

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida) DOCKET NO. 920782-WU
Public Service Commission of) ORDER NO. PSC-93-0890-FOF-WU
Certificate No. 302-W issued to) ISSUED: June 14, 1993
St. George Island Utility)
Company, Ltd. in Franklin)
County.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON

ORDER APPROVING MODIFICATION

BY THE COMMISSION:

St. George Island Utility Company, Ltd., (St. George or the utility) is a Class B utility providing water service to approximately 959 customers in Franklin County. The utility has been the subject of several proceedings related to service, compliance, and customer complaints and has been fined by this Commission and DER for past violations. By orders issued by both agencies, the utility was required to perform corrective actions to alleviate utility problems.

Docket No. 871177-WU was opened when the utility filed an application for a rate increase on June 30, 1987. During the pendency of this rate proceeding, St. George also entered into a consent order to address DER compliance violations. DER corrective actions were incorporated into the Commission's Order Establishing Final Rates in this docket, Order No. 21122, issued April 24, 1989. The rate case docket has remained opened awaiting completion of required improvements by the utility.

On June 10, 1992, as a result of the utility's history of noncompliance, the Public Service Commission issued notice of its intention to initiate the revocation of Certificate No. 302-W for water service in Franklin County issued to St. George. On July 9, 1992, St. George filed a formal written objection to the notice of intent to initiate revocation and the case was set for hearing. On October 20, 1992, the Commission received a letter from St. George offering to discuss an interim settlement, and on January 20, 1993, an executed Proposed Stipulation was submitted by St. George. The

DOCUMENT NUMBER-DATE

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REGISTRATION/REPORTING

Commission approved this Proposed Stipulation in Order No. PSC-93-0370-AS-WU, issued March 9, 1993. The purpose of this agreement is to determine whether utility funds are being used appropriately for utility purposes and to protect the customers from any dissipation of utility assets.

On April 15, 1993, the utility submitted a Modification of Stipulation to the Commission for consideration, which is appended to this Order as Attachment A. The purpose of this modification is to establish a priority for the distribution of CIAC funds deposited into the escrow account required by the Stipulation. The priority set forth in the Modification is as follows:

1. The first \$75,000 to Sailfish Enterprises, Inc., for repayment of a loan for the third well,
2. Funds as needed to complete the DER mandated improvements as determined by the co-manager
3. \$51,425 for the altitude valve, 50 hp pump and other planned improvements as referenced in the Developer Agreement with Ken Gordon, and
4. \$40,000 to be paid for attorney and consulting fees to file and process a rate case on behalf of St. George.

Further, the CIAC funds received from Ken Gordon, a developer, should be placed in the above referenced escrow account and separately identified so as not to go toward the repayment of the third well loan.

We find the priority for distribution set forth above to be reasonable. However, we also find that St. George has not complied with the terms of the previously approved stipulation in that the utility has not set up a separate escrow account for all CIAC funds with the PSC as a signatory as described in Paragraph 2 of that stipulation. Specifically, Paragraph 2 provides as follows:

2. Any and all funds collected by the utility shall be deposited into one account, except for CIAC. CIAC shall be placed into a separate escrow account which shall be governed by an escrow agreement. The escrow agreement shall provide that any withdrawals shall require the signature of the Director of Records and Reporting.

Based on the foregoing, we find it appropriate to condition our approval of the Modification on the utility's complying with the Stipulation and its proposed Modification of Stipulation by adding the Commission as a signatory (specifically), Mr. Tribble, Director of the Division of Records and Reporting, to the escrow account. The utility shall have five working days from the issuance of this Order within which to comply with Paragraph 2 of the stipulation as set forth in Order No. PSC-93-0370-AS-WU.

If the condition is not timely met, this matter shall be set directly for hearing based on the utility's failure to comply with the provision set out in Paragraph 2 of the Commission approved stipulation as set forth in Order No. PSC-93-0370-AS-WU.

On May 28, 1993, a subsequent Modification of Stipulation, was submitted by Sailfish Enterprises, Inc. (Sailfish) on its behalf and "at the specific request of Mr. Brown", owner of St. George Island Utility Company, Ltd. (St. George or utility). The Modification of Stipulation submitted by Sailfish on May 28, 1993, does not provide for Mr. Tribble's signature for disbursements of CIAC funds placed in the escrow account set up for the repayment of the Sailfish loan. This is the only substantive difference from the modification filed on April 15, 1993, and approved herein.

