

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for  
acknowledgment of transfer of  
receivership of Enterprise  
Utilities Corporation (Deltona)  
from Florida Water Services  
Corporation to Volusia County  
and cancellation of Certificates  
Nos. 316-W and 264-S.

DOCKET NO. 000242-WS  
ORDER NO. PSC-00-1375-FOF-WS  
ISSUED: July 31, 2000

The following Commissioners participated in the disposition of  
this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

ORDER ACKNOWLEDGING TRANSFER OF RECEIVERSHIP TO COUNTY  
AND CANCELLATION OF CERTIFICATES NOS. 316-S AND 264-S

BY THE COMMISSION:

BACKGROUND

Enterprise Utilities Corporation--Deltona (Enterprise or  
utility) is a Class C utility serving approximately 245 residential  
water and 141 residential wastewater customers in a community known  
as Enterprise on Stone Island in Volusia County. According to the  
utility's 1999 Annual Report, it had combined water and wastewater  
operating revenues of \$136,788 and a combined net operating income  
of \$20,039.

Pursuant to Section 367.171, Florida Statutes, Certificates  
Nos. 316-W and 264-S were issued to Enterprise on March 9, 1979, by  
Order No. 8761, in Docket No. 760255-WS. Prior to the issuance of  
certificates, the utility facilities were owned by Stone Island  
Construction Company of Volusia County, Florida (Stone Island).  
Order No. 8761 found that Enterprise had acquired the right, title,  
and interest to the utility facilities from Stone Island in lieu of  
foreclosure.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

On November 19, 1981, Mr. Chester Tomlin, President of Enterprise, notified Volusia County that he was abandoning Enterprise. Effective December 31, 1981, Mr. Dean Deakyne was appointed as the receiver. On April 29, 1982, Mr. Deakyne withdrew as receiver and the Court appointed The Deltona Corporation as the first successor receiver. On May 4, 1982, the Court appointed Deltona Utilities, Inc. (Deltona) as second successor receiver. At the time, Deltona was a subsidiary utility of The Deltona Corporation.

In 1985, MP Water Resources Corporation (MP), then known as The Topeka Group, Inc., acquired the common stock of a number of utility subsidiaries owned by The Deltona Corporation, including Deltona. By Order No. 22307, issued December 12, 1989, in Docket No. 881501-WS, this Commission approved the transfer of majority organizational control. MP was also the parent company of Southern States Utilities, Inc. (SSU). On July 15, 1992, when SSU merged with Deltona, SSU became the third successor receiver for Enterprise. By Order No. PSC-97-0427-FOF-WS, issued April 16, 1997, in Docket No. 970028-WS, we approved SSU's request to change its name to Florida Water Services Corporation (FWSC).

On April 24, 1998, FWSC filed a petition to withdraw as receiver for Enterprise in the Circuit Court of the Seventh Judicial Circuit in and for Volusia County (Court). We and Volusia County (County) intervened in the resulting Case No. 81-5258-CA-01. The Court granted FWSC's petition to withdraw as receiver effective February 29, 2000, and appointed the County as fourth, and current, successor receiver. As a result, this docket was opened on February 22, 2000, to acknowledge the appointment of the County as substitute receiver and to address cancellation of the utility's certificates.

#### TRANSFER OF RECEIVERSHIP AND CANCELLATION OF CERTIFICATES

As noted previously, on April 24, 1998, FWSC filed a petition with the Court to withdraw as receiver for Enterprise. At the time, FWSC had received notice from the Department of Environmental Protection (FDEP) concerning deficiencies with Enterprise's effluent disposal system and related facilities. According to its petition, FWSC stated that it and the FDEP had agreed that interconnection to FWSC's Deltona Lakes Wastewater facilities was necessary to resolve these concerns. FWSC estimated that up to \$1 million of capital investment would be necessary to maintain

environmental compliance with the FDEP's laws, rules, and regulations.

FWSC's petition also stated that, in 1995, it had filed a rate increase application with this Commission which included rate relief for expenses and past capital expenditures at the Enterprise facilities. The petition further stated that, in July of 1996, we ordered that Enterprise's plant and facilities not be considered for rate relief because FWSC could relinquish the receivership, thereby giving up any claim to the facilities or customers. Due to this action, FWSC stated it believed it could not continue to run the Enterprise facilities. FWSC was also doubtful that we would permit recovery of the additional capital investment necessary to maintain environmental compliance.

In our petition for intervention in Circuit Court Case No. 81-5258-CA-01, we indicated that we had no objection to FWSC's request to withdraw as receiver. However, we stated that we had an obligation to bring to the Court's attention certain misstatements and omissions of fact contained in FWSC's petition. In particular, the 1996 Commission decision referenced by FWSC in its petition was our order regarding SSU's 1995 application for approval of uniform rates for 141 service areas in 22 counties. In Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS, we stated the following with regard to Enterprise's inclusion in SSU's rate base:

SSU does not own the Enterprise facilities and could relinquish the receivership. In fact, the utility stated that it is in the process of preparing the necessary documents to transfer the receivership of Enterprise. Because the utility does not own the facility, and appears ready to relinquish its receivership, we find it appropriate to remove the Enterprise facility from this docket. We note that Enterprise is a Class C utility and as such can file for a Staff Assisted Rate Case (SAR) at a later date. (Emphasis added.)

