



Public Service Commission

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REGULATORY AND REPORTING

DATE: MARCH 22, 2001

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

FROM: DIVISION OF REGULATORY OVERSIGHT (JOHNSON) *BBM*
DIVISION OF LEGAL SERVICES (ESPINOZA) *JRE* *PS*

RE: DOCKET NO. 000292-WS - NOTICE OF ABANDONMENT OF WATER AND WASTEWATER SERVICES IN VOLUSIA COUNTY BY DEBARY ASSOCIATES, INC.
COUNTY: VOLUSIA

AGENDA: APRIL 03, 2001 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RG0\WP\000292.RCM

CASE BACKGROUND

DeBary Associates, Inc., (DeBary or utility) is a Class C water and wastewater utility serving the Meadowlea on the River Mobile Home Community in Volusia County (County). The Mobile Home Community residents are individually metered for service. The utility has operated under Certificates Nos. 061-W and 060-S since it was organized in 1983. According to its 1999 annual report, the utility had approximately 259 water customers and 254 wastewater customers with combined gross revenues of \$85,053 and a combined net operating loss of \$4,128.

On March 6, 2000, the attorney for the utility, Mr. Gary Shipman, sent a certified letter to the Commission's Division of Water and Wastewater, Volusia County and the City of DeBary, giving 60 days notice of the abandonment of the utility pursuant to Section 367.165, Florida Statutes, to become effective June 1, 2000. On April 7, 2000, a County representative requested that the

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 000292-WS
DATE: MARCH 22, 2000

books and records, operating permits and the keys to the facilities of the utility be turned over to the County. By May 26, 2000, all requested information had been received by the county and the County had agreed to operate the utility. The Commission acknowledged the notice of abandonment by Order No. PSC-00-1083-FOF-WS, issued June 5, 2000. The docket has remained open pending the Commission's acknowledgment of the appointment of a receiver for the utility. On May 24, 2000, the County petitioned the Circuit Court in and for Volusia County for appointment as receiver for the utility. The Circuit Court appointed the County as receiver of the utility on January 31, 2001.

Pursuant to Section 367.022(2), Florida Statutes, utility systems owned, managed, or controlled by governmental authorities are exempt from Commission regulation. This recommendation is being brought to the Commission to acknowledge the appointment of the County as the Receiver for the utility, to cancel the certificates, and to close this docket.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the appointment of Volusia County as the receiver for the utility and cancel Certificates Nos. 061-W and 060-S?

RECOMMENDATION: Yes, the Commission should acknowledge the appointment of Volusia County as the receiver for the utility and cancel Certificates Nos. 061-W and 060-S. For purposes of determining the regulatory assessment fees (RAFs), the Commission's regulation ended on June 1, 2000. The previous owner is responsible for the RAFs for the period of January through May of 2000 and should be required to file the appropriate pages from the annual report along with its 2000 RAFs form and payment. (JOHNSON, ESPINOZA)

STAFF ANALYSIS: As noted in the Case Background, notice of the intent to abandon DeBary was given on March 6, 2000 by the owner, Mr. Charles Shalett. On May 24, 2000, the County filed a Petition for Appointment of Receiver for the utility with the Circuit Court. The County began operating the utility on June 1, 2000, which was the effective date of the abandonment.

By Order dated January 31, 2001, the Circuit Court officially appointed Volusia County as the receiver for DeBary in Case No. 2000-10603-CIDL. The term of the receiver's appointment began on the date of the Circuit Court Order and is to continue until further order of the Circuit Court. In addition, the Court released the County of Volusia from posting any bond in regard to this matter and ordered the County to file an inventory and account under oath within 30 days from the date of the order and every 12 months thereafter. The County filed an inventory with the Circuit Court on March 2, 2001.

The utility is current on its annual reports and RAFs through 1999. Pursuant to Section 367.022(2) Florida Statutes, systems owned, operated, managed, or controlled by governmental authorities are exempt from regulation by the Commission. Therefore, for the purposes of determining RAFs for 2000, the Commission's regulation effectively ended June 1, 2000. The prior owner of DeBary is responsible for the RAFs for the period of January through May of 2000, pursuant to Rule 25-30.120(2), Florida Administrative Code. However, the owner is not required to file a 2000 annual report, since the utility was not jurisdictional as of December 31, 2000, pursuant to Rule 25-30.110(3), Florida Administrative Code. Therefore, in order for staff to verify the amounts paid as

DOCKET NO. 000292-WS
DATE: MARCH 22, 2000

correct, the previous owner should file revenue information using the appropriate pages from the annual report along with its 2000 RAFs form and payment.

Based upon the foregoing, staff recommends that the Commission acknowledge the appointment of Volusia County as the receiver for DeBary Associates, Inc., and cancel Certificates Nos. 061-W and 060-S. For the purpose of RAFs, Commission regulation ended June 1, 2000. The previous owner of the utility is responsible for the RAFs for the period of January through May of 2000 and should file revenue information using the appropriate pages from the annual report along with its 2000 RAFs form and payment in order for staff to verify the amounts as correct.

DOCKET NO. 000292-WS
DATE: MARCH 22, 2000

ISSUE 2: Should Docket No. 000292-WS be closed?

RECOMMENDATION: Yes, Docket No. 000292-WS should be closed.
(ESPINOZA)

STAFF ANALYSIS: The Commission acknowledged the abandonment in Order No. 00-1083-FOF-WS, issued June 5, 2000. Volusia County has operated the utility since June 1, 2000. Pursuant to Section 367.022(2), Florida Statutes, the County is not subject to this Commission's regulation. Therefore, staff recommends Docket No. 000292-WS be closed.