

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930773-SU
Certificate to Provide) ORDER NO. PSC-94-0260-FOF-SU
Wastewater Service in Okaloosa) ISSUED: March 8, 1994
County Under Grandfather Rights)
by EASTDESTIN WASTEWATER)
SERVICE.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER GRANTING GRANDFATHER CERTIFICATE
AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING REQUESTED ADDITIONAL TERRITORY
AND ESTABLISHING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature, except for the granting of Wastewater Certificate No. 489-S, 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 October 20, 1992, the Board of County Commissioners of Okaloosa County adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring all water and wastewater utilities within its boundaries subject to the jurisdiction of this Commission. On February 15, 1993, Destin Ecological Systems (DES) filed its application for water and wastewater certificates under grandfather rights, pursuant to Section 367.171, Florida Statutes. At the time of jurisdiction, water service was being provided under the name of Destin Utility Company, Inc., (Destin) and wastewater service was being provided under the name of Sun States Utility,

DOCLAND 11 1994-DATE

02214 MAR-84

FFSC-RECORDS/PLFORMS

Inc. (Sun States). On April 30, 1992, pursuant to an Order of the United States Bankruptcy Court for the Northern District of Florida, Eastdestin Wastewater Service (Eastdestin or utility), a corporation since 1991, was ordered to assume the assets and liabilities of Sun States, and to provide wastewater service to the service territory then served by Sun States. DES was established in 1992 for the purpose of combining the resources and assets of Destin and Sun States. On February 2, 1993, DES signed sales agreements with Destin and Sun States to consolidate both companies. On February 15, 1993, DES filed for grandfather certificates to provide water and wastewater service. However, on June 11, 1993, DES withdrew its application due to a delay in the merger of Destin and Sun States.

Subsequently, on August 3, 1993, Eastdestin filed an application with the Commission for a grandfather certificate to provide wastewater service in Okaloosa County. Eastdestin is a class C utility which is currently serving approximately 414 customers in Okaloosa County.

Application

The application is in compliance with Section 367.171, Florida Statutes, and other pertinent statutes and administrative rules. In particular, \$2,250 of the \$4,500 filing fee which was included in DES's application was applied to the filing fee, pursuant to Rule 25-30.020, Florida Administrative Code. Eastdestin has also provided evidence that it owns the land upon which its facilities are located, as required by Rule 25-30.035(6), Florida Administrative Code.

A description of the territory we are authorizing the utility to serve is appended to this Order as Attachment A, which by reference is incorporated herein. This territory includes only the territory actually being served by the utility prior to our receiving jurisdiction.

Based on the foregoing, we find that it is in the public interest to grant Eastdestin wastewater Certificate No. 489-S to serve the territory described in Attachment A of this Order.

Eastdestin requested more territory than is currently being served by the utility. The additional territory being requested is adjacent to the current service territory. However, at the present time, the additional territory requested is undeveloped land, and there are no immediate plans to develop this area. According to Section 367.171, Florida Statutes, a utility is entitled to a

grandfather certificate for "the area served by such utility on the day this chapter becomes applicable to it."

In addition, the Department of Environmental Protection reported two outstanding notices of violation against Eastdestin. Both violations concerned the condition of the facility, which was found to be operating unsatisfactorily, with numerous deficiencies. This poor quality was the result of improper operation and maintenance of the facility.

Furthermore, we have concerns over the utility's financial ability to provide service to the additional territory. These problems surfaced when the merger of Destin and Sun States failed. In addition, the wastewater company could not service the additional territory due to economic difficulty, which is a concern here, because the individuals who own and operate the wastewater company are the same individuals who own and operate Eastdestin.

Based on the foregoing, we find that it is not in the public interest to grant the additional territory with the grandfather certificate. In the future, the utility may file for an amendment of certificate pursuant to Section 367.045(2), Florida Statutes, when it wants to service the territory not granted in this Order.

Rates and Charges

The utility filed tariffs with proposed rates and charges which it intended to charge its customers. It is the practice of the Commission to approve the existing rates and charges that the utility is charging at the time of jurisdiction. Upon our examination of the books and records of Eastdestin, we have determined that the rates being charged on October 20, 1992, have been charged since July 1990, and are not the rates and charges requested by the utility. Therefore, we find that the rates and charges that were in effect since July 1990, and were being charged on October 20, 1992, the date of jurisdiction, shall be approved. They are as follows:

Residential Service

Monthly Rates

Base Facility Charge:

All Meters (includes all gallons)	\$18.25 to approximately 40 customers
	\$15.90 to the remaining customers

General Service

Fudpuckers	\$150 Per month
The Crabtrap	\$250 Per month
Gulf Power Maintenance Building	\$15.90 Per month

Service Availability Charges

Plant Capacity Charge:

All meter sizes	\$2,100
-----------------	---------

In addition, Eastdestin has requested, and we have approved the following rates and charges:

General Service

Monthly Rates

Cowboys Restaurant

Base Facility Charge (includes 5,000 gallons)	\$24
--	------

Gallonage Rates:

