

MEMORANDUM

April 14, 1998

RECEIVED

APR 15 1998

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FPSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BRIWAFER) *JB* *YAS*

RE: DOCKET NO. 970696-WS - APPLICATION BY FLORIDA CITIES WATER COMPANY FOR EXTENSION OF TEMPORARY WATER SERVICE IN LEE COUNTY, AMENDMENT OF CERTIFICATES 27-W AND 24-S TO INCLUDE TERRITORY IN LEE COUNTY, AND DELETION OF A PORTION OF TERRITORY IN CERTIFICATE NO. 72-W BY GULF UTILITY COMPANY IN LEE COUNTY.

98-0513-FOF-WS

Attached is an ORDER GRANTING MOTION TO DISMISS, FINDING NO SHOW CAUSE REQUIRED, AMENDING CERTIFICATES 27-W AND 24-S TO INCLUDE ADDITIONAL TERRITORY, AMENDING CERTIFICATE NO. 72-W TO DELETE SERVICE TERRITORY, AND CLOSING DOCKET, to be issued in the above-referenced docket.

(Number of pages in order - 19)

A copy of this order should be mailed to Florida Cities Water Company and Gulf Utility Company.

JSB/lw

Attachment

cc: Division of Water and Wastewater (Podemana)

I:970696or.jsb

see 1014

Checked - 2/1
11.11.98 - 1/1

See 9

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Florida Cities Water Company for extension of temporary water service in Lee County, amendment of Certificates 27-W and 24-S to include territory in Lee County, and deletion of a portion of territory in Certificate No. 72-W by Gulf Utility Company in Lee County.

DOCKET NO. 970696-WS
ORDER NO. PSC-98-0513-FOF-WS
ISSUED: April 15, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER GRANTING MOTION TO DISMISS,
FINDING NO SHOW CAUSE REQUIRED,
AMENDING CERTIFICATES 27-W AND 24-S TO INCLUDE
ADDITIONAL TERRITORY, AMENDING CERTIFICATE NO. 72-W
TO DELETE SERVICE TERRITORY, AND CLOSING DOCKET

BY THE COMMISSION:

Background

Florida Cities Water Company, Lee County Division (FCWC or utility), a Class A utility, provides water and wastewater service in Lee County and serves approximately 18,658 water customers in North and South Ft. Myers. Wastewater service is provided to 6,003 customers in South Ft. Myers and 2,686 customers in North Ft. Myers. The annual report for 1996 shows that the consolidated water annual operating revenue for the Lee County system is \$8,542,616 and the net operating income is \$2,330,909. The North Ft. Myers wastewater system had operating revenue of \$2,362,632 and a net operating income of \$698,730. The South Ft. Myers wastewater system had operating revenue of \$3,557,252 and a net operating income of \$805,957.

DOCUMENT NUMBER-DATE

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FPSC PUBLIC INFORMATION

On June 9, 1997, FCWC requested that the Commission open a docket to consider approval of an expedited request for an extension of water service. Two adjacent property owners requested water service from FCWC, since it had existing lines closest to the properties. Both small parcels were located in the certificated water service area of Gulf Utility Company (Gulf). The extension was granted to FCWC on a temporary basis in Order No. PSC-97-0784-FOF-WS, issued July 1, 1997. The Order noted that an application consistent with Section 367.045, Florida Statutes was to be filed within the next several weeks. On July 21, 1997, FCWC filed the application for amendment, which is the subject of this docket, to include more territory in its service area. This territory is also in the South Fort Myers area.

