

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment  
of Certificate No. 420-W to add  
territory in Highlands County by  
Heartland Utilities, Inc.

DOCKET NO. 980433-WU  
ORDER NO. PSC-98-0797-FOF-WU  
ISSUED: June 8, 1998

The following Commissioners participated in the disposition of  
this matter:

J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

ORDER AMENDING CERTIFICATE TO INCLUDE ADDITIONAL TERRITORY  
AND  
NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING SPECIAL SERVICE AVAILABILITY AGREEMENT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service  
Commission that the action discussed herein, approving the service  
availability agreement, is preliminary in nature 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

Heartland Utilities, Inc. (Heartland or utility) is a Class C  
utility which provides water service to approximately 657 water  
customers. Wastewater service is provided by septic tanks. The  
utility's 1996 annual report shows an annual operating revenue of  
\$142,240 and a net operating income of \$741. The utility seeks to  
amend Certificate No. 420-W to provide service to a new area in  
Highlands County. Eighteen residents have contaminated wells in  
this area.

DOCUMENT NUMBER-DATE

06115 JUN-88

PSC-RECORDS REPORTING

SPECIAL SERVICE AVAILABILITY AGREEMENT

On April 13, 1998, the Florida Department of Environmental Protection (DEP) entered into a Special Service Availability Agreement with Heartland Utilities, Inc., in order to provide primary funding for a new water supply system to serve eighteen (18) individuals with contaminated wells. Pursuant to Section 376.307, Florida Statutes, the DEP Water Supply Restoration Program is authorized to expend funds from the Water Quality Assurance Trust Fund to restore or replace contaminated potable water systems. This statute provides for subsidies to connect these potable water supplies to existing public water supply systems or extensions thereof, provided that no such subsidy shall exceed the present worth of the 10-year cost of providing and maintaining filters for the residents served by the connections. The 10-year present worth cost of providing filters to one-half of the developable vacant lots in the Sebring Lakes Subdivision is \$250,000.

The provisions of the Special Service Availability Agreement are that the DEP will pay the utility's Commission-approved \$500 meter installation charge which includes a plant capacity charge, and also where required by the DEP District office pay \$150 for a backflow prevention device for each of the 18 customers. Heartland does not have a tariff charge for backflow prevention devices. However, the DEP may require that these devices be installed in the case of contaminated wells. The total cost to provide the connection charges is \$11,700. Pursuant to Section 376.307, Florida Statutes, the remaining portion to be paid by the DEP is \$238,300 which is the difference in total funding available and the maximum connection fees to be paid by the Department. The total estimated amount including engineering and construction costs associated with the new water supply system is approximately \$320,500. Heartland has a \$50,000 line of credit with Highlands Independent Bank of Sebring that will be used to pay for the additional costs. The utility will pay any remaining costs.

The Special Service Availability Agreement was necessary for two reasons. First, the utility does not have a separate plant capacity charge. The DEP agreement would cover the service availability charges and provide for recovery of a substantial portion of the engineering and construction costs of the main extension and the water plant expenses, which would then be donated to the utility. Second, the installation of backflow prevention

devices required by the DEP is not authorized by the utility's tariff.

#### APPLICATION

The application filed pursuant to Rule 25-30.036(3), Florida Administrative Code, 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. The application contains a check in the amount of \$500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. Heartland has provided a copy of a warranty deed which provides 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. The territory which Heartland has requested to serve is shown on Attachment A of this Order, which by reference is incorporated herein. 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, Heartland provided proof of compliance with the noticing requirements set forth in Rule 25-30.030, Florida Administrative Code. The local planning agency was provided notice of the application and did not file a protest to the amendment. The Department of Community Affairs has reviewed the application and indicates the public water system will be an advancement in the improvement of health and safety of the residents and the application should not contribute to urban sprawl in the area. The DEP has no outstanding notices of violation against this system, since it has not yet been built.

The Heartland utility system was transferred to Mr. and Mrs. Short in 1989 and Heartland recently completed a staff assisted rate case. The recent rate case has allowed the utility to be in a better financial position. The current facilities are operated by Mr. Short who holds a Class A drinking water operator license. Mr. Short and two other partners started Short Environmental Laboratories, Inc. in 1989. Today, the operating budget for the lab is \$700,000 a year.

The new water treatment plant will have a design capacity of 200,000 gallons per day (gpd). At present there are approximately 40 homes and 300 additional building sites. The Sebring Lakes water treatment and water distribution systems will be stand alone systems and will not be interconnected with the utility's existing systems. Therefore, it appears that this amendment will have not negative effect on the financial and technical ability of Heartland to provide service to the customers in the additional territory.