Above 5,000 gallons	\$2.75 per 1,000 gallons
---------------------	--------------------------

period. Eastdestin has recently applied for a staff assisted rate case, and these rates may be appropriately analyzed in this rate proceeding.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that Eastdestin Utility Company, Inc., P.O. Box 281, Destin, Florida 32540, is hereby granted wastewater Certificate No. 489-S to serve the territory described in Attachment A of this Order. It is further

ORDERED that Eastdestin Utility Company, Inc.'s request to serve the additional territory in its application is denied. It is further

ORDERED that Eastdestin Utility Company, Inc., shall charge its customers the rates and charges approved herein until authorized to change by this Commission. It is further

ORDERED that Eastdestin Utility Company, Inc., shall file tariff sheets reflecting the rates and charges approved herein within 30 days of the effective date of this Order. It is further

ORDERED that the tariffs will be approved upon our Staff verification that they are consistent with our decision herein. It is further

ORDERED that the service availability charges approved herein shall be effective, provided that no protest is timely filed, on or after the stamped approval date of the tariffs. It is further

ORDERED that the monies collected from Cowboys Restaurant shall be held subject to refund pending the final determination of rates in Eastdestin's staff assisted rate case, Docket No. 931187-SU. It is further

ORDERED that Eastdestin Utility Company, Inc. shall establish an escrow account, or other security for the potential refund of the rates collected from Cowboys Restaurant, a general service customer. It is further

ORDER NO. PSC-94-0260-FOF-SU
DOCKET NO. 930773-SU
PAGE 7

ORDERED that the provisions of this Order, except for the granting of the wastewater certificate, are issued as proposed agency action and will become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that, in the event no timely protest is received to the proposed agency action provisions of this Order, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 8th day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JBL/MSN

by: Kay Ferguson
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 herein, except for the granting of the wastewater certificate, 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 March 29, 1994. 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 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.

SERVICE TERRITORY DESCRIPTION
EASTDESTIN WASTEWATER SERVICE INC.

OKALOOSA COUNTY

A parcel of land in undivided Township 2 South, Range 22 West, in Okaloosa County. That area approximately 11,690 feet West of the Walton County line/Okaloosa County line, North of the Gulf of Mexico and South of U.S. Highway 98/State Road No. 30.

less and except: The Crystal Beach Campground described as follows:

Commence at the Northwest corner of Section 30, Township 2 South, Range 21 West, Walton County. Thence South 01°58'05" West approximately 2,125.04 feet along the Walton County line/Okaloosa County line to the North Right-of-Way line of U.S. Highway 98/State Road No. 30. Thence South 01°58'05" West approximately 200 feet to the South Right-of-Way line of said U.S. Highway. Thence meander Westerly along said South Right-of-Way line approximately 9,240 feet. Thence leaving said Right-of-Way approximately South 0° East approximately 1,600 feet to the Point of Beginning. Thence continue South 03°50'49" West 500 feet. Thence North 86°09'11" West 300 feet. Thence North 03°50'49" East 500 feet. Thence South 86°09'11" East 300 feet to the Point of Beginning.

less and except: The following parcel of land:

Commence at the Northwest corner of Section 30, Township 2 South, Range 21 West, Walton County. Thence South 01°58'05" West along the Walton County line/Okaloosa County line 2,325.04 feet to the North Right-of-Way line of U.S. Highway 98/State Road No. 30. Thence South 01°58'05" West 912.87 feet to the Point of Beginning. Thence North 81°25'52" West 649.78 feet. Thence South 01°59'51" West 199.94 feet. Thence South 81°25'22" East 129.86 feet. Thence South 01°58'15" West 281.99 feet. Thence North 88°01'37" West 163.94 feet. Thence South 01°51'14" West 148.13 feet. Thence South 46°14'32" West 15.73 feet. Thence North 88°14'03" West 151.50 feet. Thence South 47°29'01" West 16.09 feet. Thence South 01°57'36" West 163.16 feet. Thence South 32°07'06" East 15.70 feet. Thence South 01°54'24" West 159.16 feet. Thence South 34°36'55" East 31.69 feet. Thence South 02°02'05" West 202.29 feet. Thence North 81°26'47" West 167.78 feet. Thence South 02°03'00" West 133.86 feet. Thence South 01°58'17" West 290 +/- feet to the shore of the Gulf of Mexico. Thence meander Easterly along said shoreline approximately 1,000 feet to the Okaloosa

County line/Walton County line. Thence North 01°58'05" East approximately 1,640 feet to the Point of Beginning.

Also Including: Fudpuckers; a restaurant located just North of U.S. Highway 98/State Road No. 30, described as follows:

Commence at the Northwest corner of Section 30, Township 2 South, Range 21 West, Walton County line/Okaloosa County line. Thence South 01°58'05" West 2,325.04 feet to the intersection of the North Right-of-Way of U.S. Highway 98/State Road No. 30 and the Walton County line/Okaloosa County line. Thence meander Westerly along said Right-of-Way line approximately 15,160 feet to Point of Beginning. Thence leaving said Right-of-Way North 03°57'53" East 400 feet; Thence North 86°02'07" West 200 feet; Thence South 03°57'53" West 400 feet; Thence South 86°02'07" East 200 feet to Point of Beginning.