Motion to Dismiss

Pursuant to Rule 25-30.030, Florida Administrative Code, on July 22, 1997, FCWC mailed written notice to relevant utilities and government officials, and all known property owners of record in the proposed service area. FCWC also published a legal notice of its amendment application in a local newspaper, in this case the Fort Myers News-Press, in Lee County on July 22, 1997. On July 30, 1997, a corrected notice was published in the same newspaper. Pursuant to Rule 25-30.030, Florida Administrative Code, all notices distributed by FCWC stated that any objections to the application must be filed in writing with the PSC Division of Records and Reporting no later than thirty days after the last date that the notice was mailed or published, whichever is later. This was followed by a statement that a copy of any such objection should be mailed to counsel for FCWC. The last date on which notice was mailed or published was July 30, 1997. Thus, the deadline for filing an objection to FCWC's amendment application with the Division of Records and Reporting was August 29, 1997. No objections were received by the Commission on or before that date.

On August 11, counsel for FCWC received a copy of a letter dated August 7, 1997, from the Southwest Florida Regional Planning Council to the Division of Records and Reporting, in which the Council staff stated its recommendation that FCWC's application was regionally significant and consistent with the Council's regional policy plan.

On or about August 17, 1997, counsel for FCWC received a letter addressed to him and dated August 13, 1997, from Mrs. Mary H. Rutledge, which stated without further explanation that she

objected to FCWC's proposed expansion. Mrs. Rutledge and her husband, Mr. Duane Rutledge, are property owners in an area of Lee County in which FCWC is seeking to extend water, but not wastewater service. Mr. and Mrs. Rutledge meet their water and wastewater needs through a private well and septic tank system. Mrs. Rutledge's letter did not indicate whether a copy of her objection had been sent to the Commission's Division of Records and Reporting.

On August 22, 1997, counsel for FCWC received a copy of a letter addressed to the Division of Records and Reporting from Mr. Jerry S. Shannon. The letter indicated Mr. Shannon's objection to FCWC's proposed extension on the grounds that he was concerned that the extension would cost him money. Mr. Shannon is also a property owner in an area of Lee County in which FCWC is seeking to extend water, but not wastewater service. His water needs are also currently being met through a private well system.

By letter dated September 18, 1997, counsel for FCWC filed with the Commission copies of the three letters discussed above. In his letter, counsel stated that, upon review of the docket file for this proceeding, he discovered that the file did not include correspondence from the Southwest Florida Regional Planning Council, Mrs. Rutledge or Mr. Shannon.

By letter dated September 29, 1997, the Director of the Division of Records and Reporting notified counsel for FCWC that the letter from the Southwest Florida Regional Planning Council had been received in the Director's office on August 11, 1997, and had been inadvertently forwarded to the Division of Water and Wastewater. The letter had since been retrieved from that Division and placed in the docket file for this proceeding. The Director stated that the August 13, 1997 letter addressed to counsel for FCWC from Mrs. Rutledge was apparently not copied to the Director's office at the time it had been mailed to counsel. The Division of Records and Reporting had no knowledge of Mrs. Rutledge's letter prior to counsel for FCWC's forwarding a copy on September 18, 1997. Finally, although Mr. Shannon's letter of August 19, 1997 was properly addressed to the Director of the Division of Records and Reporting, the Director stated that Mr. Shannon's letter had not been found after an extensive search, and that it was her belief that the letter was never received by her office.

The letter from the Southwest Florida Regional Planning Council merely states the Council's recommendation that FCWC's

application is regionally significant and consistent with the Council's regulatory comprehensive plan. Because the Council's letter was not in the nature of an objection, no further discussion is required in its regard.

By letters to Mrs. Rutledge and Mr. Shannon dated October 24, 1997, staff counsel inquired as to their intent regarding their objections to FCWC's application, and whether they intended to pursue the matter to formal hearing. Staff requested a response from each by November 5, 1997. Mr. Shannon did not respond to staff's letter, and staff was unable to contact him by telephone.

Staff had several telephone conversations with Mr. Rutledge regarding his objection. Mr. Rutledge stated that an objection had been timely mailed to the Division of Records and Reporting, but could offer no explanation as to why the objection had never been received by the Division. Staff requested that Mr. Rutledge file a second letter with the Commission specifically stating when and how he received notice of FCWC's application, when and by what means his first objection was sent, an explanation as to why his initial objection had not been timely received, and specifically setting forth his objection to FCWC's application in accordance with Rule 25-22.036, Florida Administrative Code.