As indicated above, the County also intervened in FWSC's Court petition. The County's primary concern had to do with a 1991 Service Area Agreement (Agreement) that FWSC's predecessors had entered into with the County. The Agreement designated an area of Volusia County called the Deltona Service Area for FWSC to provide current and future water and wastewater service. Enterprise was included within this service area. The intent of the Agreement was

to prevent the needless and wasteful expenditures from unrestrained competition between two utilities. Further the parties agreed to adopt the least restrictive means available for consumers to obtain safe, efficient, economical, and sufficient water and wastewater service.

At the July 17, 1998, hearing on the matter, the Court requested that we and the County file preliminary reports addressing the need, expense and potential funding under our respective jurisdictions for an interconnection of Enterprise to a regional wastewater treatment facility. In August of 1998, representatives of our staff, the County, the FEP and FWSC met regarding this matter. It was generally agreed that it was necessary for Enterprise to connect its wastewater system to a larger effluent disposal system. Because of the Agreement between the County and FWSC, described above, FWSC had the only such facility in the area. According to FWSC's estimates given to our staff, the cost of such an interconnection would run from \$1,325,000 to \$2,000,000.

Our staff submitted its report to the Court on August 20, 1998 and the County submitted its report on August 25, 1998. Both reports agreed that, in addition to there being a limited number of buildable lots, many lots were on septic which continued to be permitted on Stone Island. This situation adversely affects the ability of the utility to spread the cost of capital projects. Our staff's report contained its best estimate of the costs associated with the implementation of either a surcharge or a standard rate increase. Regardless of the scenario, the costs associated with either were extremely high relative to customers' existing rates.

The County's report indicated that the time-frame for the corrective action required by the FDEP would likely eliminate certain options for low interest loans available to publicly-owned utilities. Under a conventional loan, the County did not believe that FWSC, as receiver, could be compelled to provide the additional security which may be needed over and above the pledge of future utility rates. Both the reports recommended that the County examine public financing through special assessment or a special taxing district. However, the threshold issue would be the legality of a local government to fund a project for an entity other than a publicly owned utility. Under our jurisdiction, Enterprise was a privately-owned, for-profit utility.

On September 2, 1998, a petition by the Committee for Responsible Resolution of Enterprise Utilities, Inc. sought a temporary delay in the Court proceedings to enable the affected property owners to research and obtain counsel to represent their interests. The Court appointed Mr. C. Allen Watts, Esquire, as the attorney ad litem for the ratepayers. On February 14, 2000, the Court granted FWSC's petition to withdraw as receiver for Enterprise and appointed Volusia County as the successor receiver. The effective date of the transfer was February 29, 2000. FWSC was also required to file a final accounting within sixty (60) days over which the Court reserved jurisdiction to the extent the Court had jurisdiction in these matters.

On February 22, 2000, this docket was established to acknowledge the appointment of the County as successor receiver. The County reported to our staff that, as soon as jurisdiction was transferred, the utility qualified for Statewide funding to help pay for the interconnection with FWSC. Under new legislative procedures, a grant in the amount of \$750,000 was awarded and will be administered through the FDEP.

FWSC has filed a 1999 Annual Report on behalf of Enterprise and paid the resulting 1999 Regulatory Assessment Fees (RAFs). In addition, FWSC has prepaid 2000 RAFs on behalf of Enterprise for the portion of 2000 for which it was responsible for collection. There are no penalties, interest or refunds due. The effective date for the end of our jurisdiction is February 29, 2000. Since Enterprise will not be jurisdictional December 31, 2000, pursuant to Rule 25-30.110(3), Florida Administrative Code, an Annual Report for 2000 is not required.

There are no open dockets or issues pending before us with respect to this utility. However, the Court Case is still open pending acceptance of FWSC's final accounting by the ad litem attorney for Enterprise's ratepayers. At our staff's request, Mr. Watts filed a June 19, 2000, status report of his review in which he enumerated a number of concerns with FWSC's accounting. Mr. Watts also indicated he was in consultation with the County, as successor receiver, as to the most efficient and economical method of mutually resolving these concerns and filing a final report with the Court. Since we are still a party to the court action, we find it appropriate to leave this docket open pending disposition of the court case, after which time we authorize our staff to administratively close the docket.

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Based on the above, we acknowledge the withdrawal of FWSC as receiver for Enterprise Utilities Corporation (Deltona) and the appointment of Volusia County as successor receiver. Therefore, we cancel Certificates Nos. 316-W and 264-S effective February 29, 2000.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the withdrawal of Florida Water Services Corporation as receiver for Enterprise Utilities Corporation (Deltona) and the appointment of Volusia County as successor receiver are hereby acknowledged. It is further

ORDERED that Certificates Nos. 316-W and 264-S issued to Enterprise Utilities Corporation are hereby canceled effective February 29, 2000. It is further

ORDERED that this docket shall remain open pending the disposition of Circuit Court Case No. 81-5258-CA-01. Upon resolution of the circuit court case, our staff is authorized to administratively close this docket.

By ORDER of the Florida Public Service Commission this 31st day of July, 2000.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

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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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.