

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: AUGUST 26, 1999

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

FROM: DIVISION OF WATER AND WASTEWATER (MUNROE, BRADY) *pb*
DIVISION OF LEGAL SERVICES (CIBULA) *SMCIB*

RE: DOCKET NO. 981343-WU - APPLICATION FOR AMENDMENT OF
CERTIFICATE NO. 491-W TO ADD TERRITORY IN GULF COUNTY BY
LIGHTHOUSE UTILITIES COMPANY, INC.
COUNTY: GULF

AGENDA: 9/7/99 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\981343.RCM

RECEIVED
AUG 25 PM 4:23
TELETYPE UNIT
FPC-RECORDS/REPORTING
10142

DOCUMENT NUMBER-DATE
10142 AUG 25 99
FPC-RECORDS/REPORTING

CASE BACKGROUND

Lighthouse Utilities Company, Inc., (Lighthouse or utility) is a Class B water utility currently serving approximately 667 primarily residential customers in the Cape San Blas area of southern Gulf County. According to its 1998 Annual Report, the utility's operating revenues were \$250,630 with a net operating income of \$88,013.

On October 14, 1998, Lighthouse filed an application, pursuant to Section 367.045, Florida Statutes, to amend Certificate No. 491-W to extend its service territory. The stated purpose of the extension was, "to enable Lighthouse to be prepared for the anticipated growth in said area." On July 1, 1999, the utility filed a letter withdrawing its application for amendment. The letter also requested the return of the \$200.00 filing fee.

Pursuant to Section 2.07(C)(6)(d) of the Administrative Procedures Manual, staff may administratively close dockets in which the applicant seeks to withdraw its initial pleading as long as there are no pending issues that need to be addressed by the Commission, no requests for refund of filing fees, and no agency actions taken. Since a request for refund of the filing fee has been made, this recommendation is being brought to the Commission for acknowledgment of Lighthouse's withdrawal of its amendment application and for consideration of the utility's request for a refund of the filing fee.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge Lighthouse Utilities Company, Inc.'s, withdrawal of its amendment application and refund the filing fee?

RECOMMENDATION: The Commission should acknowledge Lighthouse Utilities Company, Inc.'s, withdrawal of its amendment application. The refund of the filing fees should be denied. (BRADY, CIBULA)

STAFF ANALYSIS: As stated in the Case Background, Lighthouse filed an application for extension of its territory on October 14, 1998. Pursuant to Rule 25-30.020, Florida Administrative Code, the application was accompanied by a filing fee of \$200.00. However, the application was not accompanied by proof of noticing pursuant to Section 367.045(2), Florida Statutes, and Rule 25-30.030, Florida Administrative Code. On July 1, 1999, the utility filed a letter withdrawing its amendment application and requesting a refund of the \$200.00 filing fee.

When a utility requests a refund of its filing fee, the request is analyzed in terms of the amount of time and work that staff has devoted to processing the utility's application. In cases where staff has not yet committed significant time and effort, such as where only the Case Assignment and Scheduling Record has been established, the Commission has refunded the utility's application fee. See Order No. PSC-95-0466-FOF-WU, issued April 12, 1995, in Docket No. 950015-WU. See also, Order No. 20717, issued February 9, 1989, in Docket No. 880830-WS (finding that Commission practice is to refund a filing fee if no significant time and effort have been spent on a case); and Order No. 19133, issued April 12, 1988, in Docket No. 871326-SU (directing that the filing fee be refunded, as virtually no Commission staff time or resources had been expended).

However, where staff has devoted a significant amount of time in processing the application, the Commission has denied the refund of the filing fee. See Order No. 20717, issued February 9, 1989, in Docket No. 880830-WS and Order No. PSC-94-0776-FOF-WS, issued June 22, 1994, in Docket No. 931198-WS. In Docket No. 931198-WS, staff expended a considerable amount of time processing

DOCKET NO. 981343-WU
DATE: AUGUST 26, 1999

deficiencies and an audit of the utility's books and records had been completed.

Similar to Docket No. 931198-WS, Lighthouse's application contained several major deficiencies, the most significant of which were that notice of the filing was never given and there was no evidence of immediate need. And, although amendment applications do not require an audit to establish rate base, they do require a degree of engineering review as well as a review of need by the Department of Community Affairs. Both of these reviews had been completed.

During the period between the filing on October 14, 1998 and the withdrawal on July 1, 1999, multiple staff members and agencies expended considerable effort in evaluating the filing, generating correspondence and engaging in conversations with the utility and its representatives in an attempt to resolve deficiencies and clarify the purpose of the filing. As a result, but for the absence of the notice required by statute and rule, staff was prepared to bring a recommendation to the Commission on the available data.

Based on this level of effort and Commission practice with regard to refunding filing fees, staff believes it would be unreasonable and inconsistent to recommend a refund. However, it is possible the utility may have occasion before too long to file another application for amendment for a portion of the territory in this application. If the utility files for another territory amendment, it always has the option to request a waiver of the filing fee pursuant to Section 120.542, Florida Statutes.

Thus, staff recommends the Commission acknowledge Lighthouse's withdrawal of its application for amendment of Certificate No. 491-W and deny the request for a refund of the filing fee.

DOCKET NO. 981343-WU
DATE: AUGUST 26, 1999

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed because no further action is required. (CIBULA)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, this docket should be closed because no further action is required.