A letter from Mr. and Mrs. Rutledge, dated October 31, 1997, was received by the Division of Records and Reporting on November 6, 1997. The October 31, 1997 letter did not explain when and how the Rutledge's received notice of FCWC's application, when and by what means their first objection was sent, or why the initial objection had not been timely received. Instead, the October 31, 1997 letter stated that Mr. and Mrs. Rutledge believed that if FCWC's application were granted, they would have to become customers of the utility, which they did not want to happen. They further stated that they had no need of FCWC's services, that service from FCWC would be duplicative of services which they provided for themselves, and that they had general concerns regarding the quality of service that would be provided by FCWC. Included in the Rutledge's October 31, 1997 letter, unsigned and marked "copy", was the August 13, 1997 letter originally received by counsel for FCWC, and a letter correctly addressed to the Director of the Division of Records and Reporting from Mrs. Rutledge and dated August 13, 1997. This last letter appears to state Mrs. Rutledge's concerns that the proposed extension would ultimately cost her money, and that she wished to continue utilizing her own private well and septic system.

Subsequently, on January 5, 1998, FCWC filed a Motion to Dismiss Objection Letters. In its Motion, FCWC states that neither Mr. and Mrs. Rutledge or Mr. Shannon timely filed their objections to FCWC's Notice of Application, and that their letters of objection were in fact submitted to the Commission by FCWC's counsel nearly three weeks after the period for filing objections had passed. FCWC further asserts that no good cause has been provided for their failure to timely file the objections. Furthermore, FCWC notes that neither Mr. and Mrs. Rutledge or Mr. Shannon have requested a hearing before the PSC in their letters of objection. FCWC also seeks to dismiss the objection letters on the grounds that Mr. and Mrs. Rutledge and Mr. Shannon do not have standing to object to FCWC's application, pursuant to Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2d DCA 1981), discussed below. Finally, FCWC alleges in its motion to dismiss that, at best, Mr. and Mrs. Rutledge and Mr. Shannon are property owners within the area which FCWC seeks to include in its water service area, that they are currently meeting their own needs for water service from private wells, and that they do not appear to need or want water service from FCWC. Furthermore, FCWC states that it has no authority to mandate water service connections, but seeks instead to provide the option of central water service availability to property owners within the area in which the Mr. and Mrs. Rutledge and Mr. Shannon live. Neither Mr. or Mrs. Rutledge or Mr. Shannon filed a response to FCWC's Motion.

In previous cases, the Commission has accepted late-filed objections when good cause is demonstrated as to why the objection is untimely. See Order No. PSC-95-1386-FOF-WS, issued November 8, 1995, in Docket No. 950695-WS. However, we find it unnecessary in this instance to reach the issue of whether the objection letters were untimely filed pursuant to Section 367.045(3), Florida Statutes. Instead, we find it appropriate to dismiss the objection letters on other grounds.

The standard used in addressing a motion to dismiss is whether, assuming all allegations in the petition are facially valid, the petition nevertheless fails to state a cause of action for which relief may be had. See Order No. PSC-95-0062-FOF-WS, issued January 11, 1995 in Docket No. 940091-WS; Order No. PSC-95-1386-FOF-WS, issued November 8, 1995 in Docket No. 950695-WS. In this instance, both Mr. Shannon and Mr. and Mrs. Rutledge expressed concern that the proposed expansion of service territory would cost them money in the form of rates and service availability charges.

Mr. and Mrs. Rutledge further stated their concern that they would ultimately be forced to abandon their existing well system and interconnect with FCWC's regional water facilities, and that they had apprehensions regarding the quality of FCWC's water service.

