

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment of Certificate Nos. 236-W and 179-S to extend service area in St. Johns County by United Water Florida Inc.

DOCKET NO. 981637-WS  
ORDER NO. PSC-99-0528-PCO-WS  
ISSUED: March 18, 1999

ORDER GRANTING MOTION FOR ACKNOWLEDGMENT OF PARTY STATUS

On November 18, 1998, United Water Florida Inc. (UWF or utility), filed an application for amendment of Certificate Nos. 236-W and 179-S to extend its service area in St. Johns County. On December 17, 1998, St. Johns County (County) submitted a letter that included Resolution No. 98-226, in which the County timely objected to UWF's application. A hearing has been scheduled for June 30 through July 2, 1999.

On January 29, 1999, the County filed a Motion for Acknowledgment of Party Status and/or Petition for Intervention (Motion/Petition) pursuant to Sections 367.045, 120.569, and 120.57(1), Florida Statutes, and Rules 25-22.039 and 25-22.036, Florida Administrative Code (however, the portion of Rule 25-22.036, Florida Administrative Code, that the County is referencing has been replaced by Rule 28-106.201, Florida Administrative Code). On February 10, 1999, UWF filed a response in opposition to the County's Motion/Petition pursuant to Rule 28-106.204, Florida Administrative Code. On February 16, 1999, the County filed a reply to UWF's response in opposition to the County's Motion/Petition.

In support of its Motion/Petition, the County states that it filed with the Commission, on December 17, 1998, a letter and Resolution No. 98-226, in which the County objected to UWF's application to extend its service territory and described how the proposed expansion conflicts with the County's local comprehensive plan. The County further argues that because an administrative hearing had already been requested by Intercoastal Utilities, Inc., the County's timely objection made it a party to this matter by operation of law pursuant Section 367.045(4), Florida Statutes. Moreover, the County states that its substantial interests are affected by UWF's application because the County currently serves customers in proximity to UWF's proposed area of expansion, and it

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alleges that it has been requested by several customers to provide service to area included in UWF's amendment application.

In its response in opposition to the County's Motion/Petition, UWF states that the County failed to file a legally sufficient objection to UWF's amendment application within the 30-day time period specified in Section 367.045(4), Florida Statutes. The utility contends that the letter and Resolution No. 98-226, submitted by the County on December 17, 1998, do not comply with Section 367.045(4), Florida Statutes, because they fail to request a proceeding pursuant to Section 120.569 or Section 120.57, Florida Statutes, and do not conform to Rule 28-106.201, Florida Administrative Code. Moreover, UWF asserts that the County did not explicitly allege in the December 17, 1998 letter or in Resolution No. 98-226 that UWF's amendment application was inconsistent with any local comprehensive plan. UWF further states that if the County is allowed to participate in this matter, it should take the case as it finds it and should not be allowed to raise new issues, such as the alleged inconsistency of UWF's application with the County's local comprehensive plan.

As noted above, the County filed a reply to UWF's response in opposition to the County's Motion/Petition. However, the County's reply is not addressed herein because it is not an authorized filing under Chapter 28-106, Florida Administrative Code.

The County timely filed an objection to UWF's amendment application pursuant to Rule 25-30.031, Florida Administrative Code. When written objections to a notice of application are filed pursuant to Rule 25-30.031, Florida Administrative Code, a hearing is automatically scheduled. Thus, the County is a party to this proceeding, and its Motion for Acknowledgment of Party Status is granted.<sup>1</sup>

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<sup>1</sup> By letter and Resolution No. 98-226, filed on December 17, 1998, objecting to UWF's application and indicating that the proposed expansion of territory is "described as a future County service area in 1994's County Utility Master Plan," the County reserved its right under Section 367.045, Florida Statutes, to raise the issue of whether the proposed amendment is consistent with the County's comprehensive plan.

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Because the County's Motion for Acknowledgment of Party Status has been granted, the County's Petition for Intervention is now moot.

All parties to this docket shall furnish copies of all pleadings and other documents that are hereinafter filed in this proceeding to Suzanne Brownless, Esquire, 1311-B Paul Russell Road, Suite 201, Tallahassee, Florida 32301.


Based on the foregoing, it is

ORDERED by Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, that St. Johns County's Motion for Acknowledgment of Party Status in this docket is hereby granted. It is further

ORDERED that St. Johns County's Petition for Intervention is moot. It is further

ORDERED that all parties to this docket shall furnish copies of all pleadings and other documents that are hereinafter filed in this proceeding to Suzanne Brownless, Esquire, 1311-B Paul Russell Road, Suite 201, Tallahassee, Florida 32301.

By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 18th day of March, 1999.

  
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E. LEON JACOBS, JR.  
Commissioner and Prehearing Officer

( S E A L )

SAM

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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 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.

MEMORANDUM

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March 4, 1999

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (GERVASI) *pes S.M.*

RE: DOCKET NO. 981637-WS - APPLICATION FOR AMENDMENT OF  
CERTIFICATE NOS. 236-W AND 179-S TO EXTEND SERVICE AREA  
IN ST. JOHNS COUNTY BY UNITED WATER FLORIDA, INC.  
*99-0528-PCO*

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Attached is an ORDER GRANTING MOTION FOR ACKNOWLEDGMENT OF PARTY STATUS, to be issued in the above-referenced docket.

(Number of pages in order - 4)

RG/lw

*See 1*

Attachment

cc: Division of Water and Wastewater (Redemann)

I:981637OR.RG

**MUST GO TODAY**

*forward  
wanted 6/6*

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Number of Originals 4 Date 3, 23, 99 Copies Per Original 16  
Requested By [Signature]

Item Presented \_\_\_\_\_  
Agenda For (Date) \_\_\_\_\_ Order No. 99-0528 In Docket No. 981637  
Notice of \_\_\_\_\_ For (Date) \_\_\_\_\_ In Docket No. \_\_\_\_\_  
Other \_\_\_\_\_

Special Handling Instructions

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Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>16</u>	<u>Commission Offices</u>	<u>--</u>	_____
	<u>Docket Mailing List - Mailed</u>		_____
<u>(6)</u>	<u>Docket Mailing List - Faxed</u>		_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 192 Verified By W.S.  
Date and Time Completed 3-26 Job Checked For Correctness and Quality (Initial) \_\_\_\_\_

Mail Room Verification

Date Mailed \_\_\_\_\_ Verified By \_\_\_\_\_