



Public Service Commission

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RECORDS AND REPORTING

DATE: APRIL 22, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAY)

FROM: DIVISION OF WATER AND WASTEWATER (REDEMANN) *RRR*
DIVISION OF LEGAL SERVICES (VACCARO) (CROSBY) *JW* *RB*

RE: DOCKET NO. 981994-WU - APPLICATION FOR AMENDMENT OF CERTIFICATE NO. 27-W TO EXTEND SERVICE AREA IN LEE COUNTY BY FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION. COUNTY: LEE

AGENDA: MAY 4, 1999 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\981994.RCM

CASE BACKGROUND

Florida Cities Water Company - Lee County Division (Florida Cities or utility) provides water and wastewater service in North and South Lee County and serves approximately 18,788 water customers. Florida Cities Water Company includes the Barefoot Bay, Golden Gate and Lee County Divisions. The annual report for 1997 shows that the annual operating revenue for the Lee County water system is \$8,674,000 and the net operating income is \$2,191,000. The utility is a Class A utility company under Commission jurisdiction.

On December 7, 1994, Florida Cities filed with the Commission an application for extension of service in Lee County to include certain service areas to which Florida Cities had inadvertently extended service outside of its certificated territory as well as to certain prospective customers adjacent to such areas. Gulf

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Utility Company (Gulf) filed an objection to said application with regard to that portion of the extended area in Section 9, Township 46 South, Range 25 East, (Alico International Trade Center area (Alico)) on the grounds that such section was located within Gulf's certificated water territory. Florida Cities and Gulf entered into a Settlement Agreement under which Gulf would service this area. Alico objected to the Settlement Agreement on the grounds that it would have to pay higher service availability charges for Gulf's water service. Florida Cities, Gulf and Alico entered into an Amended Settlement Agreement (Agreement), which was approved by the Commission by Order No. PSC-95-1526-AS-WS, issued December 11, 1995, in Docket No. 941271-WS. The Agreement provided that Gulf would replace Florida Cities as Alico's water service provider within one year of the Commission's order approving settlement. The agreement also provided that Florida Cities would continue to serve Alico pending Gulf's provision of service. By letter dated April 27, 1998, Mr. D. J. Whelan of Alico informed staff that Gulf had not provided service to Alico. Staff contacted Gulf, which responded by letter on May 12, 1998. Gulf indicated that it would provide service to Alico upon Alico's payment of \$29,000 for extension of Gulf's water line to Alico's property.

On June 30, 1998, Gulf's assets were purchased by Gulf Environmental Services, Inc. (GES). The transfer to GES was acknowledged by the Commission by Order No. PSC-98-1642-FOF-WS, issued December 7, 1998, in Docket No. 980767-WS. By that order, the Commission also found that GES was a governmental authority pursuant to Section 367.171(4)(a), Florida Statutes. By letter dated July 17, 1998, GES advised the Commission staff that it had not made provisions for service to Alico and had no objection to Florida Cities' continued water service to Alico. Therefore, on December 29, 1998, Florida Cities applied for an amendment of territory to include the Alico International Trade Center area.

Staff has authority to administratively approve applications for amendment when no objections have been filed and the application is without controversy. However, given the history of this case, staff is bringing this matter to the attention of the Commission.

DISCUSSION OF ISSUES

ISSUE 1: Should Florida Cities Water Company's application for amendment of Water Certificate No. 27-W be approved?

RECOMMENDATION: Yes, Florida Cities Water Company's application should be granted for the additional water territory described in Attachment A. Florida Cities should charge the customer in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (REDEMANN)

STAFF ANALYSIS: As stated earlier, on December 29, 1998, the utility filed an application for amendment of Certificate No. 27-W to add territory in Lee County, pursuant to Rule 25-30.036(3), Florida Administrative Code. 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. The application contains a check in the amount of \$100, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided copies of warranty deeds which provide for the continued use of the land upon which the utility's facilities are located 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 territory is appended to this recommendation 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 set forth in Rule 25-30.030, Florida Administrative Code. One objection to the application was filed on January 7, 1999 by GES. Florida Cities renoticed with a corrected territory description, and no objections were received after the utility renoticed. 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 that there are no growth management

concerns related to consistency with the Lee County Comprehensive Plan. The Department of Environmental Protection has no outstanding notices of violation against this system.

According to the application, Florida Cities has the financial and technical ability to continue to provide water service to Alico. Florida Cities is a large, multi-county operation in the State of Florida, and has been in the water utility business since 1965. Florida Cities' operations are financially well supported and the technical support and expertise are firmly in place.

The Green Meadows and College Parkway Water Treatment Plants currently serve Alico through a common distribution system. During the twelve month period ending November 1998, the peak flow day was 7.594 million gallons per day (mgd). The combined treatment system can deliver 10.5 mgd. There is sufficient water treatment capacity to continue to serve Alico. As stated earlier, this customer is already being served.

Based on the above information, staff believes that the utility has the capacity and the technical expertise to continue to provide quality service to this area in the future.

The rates were last changed on August 15, 1996, as indicated in Water and Wastewater File Number WS-96-0168, by a rate reduction, pursuant to Order No. PSC-96-0859-FOF-WU, issued July 2, 1996, in Docket No. 951029-WU. 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. Florida Cities should charge the customer in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Based on the above information, staff believes that it is in the public interest to grant the application of Florida Cities for amendment of Water Certificate No. 27-W to add the additional territory described in Attachment A. The utility has returned the certificate for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed. (VACCARO, CROSBY)

STAFF ANALYSIS: No further action will be required and the docket should be closed.

FLORIDA CITIES WATER COMPANY
SOUTH FORT MYERS SERVICE AREA
LEE COUNTY
Additional Water Territory

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of Section 9, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Commencing at the Northeast corner of the aforesaid Section 9, said point being on the centerline of Alico Road (100 feet wide); thence run South $01^{\circ}11'10''$ East for 50.00 feet to the South right-of-way line of said Alico Road, thence run South $89^{\circ}49'10''$ West along said right-of-way line for 817.54 feet to the Northeast corner of Lot 25, Replat of Blocks 202 and 203, Unit 16, San Carlos Park (Unrecorded) and the Point of Beginning; thence run South $00^{\circ}10'50''$ East for 210.00 feet; to the South right-of-way line of the aforesaid Alico Road; thence run North $89^{\circ}49'10''$ East along said right-of-way line for 100.00 feet to the Point of Beginning.

The above described being Lots 25 through 30, Replat of Blocks 2020 and 203, Unit 16, San Carlos Park (Unrecorded).

Bearings based on the East line of Section 9, Township 46 South, Range 25 East, Lee County, Florida as being South $01^{\circ}11'10''$ West.

Said tract contains 21,000 square feet, more or less and is subject to easements, restrictions and reservations of record.