Both Mr. Shannon and Mr. and Mrs. Rutledge are meeting their water needs by private wells. Under the existing circumstances, there are no statutes or administrative rules which would require Mr. Shannon or Mr. and Mrs. Rutledge to interconnect with FCWC's regional water system, if FCWC's application is granted. We have conferred with the Lee County Attorney's Office, and there are no County ordinances which would mandate interconnection with FCWC's facilities. In conversations with legal staff, Mr. Rutledge expressed his concern that it would only be a matter of time before such an ordinance would be placed into effect. However, we believe such concerns are speculative and remote at best. Even assuming all allegations in the letters of objection are facially valid, they nevertheless fail to state a cause of action for which relief may be had.

In its motion to dismiss, FCWC also states that before one can be considered to have a substantial interest in the outcome of a proceeding, he or she must show (1) that he or she will suffer injury in fact which is of sufficient immediacy to entitle him or her to a Section 120.57 hearing, and (2) that his or her substantial injury is of a type or nature which the proceeding is designed to protect. Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2d DCA 1981). See also Order No. PSC-93-0363-FOF-WS, issued March 9, 1993 in Docket No. 921237-WS. FCWC asserts in its motion that Mr. and Mrs. Rutledge and Mr. Shannon's letters fail to meet either prong of this test for substantial interest. We agree.

As discussed above, because there is no requirement that Mr. Shannon or Mr. and Mrs. Rutledge use FCWC's service, concerns regarding interconnection and any associated costs are without merit. Under the circumstances, the letters of objection fail to demonstrate that Mr. and Mrs. Rutledge or Mr. Shannon will suffer injury in fact of sufficient immediacy to entitle them to a hearing pursuant to Section 120.57, Florida Statutes. Furthermore, the substantial injury they allude to in their letters is not of a type or nature a hearing in this proceeding would be designed to protect.

For the reasons discussed above, we therefore grant FCWC's Motion to Dismiss Objection Letters.

No Show Cause Required

At the time of the application, the utility was serving one customer outside of its certificated territory, Full Service Storage, which FCWC has been serving since 1987. FCWC believes that at the time it initiated service to such customer that there were ambiguities in the legal description of its territory. This customer should have been included by FCWC in its last extension application (Docket No. 941271-WS), but was inadvertently omitted.

Pursuant to Section 367.045(2), Florida Statutes, a utility may not delete or extend its service area outside the area described in its certificate of authorization until it has obtained an amended certificate of authorization from the Commission. Section 367.161(1), Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes.

We first became aware that the utility was serving outside of its certificated area through the filing of this application. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). The utility's failure to obtain antecedent Commission approval to extend its service area outside the area described in its certificate of authorization appears to be willful in the sense intended by Section 367.161, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

We find that no show cause proceedings shall be initiated for violation of Section 367.045(2), Florida Statutes. Upon preparation of the instant amendment application, FCWC discovered

that due to inadvertent errors in interpretation of the legal description of its certificated service areas, water service was being provided to one customer located outside its certificated area. The amendment application explains that the utility was initially preparing this amendment application to extend water service to several areas adjacent to its existing service area. During the process of interpreting the legal description, the company determined that there was an additional customer outside of the utility's service area. The utility acknowledged the problem and attempted to correct it through this application.

In consideration of the foregoing, we do not find that this utility's violation of Section 367.045(2), Florida Statutes, rises to the level of warranting that a show cause order be issued. Therefore, we shall not order FCWC to show cause why it should not be fined for failing to obtain the Commission's approval for extending its service area prior to serving that area.

Amendment Application

As stated earlier, on July 21, 1997, the utility applied for an amendment of certificate to Water Certificate No. 27-W and Wastewater Certificate No. 24-S in Lee County to extend its certificated territory to include one customer that it has been servicing since 1987 and for additional water and wastewater area all in the South Ft. Myers area. Except as previously discussed, the application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. In particular, the application contains a check in the amount of \$3,250 (\$2,250 for water and \$1,000 for wastewater), which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided a copy of its warranty deeds, which provide for the continued use of the land as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. A description of the water and wastewater territory is appended to this Order as Attachment A and B, respectively, attached hereto and by reference incorporated herein. Attachment A includes the water area. Attachment B includes the wastewater area.

