarding the customers' complaints. Airport Road was directed to refund monies collected pursuant to the illegal rate increase. The Utility was advised that it should refund \$10.00 per customer per month plus interest for the months since the rate was initiated in October, 1988.

Airport Road advised the Commission on August 10, 1989, that it had ceased collection of the \$10.00 service fee. The refund procedure and applicable interest rates were explained to the Utility in a letter dated August 30, 1989. Airport Road filed a refund report on November 13, 1990, indicating that it had refunded \$6,218.10 through checks or credits on the customers' accounts.

From our review of the report filed by Airport Road, we determined that the Utility refunded only \$4.00 per customer per month plus interest for the months since January, 1989. According to the Utility, it does not have the money to accomplish the remainder of the refund.

Because of the financial condition of the Utility, we find it appropriate to allow Airport Road to collect the rates set forth below on an interim basis, subject to refund with interest, pending determination by the Commission of appropriate rates in a staff assisted rate case to be sought by the Utility. The appropriateness of an additional refund will also be considered in that proceeding.

Rates and Charges

Originally, Airport Road charged \$1.25 per 1,000 gallons of water used. In October of 1988, the Utility began charging a service charge of \$10.00 per month. When the Utility made the partial refund to the customers, it reduced the service charge to \$6.00 per month. Therefore, we find it appropriate to allow the Utility to continue to charge its customers \$1.25 per 1,000 gallons of water used and the \$6.00 per month service charge, subject to refund should the Commission determine that that the charge is inappropriate.

Regulatory Assessment Fees

Upon learning of Airport Road's existence, the Utility was advised of its obligation to file annual reports and pay regulatory assessment fees. The Utility filed its 1988 Annual Report on February 27, 1990. According to the Utility, the 1989 Annual Report is being prepared; however, it has not yet been filed. Airport Road has not paid regulatory assessment fees for 1988 or 1989. Therefore, Airport Road is directed to pay regulatory assessment fees for 1988 and 1989 within 45 days of the date of this Order. Fines for delinquent filing of the 1988 and 1989 Annual Reports will be addressed in a separate proceeding.

It is, therefore,

ORDERED by the Florida Public Service Commission that Airport Road Development Corporation, 950 S. Hoagland Boulevard, Kissimmee, Florida 32741, is hereby granted Certificate No. 529-W to provide service in the territory described in Attachment A of this Order. It is further

ORDERED that Airport Road shall charge the rates and charges set forth in the body of this Order on an interim basis, subject to refund with interest should the Commission determine the rates to be inappropriate in a subsequent proceeding. It is further

ORDERED that Airport Road shall file tariff sheets reflecting the rates and charges set forth in the body of this Order within 30 days of the date of this Order. It is further

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ORDERED that Airport Road shall pay regulatory assessment fees for 1988 and 1989 within 45 days of the date of this Order. It is further

ORDERED that Docket No. 890278-WU is hereby closed.

By ORDER of the Florida Public Service Commission,  
this 19th day of JUNE, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ALC

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.

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

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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.



AIRPORT ROAD DEVELOPMENT CORPORATION  
TERRITORY DESCRIPTION

Section 30, Township 25 South, Range 29 East, Osceola County, Florida:

Begin at the Northeast corner of the Southeast 1/4 of Section 30, Township 25 South, Range 29 East. Thence run S00'38'06"W, 19.50 feet; thence run S 89'44'48"E, 662.58 feet; thence run S00'06'42" W, 240.00 feet; thence run N 89'44'48"W, 220.00 feet; thence run N 00'06'42"E, 225.00 feet; thence run N 89'44'48"W, 342.58 feet; thence run S00'38'06"W, 385.06 feet; thence run S 89'55'58"W, 59.99 feet; thence run S 00'38'06"W, 246.04 feet; thence run S 89'59'11" W, 40.01 feet; thence run S 89'54'27" W, 180.00 feet; thence run S 89'59'43" W, 150.02 feet; thence run S 00'36'35" W, 1319.98 feet; thence run N 89'59'58" E, 331.17 feet; thence run S 00'38'35" W, 696.98 feet; thence run N 89'41'52" W, 553.54 feet; thence run S 00'18'08" W, 150.00 feet; thence run N 89'41'52" W, 182.80 feet; thence run N 00'18'08" E, 150.00 feet; thence run N 89'41'52" W, 241.52 feet; thence run South, 990.00 feet; thence run West, 330.00 feet; thence run North, 990.00 feet; thence run N 89'41'52" W, 250.00 feet; thence run N 00'36'35" E, 150.00 feet; thence run S 89'41'52" E, 580.00 feet; thence run S 00'36'35" W, 150.00 feet; thence run N 89'41'52" W, 3.45 feet; thence run N 51'25'57" W, a distance of 77.94 feet to a point of curvature; thence along a curve to the left

having a radius of 800 feet, a central angle of 18'18'52" and an arc distance of 255.72 feet to a point of tangency; thence run N 69'44'50" W, a distance of 211.98 feet to a point; thence run N 20'15'10" E, a distance of 106.10 feet to a point of curvature; thence with a curved to the left having a radius of 40.0 feet, a central angle of 29'06'35" and an arc distance of 20.32 feet to a point of reverse curvature; thence along a curve to the right having a radius of 341.84 feet, a central angle of 45'09'57" and arc distance of 269.47 feet to a point of tangency; thence run N 15'33'25" W, a distance of 117.94 feet to a point; thence run N 89'23'25" W, a distance of 97.31 feet to a point of curvature; thence along a curve to the right having a radius of 615.00 feet, a central angle of 89'38'27" and an arc distance of 962.18 feet to a point of tangency; thence run N 00'11'40" W, a distance of 158.83 feet to a point; thence run N 02'50'42" E, a distance of 50.07 feet to a point; thence run N 00'11'40" W, a distance of 133.00 feet to a point in the southerly line of Melanie Estates, as recorded in Plat Book 4, Page 60, of the Public Records of Osceola County, Florida; thence along the said southerly line run S 89'59'34" W, 60.98 feet; thence run N 00'04'21" E, 991.11 feet; thence run N 89'48'20" E, 2198.33 feet to the Point of Beginning.