

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930289-SU
amendment of Certificate No.) ORDER NO. PSC-93-0971-FOF-SU
247-S in Lee County by North) ISSUED: 6/29/93
Fort Myers Utility, Inc.)
(Fountain View RV Resort).)
_____)

The following Commissioners participated in the disposition of this matter:

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

FINAL ORDER GRANTING AMENDMENT OF TERRITORY

AND

NOTICE OF PROPOSED AGENCY ACTION ORDER
ESTABLISHING RATES AND CHARGES FOR AMENDED TERRITORY

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature, except that portion granting amendment of territory, and as such, will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

APPLICATION FOR AMENDMENT

On March 17, 1993, North Fort Myers Utility, Inc. (NFMU or utility) filed an application for amendment of its Wastewater Certificate No. 247-S to include service to Fountain View RV Resort Subdivision (Fountain View). NFMU is a Class B utility which provides wastewater service to approximately 2,300 customers in Lee County. Fountain View RV Lot Owners' Association, Inc. (Association) serves approximately 350 residential customers in Fountain View which is located in an unincorporated portion of Lee County. The Association is chartered as a non-profit homeowners' association, and charges a monthly maintenance fee which includes

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water and wastewater service, in addition to garbage, pool, and other services.

According to the utility's application, the Association's on-site package wastewater plant is currently operating under a consent order from the Florida Department of Environmental Regulation (DER) and must be upgraded by July 31, 1994, to meet environmental standards. When service begins to be provided by NFMU, the package plant and disposal system will be dismantled. On February 15, 1993, NFMU and the Association entered into a wastewater service agreement. Members of the Association approved the assessment and costs to hook up to the NFMU system.

On April 12, 1993, Buccaneer Mobile Estates filed a timely objection to this application. The objection was withdrawn by letter dated May 28, 1993. No other objections to the notice of application have been received and the time for filing such has expired.

We have reviewed the utility's application and find that it is in compliance with the provisions of Section 367.045, Florida Statutes, and other applicable statutes and administrative rules concerning applications for amendment of certificate. The application contains a check in the amount of \$150, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided evidence in the form of a warranty deed that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.036(1)(d), Florida Administrative Code. Adequate service territory and system maps and a territory description have been provided as required by Rule 25-30.036(1)(e), (f) and (i), Florida Administrative Code. A description of the territory requested by the utility is appended to this Order as Attachment A. The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code.

NFMU has been operating a wastewater treatment facility in the area for a number of years. We find that it has adequate technical and financial ability to serve the additional territory. According to information received from DER, NFMU is operating its system in accordance with its DER permit, and it has no DER compliance. Based on the foregoing, we find it to be in the public interest to

grant the application of North Fort Myers Utility, Inc. for amendment of Certificate No. 247-S.

RATES AND CHARGES

In its application, the utility also requested authority to charge its Commission authorized rates and charges to the customers of the amended territory. The utility stated in its application that the proposed amendment will have no significant impact on its existing rates and charges. NFMU proposes to bill the Association based on general service (master meter) rates determined from the water meter readings at the water plant. The individual customers will be billed service availability charges to cover the cost of interconnecting with NFMU. Based on the foregoing, we find that the rates and charges of NFMU are the appropriate rates and charges for the customers of the Association. If no timely protest is filed, the NFMU rates shall be effective for charges on or after the stamped approval date of the tariffs applicable to this proceeding.

In addition to the wastewater plant, the Association also operates its own water system and serves the RV park through a 3-inch water meter. After interconnection of the wastewater system, the Association will continue to include charges for water and wastewater in the monthly maintenance charge to its members. Although the Association has been operating without certificates or an exemption, we find that a show cause proceeding is not appropriate at this time because the Association was not aware of the necessity to file for a certificate or to be declared exempt from Commission jurisdiction. However, we find it appropriate to require the Association to file an application for exemption of its water and wastewater systems. The Association has agreed to file for exemption or certificates and appears to be ready and willing to comply with the requirements for an exemption or certificate application. The Association shall have six months from the date of this Order to complete the filing for exemption for its water and wastewater systems.

It is, therefore,

ORDERED by the Florida Public Service Commission that the application for amendment of territory is hereby approved. It is further

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ORDERED that the authorized rates and charges of North Fort Myers Utility, Inc. shall be the authorized rates and charges for the customers of the amended territory. It is further

ORDERED that all of the provisions of this Order, except that portion granting amendment of territory, are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Fountain View RV Lot Owners' Association, Inc. shall file for exemption of its water and wastewater systems within six months of the date of this Order. It is further

ORDERED that if no timely protest is filed, this docket may be closed.

By ORDER of the Florida Public Service Commission, this 29th day of June, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

by: Kay Feyn
Chief, Bureau of Records

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 action, except for that portion granting amendment of territory, is 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 July 20, 1993. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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 portion of this order becomes final and effective on the date described above, 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 wastewater 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 wastewater

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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.

ATTACHMENT A

North Fort Myers Utility, Inc.
TERRITORY DESCRIPTION

The following described lands located in portions of Section 16, Township 43-S, Range 24-E, Lee County, Florida:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 16, THENCE S89°49'43"W (BASIS OF BEARINGS BEING THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE) ALONG THE NORTH LINE OF SECTION 16, A DISTANCE OF 554.48 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°49'43"W ALONG SAID NORTH LINE A DISTANCE OF 1600.96 FEET; THENCE S17°11'09"E A DISTANCE OF 863.04 FEET; THENCE N 75°40'37"E A DISTANCE OF 492.30 FEET; THENCE N 89°56'44"E A DISTANCE OF 297.10 FEET THENCE S14°17'53"E A DISTANCE OF 226.61 FEET; THENCE N75°41'33"E A DISTANCE OF 889.36 FEET; THENCE N 26°06'14"W A DISTANCE OF 61.30 FEET; THENCE N63°53'46"E A DISTANCE OF 452.19 FEET; THENCE N76°21'31"E A DISTANCE OF 10.24 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT CONCAVE TO THE NORTHWEST WITH A CENTRAL ANGLE OF 18°53'46" AND A RADIUS OF 407.00 FEET, A DISTANCE OF 134.23 FEET TO A POINT OF TANGENCY; THENCE N45°E A DISTANCE OF 16.10 FEET TO A POINT OF A CURVE; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT CONCAVE TO THE SOUTHEAST WITH A CENTRAL ANGLE OF 19°05'45" AND A RADIUS OF 396.72 FEET, A DISTANCE OF 132.22 FEET TO THE SOUTHWEST RIGHT OF WAY OF S.R.45\U.S. 41; THENCE N26°06'14"W ALONG SAID RIGHT OF WAY A DISTANCE OF 36.80 FEET; THENCE N25°15'08"W A DISTANCE OF 23.20 FEET; THENCE ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST WITH A CENTRAL ANGLE OF 19°06'46" AND A RADIUS OF 456.72 FEET A DISTANCE OF 152.35 FEET TO A POINT OF TANGENCY; THENCE S45°W A DISTANCE OF 16.10 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE RIGHT CONCAVE TO THE NORTHWEST WITH A CENTRAL ANGLE OF 18°53'46" AND A RADIUS OF 347.00 FEET, A DISTANCE OF 114.44 FEET TO A POINT OF TANGENCY; THENCE S51°26'03"W A DISTANCE OF 10.24 FEET; THENCE S63°53'46" A DISTANCE OF 452.19 FEET; THENCE N26°06'14"W A DISTANCE OF 670.35 FEET TO THE POINT OF BEGINNING.