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 set forth in Rule 25-30.030, Florida Administrative Code. As discussed previously, letters of objection to the notice of application have been received; however, we have granted the utility's motion to dismiss the objection letters, on the grounds discussed previously in this Order. The local planning agency was provided notice of the application and did not file a protest. The Department of Environmental Protection has been contacted and there are no outstanding notices of violation regarding the utility.

FCWC is a large, multi-county operation in the State of Florida, and has been in operation under our jurisdiction since 1965. From the information filed with the application, we find that FCWC has demonstrated the financial and technical ability, as well as sufficient capacity, to serve the proposed additional territorial expansion. Therefore, we find that it is in the public interest to grant the application of FCWC for amendment of Water Certificate No. 27-W and Wastewater Certificate No. 24-S to the additional territory described in Attachments A and B. This area now includes area granted to Gulf Utility Company, which is discussed later in this Order in greater detail. FCWC has returned its certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

Rates and Charges

FCWC's water rates were last set pursuant to Order No. PSC-96-0859-FOF-WU, issued July 2, 1996, in Docket NO. 951029-WU, which was an overearnings investigation. The wastewater rates were last set on September 7, 1993, by Order No. PSC-93-1288-FOF-SU in Docket No. 920808-SU. Minor corrections were addressed by Order No. PSC-93-1288A-FOF-SU to fix some typographical errors. Service availability charges for water became effective on December 11, 1986 by Orders Nos. 16768 and 16918 in Docket No. 851007-WU, issued October 24, 1986 and December 3, 1986, respectively, as a result of a rate case. Service availability charges for wastewater became effective on March 31, 1987 by Order No. 17169, issued February 9, 1987 in Docket No. 840419-SU as a result of a rate case. FCWC shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding.

Deletion of Territory from Certificate 72-W

As stated previously, two adjacent property owners requested water service from FCWC, since it had existing lines closest to the properties. Both small parcels are located in the certificated water service area of Gulf Utility Company. FCWC was granted a temporary extension in this docket to serve these customers at the June 24, 1997 Agenda Conference, resulting in Order No. PSC-97-0784-FOF-WS, issued July 1, 1997.

That Order noted that FCWC, Gulf and Lee County had met informally and indicated they would not object to FCWC extending service to the two adjacent parcels and other adjacent undeveloped land located nearby. In order for FCWC to provide "permanent" service to the Gulf customers, a corresponding deletion of territory from Gulf's certificated area is required in addition to FCWC's extension.

At the June 24, 1997 Agenda Conference, we stated that Gulf would not have to file for a separate deletion of territory. Rather, the deletion could be accomplished within this amendment docket, since the parties were in agreement with the service arrangement. In compliance with this previous decision, we voted during the February 17, 1998 Agenda Conference to delete from Gulf's Certificate No. 72-W that portion of territory described in staff's recommendation filed on February 5, 1998.

An error in the description of territory to be deleted from Gulf's certificate was identified by counsel for the utility subsequent to our vote at the February 17, 1998 Agenda Conference. The corrected description of territory to be deleted from Gulf's Certificate No. 72-W is appended to this Order as Attachment C, attached hereto and by reference incorporated herein. Gulf shall file tariff sheets reflecting this deletion and return Certificate No. 72-W to the Commission within thirty days of the issuance date of this Order.

Because no further action is necessary in this matter, this docket shall be closed.

