



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: MARCH 22, 2001

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

FROM: DIVISION OF REGULATORY OVERSIGHT (JOHNSON, REDEMANN)
DIVISION OF LEGAL SERVICES (CIBULA) *S.M.C.*

RE: DOCKET NO. 000277-WS - APPLICATION FOR TRANSFER OF FACILITIES AND CERTIFICATES NOS. 353-W AND 309-S IN LEE COUNTY FROM MHC SYSTEMS, INC. D/B/A FFEC-SIX TO NORTH FORT MYERS UTILITY, INC., HOLDER OF CERTIFICATE NO. 247-S; AMENDMENT OF CERTIFICATE NO. 247-S; AND CANCELLATION OF CERTIFICATE NO. 309-S.

AGENDA: APRIL 3, 2001 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: ATTACHMENT A IS AVAILABLE IN PDF FORMAT BY ACCESSING WWW.FLORIDAPSC.COM, DOCUMENT NO. 02788-01.

FILE NAME AND LOCATION: S:\PSC\RGO\WP\000277.RCM

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CASE BACKGROUND

MHC Systems, Inc. (MHC or utility) is a Class B utility which provides water and wastewater services in Lee County to 1,847 water and 1,839 wastewater customers. MHC's service area is a water-use caution area as designated by the South Florida Water Management District. The annual report for 1999 shows that the operating revenue was \$408,638 and \$460,317 and the net operating income was \$70,384 and \$81,391, for the water and wastewater systems respectively.

On March 2, 2000, North Fort Myers Utility, Inc. (NFMU) filed an application for approval of the transfer of facilities and Certificates Nos. 353-W and 309-S currently held by MHC Systems,

DOCUMENT NUMBER-DATE

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FPSC-RECCPDS/REPORTING

Inc. d/b/a FFEC-Six to NFMU. On May 18, 2000, Mr. Alexander William Varga, a customer, filed an objection to the transfer application. On May 30, 2000, NFMU filed a Motion to Dismiss Mr. Varga's objection. By Order No. PSC-00-1649-PCO-WS, issued September 15, 2000, the Commission denied the utility's motion. Accordingly, this matter was set for an administrative hearing.

On October 24, 2000, NFMU filed a Motion for Summary Final Order and a Request for Oral Argument on the Motion. Correspondingly, the Office of Public Counsel (OPC) filed a timely amicus response on November 6, 2000, and Mr. Varga filed an untimely response on November 8, 2000. As a result of Mr. Varga's untimely response, NFMU filed a Motion to Strike on November 11, 2000, and Mr. Varga filed a timely response to NFMU's Motion to Strike on November 20, 2000.

By Order No. PSC-00-2349-PCO-WS, issued December 7, 2000, the petitions for intervention filed by Pine Lakes Homeowners Association II, Inc. (PLHOA) and Pine Lakes Estates Homeowners' Association (PLEHOA) were granted. Further, NFMU's request for official recognition was granted in part.

By Order No. PSC-01-0360-PAA-WS, issued February 9, 2001, the Commission denied NFMU's Motion for Summary Final Order and granted the Motion to Strike. Also, by proposed agency action, Order No. PSC-01-0360-PAA-WS set rate base for the water and wastewater systems at \$754,109, and \$1,466,008, respectively, at the time of transfer, which was February 29, 2000 and excluded an acquisition adjustment from the rate base calculation if the transfer application was approved at a later date. In addition, the order stated that if the application for transfer is approved at a later date, NFMU shall continue charging the rates and charges approved for this utility system until authorized to change by this Commission in a subsequent proceeding. By Order No. PSC-01-0518-CO-WS, issued March 6, 2001, the proposed agency action portions of Order No. PSC-01-0360-PAA-WS became final and effective.

On February 27, 2001, NFMU, MHC, Mr. Varga, PLHOA, and PLEHOA filed a Joint Motion to Approve Settlement Agreement. Also, included with the Settlement Agreement was a request to hold all filings in this docket in abeyance until the Commission made a decision on the Settlement Agreement. By Order No. PSC-01-0504-PCO-WS, issued March 7, 2001, the request to hold all filings in abeyance was granted and the May 14, 2001, prehearing conference and May 31 through June 1, 2001, hearing dates were canceled.