CIAC funds are virtually the only monies available for the utility to make the necessary improvements mandated by both DER and this Commission, therefore we find that it is necessary for the Commission to oversee any and all disbursements of these funds. Accordingly, we find the requirement of Mr. Tribble's signature for disbursement of CIAC funds is an integral part of the Stipulation and shall not be waived. For this reason, we deny the modification request submitted by Sailfish on May 28, 1993.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Stipulation approved in Order No. PSC-93-0370-AS-WU, issued March 9, 1993, is hereby modified as set forth in the body of this Order and in Attachment A. It is further

ORDERED that the modification request submitted by Sailfish Enterprises, Inc., May 28, 1993 is hereby denied. It is further

ORDERED that St. George Island Utility Company, Ltd., shall take all necessary action within five working days of the date of

ORDER NO. PSC-93-0890-FOF-WU
DOCKET NO. 920782-WU
PAGE 4

issuance of this Order, to insure that all withdrawals from the CIAC escrow account shall require the signature of the Director of Records and Reporting.

By ORDER of the Florida Public Service Commission this 14th day of June, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB/LK

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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial

ORDER NO. PSC-93-0890-FOF-WU
DOCKET NO. 920782-WU
PAGE 5

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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida) DOCKET NO. 920782-WU
Public Service Commission of)
Certificate No. 302-W issued to)
St. George Island Utility) Filed April 15, 1993
Company, Ltd. in Franklin County)

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MODIFICATION OF STIPULATION

Florida Public Service Commission
Division of Water and Wastewater

St. George Island Utility Company (Utility) requests approval of the following modification of the stipulation approved in the above-styled docket by Order No. PSC-93-0370-AS-WU issued March 9, 1993.

Paragraph two of the stipulation shall be amended by adding the following thereto: All CIAC funds collected by the Utility shall be immediately deposited into escrow account no. 0218162601 established at Capital City First National Bank. Any and all withdrawals from said escrow account shall require the signature of Steve Tribble, Director, Division of Records and Reporting. The CIAC funds deposited into said escrow account shall be distributed in the following order:

1. \$75,000 to Sailfish Enterprises, Inc. for repayment of third well loan;
2. Such funds as may be necessary for completion of the DER mandated improvements as determined by Mary LaBatt, co-manager;
3. \$51,425 for the altitude valve, 50 hp pump and other planned improvements permitted by FDER on January 27, 1993, as referenced in the Developer Agreement between the Utility and Ken Gordon dated February 25, 1993, approved by the Commission on March 12, 1993; and
4. \$40,000 to be paid to the attorney and consultant

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FPSC-RECORDS/REPORTING

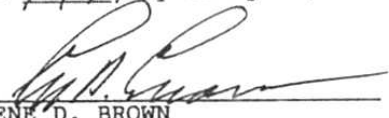
ORDER NO. PSC-93-0890-FOF-WU
DOCKET NO. 920782-WU
PAGE 7

selected by the Utility to file and process a rate case on behalf of the Utility.

All funds received from the developer, Ken Gordon, under the developer agreement approved by the Commission on March 12, 1993 shall be placed in the above-referenced escrow account at Capital City First National Bank. These funds from Ken Gordon shall be separately identified and shall be used exclusively for completion of the improvements set forth in the above-referenced developer agreement whether or not other CIAC funds have been received, notwithstanding the order of priority set forth herein.

Except as modified herein, the stipulation filed by the Utility and approved by the Commission under Order No. 93-0370 on March 9, 1993 shall remain in full force and effect.

RESPECTFULLY submitted this 14th day of April, 1993.



GENE D. BROWN
3848 Killearn Court
Tallahassee, FL 32308
(904)668-6103

Attorney for St. George Island
Utility Company, Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by Hand Delivery this 15th day of April, 1993 to:

Catherine Bedell, Esquire
Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0862

Lee Ann Knowles, Esquire
Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0862



GENE D. BROWN