Based on the foregoing, it is

ORDER NO. PSC-98-0513-FOF-WS
DOCKET NO. 970696-WS
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ORDERED by the Florida Public Service Commission that Florida Cities Water Company, Lee County Division's Motion to Dismiss Objection Letters is granted. It is further

ORDERED that Florida Cities Water Company, Lee County Division, shall not be required to show cause for violation of Section 367.045(2), Florida Statutes. It is further

ORDERED that Certificates Nos. 27-W and 24-S, held by Florida Cities Water Company, Lee County Division, are hereby amended to include the territory described in Attachments A and B of this Order, which by reference are incorporated herein. It is further

ORDERED that Florida Cities Water Company, Lee County Division, shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission. It is further

ORDERED that Certificate No. 72-W, held by Gulf Utility Company, is hereby amended to delete the territory described in Attachment C of this Order, which by reference is incorporated herein. It is further

ORDERED that Gulf Utility Company is directed to file revised tariff sheets reflecting the deletion of territory within 30 days of the date of this Order, and to return Certificate No. 72-W to this Commission within 30 days of the date of this Order for appropriate entry. It is further

ORDERED that this docket is hereby closed.

ORDER NO. PSC-98-0513-FOF-WS
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By ORDER of the Florida Public Service Commission this 15th
day of April, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

JSB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

Section 8, Township 46 South, Range 24 East.

All that part of the Southeast quarter (SE-1/4), Less the North 650 feet thereof.

Section 9, Township 46 South, Range 24 East.

All that part of the South half (S-1/2), Less the North 650 feet thereof.

Section 10, Township 46 South, Range 24 East.

All that part of the South half (S-1/2), Less the North 650 feet thereof.

Section 11, Township 46 South, Range 24 East.

All that part of the Southwest quarter (SW-1/4) lying Westerly of Hendry Creek, Less the North 650 feet thereof.

Section 14, Township 46 South, Range 24 East.

All that part Westerly of Hendry Creek.

Section 15, Township 46 South, Range 24 East.

All of the Section.

Section 16, Township 46 South, Range 24 East.

All of the Section.

Section 17, Township 46 South, Range 24 East.

All of the Section, Less the Northwest quarter (NW-1/4) thereof.

Section 18, Township 46 South, Range 24 East.

All of the South half (S-1/2) Easterly of Hurricane Bay.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

Section 19, Township 46 South, Range 24 East.

All the East half (E-1/2) Easterly of Hurricane Bay and Northerly of Matanzas Pass.

Section 20, Township 46 South, Range 24 East.

All of the section, less Hurricane Bay, Hell Peckney Bay and that part on Estero Island.

Section 21, Township 46 South, Range 24 East.

All of the Section, less Hell Peckney Bay.

Section 22, Township 46 South, Range 24 East.

All of the Section.

Section 23, Township 46 South, Range 24 East.

All of the Section Westerly of the Hendry Creek and Rocky Bay.

Section 26, Township 46 South, Range 24 East.

All of the Section, less Estero Bay.

Section 27, Township 46 South, Range 24 East.

All of the Section, less Estero Bay.

Section 28, Township 46 South, Range 24 East.

All of the section, less Hell Peckney Bay, Estero Bay and that part on Estero Island.

Section 29, Township 46 South, Range 24 East.

All that part Northerly of Matanzas Pass.

Section 1, Township 46 South, Range 25 East.

All the Section, Less the South 1320 feet thereof.

Section 2, Township 46 South, Range 25 East.

All the Section, Less the South 1320 feet thereof.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

Section 3, Township 46 South, Range 25 East.

All the Section, Less the South 1320 feet thereof.

Section 4, Township 46 South, Range 25 East.

All the Section, Less the South 1320 feet thereof.

AND LESS:

All that part of Section 4 being described as follows:

From the southwest corner of Section 4, Township 46 South, Range 25 East run N 00° 16' 32" W along the west line of said Section 4 for 1,320 feet, more or less, to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 4 and the Point of Beginning.

From said Point of Beginning continue N 00° 16' 32" W along the west line of said Section 4 for 1,150.27 feet; thence run N 89° 47' 16" E for 1,014.22 feet; thence run S 00° 16' 32" E for 1,050.20 feet to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 4; thence run S 89° 47' 01" W along said parallel line for 1,014.22 feet to the Point of Beginning.