This recommendation addresses the proposed settlement agreement and the application to transfer facilities from MHC to NFMU. The Commission has jurisdiction to consider these matters pursuant to Section 367.071, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the Joint Motion to Approve Settlement Agreement filed by North Fort Myers Utility, Inc., MHC Systems, Inc., Alexander William Varga, Pine Lakes Estates Homeowners Association, Inc., and Pine Lakes Homeowners Association, II, Inc.?

RECOMMENDATION: Yes. The Commission should grant the Joint Motion to Approve Settlement Agreement. The Settlement Agreement should be approved in its entirety. (CIBULA, JOHNSON, REDEMANN)

STAFF ANALYSIS: As stated in the case background, the parties filed a Joint Motion to Approve Settlement Agreement on February 27, 2001. The Settlement Agreement is appended to this recommendation as Attachment A. The following are some notable provisions of the Settlement Agreement.

1) NFMU shall not seek or ever collect an acquisition adjustment in this proceeding or any future docket with regard to NFMU's purchase of the utility system.

2) NFMU shall forego any indexes to be filed no later than March 31, 2001 and 2002 in the future.

Staff notes that NFMU's counsel clarified that this means that NFMU agrees not to file for an index prior to April 1, 2002.

3) NFMU shall continue to impose the rates and charges being imposed by MHC as of the date NFMU purchased the utility systems, and shall not file for rate relief until some date after March 31, 2002, except under circumstances where additional requirements or costs are imposed by duly authorized authorities which necessitate changes in operations, capital additions, purchased water, or taxes, for which NFMU may seek recovery.

4) NFMU and any successors or assigns shall continue to be bound by the provisions of the Reclaimed Water Use Agreement, dated

November 1, 1994, (Reuse Agreement) relating to the Pine Lakes Country Club (Pine Lakes) and to provide reuse water to Pine Lakes pursuant to the terms of that agreement.

5) Should NFMU abandon the wastewater plant purchased from MHC and interconnect the associated collection system to its central system, NFMU shall continue to faithfully perform all the terms and conditions of the Reuse Agreement. This continued obligation shall include but not be limited to providing at least the same quantity of reuse water for Pine Lakes that was provided by the abandoned wastewater treatment plant when it was operational.

6) Should NFMU abandon the MHC wastewater treatment plant and interconnect the associated collection system to its central system, NFMU shall not impose any connection or service availability charges upon the owners or residents of the Pine Lakes and Lake Fairways communities with respect to the existing manufactured homes, home sites and other improvements therein.

Staff notes that even without this provision in the Settlement Agreement the utility would not be authorized to go back and impose connection or service availability charges on the residents of the former MHC system if the utility interconnects after the transfer. Service availability charges are generally paid by new, not existing, customers. If the Commission approves the transfer, the MHC customers will become the customers of NFMU. Thus, NFMU would not be authorized to charge the former customers of MHC, who are now NFMU's own customers, to connect to the NFMU system.

7) Mr. Varga, PLEHOA, and PLHOA withdraw their objections to NFMU and MHC's transfer application and the application should be approved by the Public Service Commission. By executing this Settlement Agreement, all of the parties agree to the settlement and closure of Docket No. 000277-WS, and to be bound to and abide by the resolution of each issue addressed herein.

Staff believes that the terms of the Settlement Agreement represent a fair and reasonable resolution to the matter. Accordingly, staff recommends that the Commission should grant the Joint Motion to Approve Settlement Agreement. Staff recommends that the Settlement Agreement should be approved in its entirety.

ISSUE 2: Should the transfer of facilities and Certificate No. 353-W from MHC Systems, Inc. d/b/a FFEC-SIX to North Fort Myers Utility, Inc., amendment of Certificate No. 247-S and cancellation of Certificate No. 309-S, be approved?

RECOMMENDATION: Yes, the transfer of facilities and Certificate No. 353-W from MHC Systems, Inc. d/b/a FFEC-SIX to North Fort Myers Utility, Inc. should be approved. North Fort Myers Utility, Inc.'s Certificate No. 247-S should be amended and Certificate No. 309-S should be canceled. The water and wastewater territory descriptions are described in Attachment B. MHC should be responsible for payment of all regulatory assessment fees through February 29, 2000. NFMU should be responsible for payment of all regulatory assessment fees due from March 1, 2000 forward. MHC should provide NFMU the information needed in preparing the 2000 Annual Report. NFMU should be responsible for filing the 2000 Annual Report. (JOHNSON, REDEMANN)

STAFF ANALYSIS: As stated in the case background, NFMU applied for a transfer on March 2, 2000. The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer. The application contains two checks that total \$3,000, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence, in the form of a Special Warranty Deed, that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(2)(q), Florida Administrative Code.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. Objections to the application were received. If the Settlement Agreement in Issue 1 is approved, the objections are withdrawn. A description of the territory served by the utility is appended to this memorandum as Attachment B.