In accordance with Rule 25-30.036(2), Florida Administrative Code, a request for service expansion shall be considered approved if no protest is timely filed to the application. No protests have been filed and the time for such has expired. Based on the foregoing, we believe that it is in the public interest to grant the application of Heartland for amendment of Water Certificate No. 420-W, to add the additional territory described in Attachment A. Heartland has returned the certificate to the Commission for entry reflecting the additional territory.

#### RATES AND CHARGES

Heartland's approved rates became effective on January 1, 1997, pursuant to Order No. PSC-96-1389-FOF-WU, issued November 19, 1996 in Docket No. 960517-WU, a staff assisted rate case. The utility's approved charges were effective December 11, 1989, pursuant to Order No. 22043, issued October 10, 1989 in Docket No. 880459-WU, a transfer case. Heartland shall charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. The utility will file revised tariff sheets reflecting the additional territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Heartland Utilities, Inc.'s application for amendment of Certificate No. 420-W, shall be approved to include the territory described in Attachment A of this Order. It is further

ORDERED that the Special Service Availability Agreement between Heartland Utilities, Inc. and the Department of Environmental Protection is hereby approved. It is further

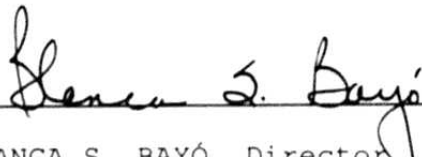
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ORDERED that Heartland Utilities, Inc. shall charge the customers in the additional territory the rates and charges as approved in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided in 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of June, 1998.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

SRF

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.

As identified in the body of this order, our action approving the special service availability agreement 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 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 29, 1998. 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.

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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.



**ATTACHMENT A**

**HEARTLAND UTILITIES, INC**

**HIGHLANDS COUNTY**

**WATER SERVICE AREA FOR SEBRING LAKES**

A PORTION OF SEBRING LAKES UNIT 1-A, 1-B, 2-A, 2-B, AND 2-C LOCATED IN HIGHLANDS COUNTY, FLORIDA, SECTIONS 3 AND 4, TOWNSHIP 36 SOUTH, RANGE 29 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 36 SOUTH, RANGE 29 EAST, THENCE NORTH  $00^{\circ} 29' 23''$  EAST ALONG THE EAST LINE OF SECTION 3 A DISTANCE OF 1298.93 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 27, THENCE NORTH  $31^{\circ} 32' 59''$  WEST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 27 A DISTANCE OF 400 FEET MORE OR LESS TO A POINT ON THE NORTH LINE OF JOSEPHINE CREEK AND FOR A POINT OF BEGINNING:

THENCE CONTINUE NORTH  $31^{\circ} 32' 59''$  WEST ALONG SAID WEST RIGHT-OF-WAY LINE U.S. HIGHWAY 27 A DISTANCE OF 1264.43 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 1/2 OF SECTION 3; THENCE SOUTH,  $89^{\circ} 41' 36''$  WEST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF SECTION 3 A DISTANCE OF 3155.71 FEET TO THE SOUTHEAST CORNER OF THE WEST 1/2 OF THE NORTHWEST 1/4 THENCE NORTH  $0^{\circ} 53' 45''$  EAST ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHWEST 1/4 A DISTANCE OF 669.33 FEET, TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE SOUTH  $89^{\circ} 46' 12''$  WEST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 1331.90 FEET TO A POINT ON THE WEST LINE OF SECTION 3; THENCE NORTH  $1^{\circ} 01' 32''$  EAST ALONG THE WEST LINE OF SECTION 3 A DISTANCE OF 2013.48 FEET TO THE NORTHWEST CORNER OF SECTION 3; ALSO BEING THE NORTHEAST CORNER OF SECTION 4; THENCE SOUTH  $89^{\circ} 55' 46''$  WEST ALONG THE NORTH LINE OF SECTION 4 FOR A DISTANCE OF 570 FEET TO A POINT ON THE EASTERLY LINE OF JOSEPHINE CREEK; THENCE RUN SOUTHWESTERLY ALONG THE EASTERLY LINE OF JOSEPHINE CREEK A DISTANCE OF 2,400 FEET, MORE OR LESS, THENCE SOUTHERLY ALONG THE EASTERLY LINE OF JOSEPHINE CREEK A DISTANCE OF 900 FEET; THENCE EASTERLY ALONG THE NORTHERLY LINE OF JOSEPHINE CREEK A DISTANCE 8,100 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.  
CONTAINING 250 ACRES MORE OR LESS.