



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: June 21, 1999

TO: Alice Crosby, Division of Legal Services
Division of Records and Reporting

FROM: Patricia Brady, Division of Water and Wastewater

pb bbm gwl

RE: Docket No. 990397-WS, Application for transfer of water and wastewater facilities of Mangonia Park Utility Company, Inc. to the Town of Mangonia Park in Palm Beach County and request for cancellation of Certificate Nos. 078-W and 067-S.

Mangonia Park Utility Company, Inc. (Mangonia or the utility) is a Class B water and wastewater utility providing service to the Town of Mangonia Park, in Palm Beach County, Florida. According to its 1998 annual report, Mangonia serves a yearly average of 416 water and 251 wastewater customers, approximately 1,000 equivalent residential connections, with combined water and wastewater revenues of \$489,648 and a combined net operating income of \$24,747.

Mangonia was incorporated on October 17, 1969 to provide water and wastewater service to the Town of Mangonia Park (Town). The utility was issued Certificates Nos. 078-W and 067-S on April 5, 1972 pursuant to Order No. 5379 in Docket Nos. C-71490-W and C-71491-S. Its territory was subsequently amended by Order No. 5541 issued October 3, 1972 in Docket Nos. C-72393-W and C-72394-S. A later request to amend its wastewater service territory was withdrawn by the utility after the City of Riviera Beach objected to the extension. The withdrawal was acknowledged by Order No. 22232 issued November 28, 1989 in Docket No. 890657-SU. There have been no other actions affecting the utility's service territory.

On December 29, 1998, an assets purchase agreement was executed between Mangonia and Utilities, Inc. On December 30, 1998, Utilities, Inc. provided the Town with a copy of the assets purchase agreement. On February 17, 1999, the Town provided written notice to the utility that it claimed a right of first refusal pursuant to the Town's "utility franchise ordinance" issued in March of 1972. On March 29, 1999, the subject application was filed by Mangonia to transfer the utility facilities to the Town and to cancel Certificate Nos. 078-W and 067-S. Staff has verified with Utilities, Inc. that it does not intend to dispute the Town's claim to right of first refusal and its subsequent decision to acquire the utility.

The transfer occurred on March 30, 1999. The application contained a copy the assets purchase agreement executed March 26, 1999 between Mangonia and the Town. The assets of the utility were acquired for \$835,000. Authority to enter into the purchase agreement was approved by the Town Council in Resolution No. 99-10 adopted March 16, 1999. On May 19, 1999, the Town provided a copy of the recorded Warranty Deed which, as evidence of the closing, completed the filing requirements.

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Pursuant to Article II, Item 16a, of the assets purchase agreement, and as confirmed in the application, customer deposits and the interest thereon were to be transferred to the Town at the closing and the Town assumes responsibility for the disposition of such deposits and interest. The application also attests that the Town had obtained from the utility its most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes and contributions-in-aid-of-construction. The utility has no open dockets pending before the Commission and disposition of gross-up funds for contributions-in-aid-of-construction is not an issue for this utility.

Finally, the application attests that any outstanding regulatory assessment fees (RAFs), fines or refunds (of which it states there are none) will remain the responsibility of the utility after closing of the acquisition by the Town. According to Commission records, the utility is current on Annual Reports and regulatory assessment fees (RAFs) up through the end of 1998 and there are no outstanding penalties, interest or refunds owed. However, the utility will owe 1999 RAFs up through the closing on March 30, 1999. Since the utility is no longer regulated by the Commission, it will not be necessary for the utility to file a 1999 Annual Report. Instead, the payment of 1999 RAFs should be accompanied by an affidavit signed by an officer of the utility attesting to the revenues collected from January 1, 1999 up through the March 30, 1999 closing.

Based on the above, staff finds that the application is in compliance with Section 367.071, Florida Statutes, and Rule 25-30.037, Florida Administrative Code. Pursuant to Section 367.071(4)(a), Florida Statutes, the sale of facilities to a governmental authority shall be approved as a matter of right. An order should be issued within thirty days acknowledging the transfer of facilities from Mangonia Park Utility Company, Inc. to the Town of Mangonia Park and the cancellation of Certificate Nos. 078-W and 067-S. Furthermore the docket should be closed upon the issuance of the order.

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cc: Division of Water and Wastewater (Chase)