Bearings hereinabove mentioned are based on the west line of Section 4, Township 46 South, Range 25 East to bear N 00° 16' 32" W.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

Section 5, Township 46 South, Range 25 East.

All the Section, Less the South 1320 feet thereof.

AND LESS:

All that part of Section 5 being described as follows:

From the south quarter (S-1/4) corner of Section 5, Township 46 South, Range 25 East run N 89° 47' 03" E along the south line of Section 5 for 1,632.63 feet; thence run N 00° 16' 03" W for 1,320 feet, more or less to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 5 and the Point of Beginning.

From said Point of Beginning continue N 00° 16' 03" W for 1,150.11 feet; thence run N 89° 47' 16" E for 1,106.69 feet to an intersection with the east line of said Section 5; thence run S 00° 16' 32" E along said east line for 1,150.27 feet to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 5; thence run S 89° 47' 03" W along said parallel line for 1,017 feet, more or less, to the Point of Beginning.

Bearings hereinabove mentioned are based on the south line of Section 5, Township 46 South, Range 25 East to bear N 89° 47' 03" E.

Section 6, Township 46 South, Range 25 East.

All of the East half (E-1/2), Less the South 1320 feet thereof.

Section 7, Township 46 South, Range 25 East.

All that part of the North half (N-1/2) lying Westerly of a line 1000 feet Westerly from and parallel with the Westerly right-of-way line of U.S. 41 (State Road 45).

Section 8, Township 46 South, Range 25 East.

All of the West half (W-1/2) of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4).

Section 5, Township 46 South, Range 26 East.

The West half (W-1/2), Less the South 1320 feet thereof.

Section 6, Township 46 South, Range 26 East.

All the Section, Less the South 1320 feet thereof.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WASTEWATER SERVICE AREA

Section 8, Township 46 South, Range 24 East.

All that part of the Southeast quarter (SE-1/4), Less the North 650 feet thereof.

Section 9, Township 46 South, Range 24 East.

All that part of the South half (S-1/2), Less the North 650 feet thereof.

Section 10, Township 46 South, Range 24 East.

All that part of the South half (S-1/2), Less the North 650 feet thereof.

Section 11, Township 46 South, Range 24 East.

All that part of the Southwest quarter (SW-1/4) lying Westerly of Hendry Creek, Less the North 650 feet thereof.

Section 14, Township 46 South, Range 24 East.

All that part Westerly of Hendry Creek.

Section 15, Township 46 South, Range 24 East.

All of the Section.

Section 16, Township 46 South, Range 24 East.

All of the Section.

Section 17, Township 46 South, Range 24 East.

All of the Section, Less the Northwest quarter (NW-1/4) thereof.

Section 18, Township 46 South, Range 24 East.

All of the South half (S-1/2) Easterly of Hurricane Bay.

Section 19, Township 46 South, Range 24 East.

All the East half (E-1/2) Easterly of Hurricane Bay and Northerly of Matanzas Pass.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WASTEWATER SERVICE AREA

Section 20, Township 46 South, Range 24 East.

All of the Section, less Hurricane Bay, Hell Peckney Bay and that part on Estero Island.

Section 21, Township 46 South, Range 24 East.

All of the Section, less Hell Peckney Bay.

Section 22, Township 46 South, Range 24 East.

All of the Section.

Section 23, Township 46 South, Range 24 East.

All of the Section Westerly of the Hendry Creek and Rocky Bay.

Section 26, Township 46 South, Range 24 East.

All of the Section, less Estero Bay.

Section 27, Township 46 South, Range 24 East.

All of the Section, less Estero Bay.

Section 28, Township 46 South, Range 24 East.

All of the Section, less Hell Peckney Bay, Estero Bay and that part on Estero Island.

Section 29, Township 46 South, Range 24 East.

All that part Northerly of Matanzas Pass.

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GULF UTILITY COMPANY

TERRITORY DELETION

WATER SERVICE AREA

Section 8, Township 46 South, Range 25 East.

All of the West half (W-1/2) of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4)