With regard to the purchaser's technical ability, according to NFMU, it is currently serving over 10,000 wastewater customers with a state-of-the-art wastewater system. The utility uses professional outside accounting and legal consultants with expert knowledge of the Commission's procedures. Mr. A. A. Reeves, III, is the Vice President and Utility Director of NFMU, and he has been in the utility business since 1958. MHC obtains potable water from their water treatment plant, which has a capacity of 200,000 gallons per day, and through an interconnect with Lee County Utilities. The utility obtains about 56% of the potable water from

their own wells. Staff has contacted the Lee County Health Department and has determined that there are no outstanding notices of violation against the utility for the water system. The wastewater treatment plant has a capacity of 300,000 gallons per day. Staff has contacted the Department of Environmental Protection and has learned that there are no outstanding notices of violation against the utility for the wastewater system. Consequently, staff believes the utility has demonstrated the technical ability to provide quality service to these customers.

Regarding financial ability, NFMU has the financial resources to ensure consistent compliance with environmental regulations. NFMU is a wholly-owned subsidiary of Old Bridge Park Corporation. Staff has reviewed the utility's 1999 Annual Report along with three prior annual reports on file with the Commission. While the utility reported operating revenues in 1999 of \$2,139,446 and operating expenses of \$2,265,992 resulting in an operating loss of \$126,546, for the years of 1996, 1997, and 1998, the utility experienced operating incomes of \$219,571, \$446,362, and \$326,436, respectively. Therefore, staff believes that NFMU has the financial ability to maintain compliance with PSC and environmental regulations and provide quality service to the MHC customers.

The application contains a copy of the contract for sale which includes the purchase price, terms of payment and a list of the assets purchased. The contract for sale is contingent upon the Commission's approval. The purchase closed on or about February 29, 2000. Based on the application, there are no guaranteed revenue contracts or customer deposits. According to the application, the seller (MHC) will be responsible for payment of all regulatory assessment fees through February 29, 2000, and will remit them directly to the PSC. The Buyer (NFMU) will be responsible for payment of all regulatory assessments fees due from March 1, 2000 forward. MHC will provide NFMU the information needed in preparing the 2000 Annual Report. NFMU will be responsible for filing the 2000 Annual Report. NFMU states that it will fulfill the commitments, obligations, and representations of the seller with regard to utility matters.

Based on the above, staff recommends that it is in the public interest to grant the transfer of facilities and Certificate No. 353-W from MHC Systems, Inc. d/b/a FFEC-SIX to NFMU. NFMU'S Certificate No. 247-S should be amended and Certificate No. 309-S should be canceled. The water and wastewater territory descriptions are described in Attachment B. MHC should be responsible for payment of all regulatory assessment fees through February 29, 2000. NFMU should be responsible for payment of all

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regulatory assessment fees due from March 1, 2000 forward. MHC should provide NFMU the information needed in preparing the 2000 Annual Report. NFMU should be responsible for filing the 2000 Annual Report.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. No further action is required; therefore, this docket should be closed. (CIBULA)

STAFF ANALYSIS: No further action is required; therefore, this docket should be closed.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into by and among Alexander William Varga ("Varga"), Pine Lakes Estates Homeowners Association, Inc. ("PLEHOA"), Pine Lakes Homeowners Association, II, Inc. ("HOAII"), MHC Systems, Inc. ("MHC") and North Fort Myers Utility, Inc. ("NFMU").

RECITALS

WHEREAS, NFMU has filed its "Application of North Fort Myers Utility, Inc. for Authority to Transfer Facilities and Certificate Nos. 353-W and 309-S" ("Application") with the Florida Public Service Commission ("PSC") for approval of the transfer to NFMU of the water and wastewater systems ("Utility Systems") owned by MHC, which is being processed in Docket No. 000277-WS (this "Proceeding"); and

WHEREAS, Varga filed an objection to the Application; and

WHEREAS, PLEHOA and HOAII were granted intervention in this Proceeding; and

WHEREAS, the parties desire to resolve this matter without further expense.

ACCORDINGLY, in consideration of the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

(1) NFMU shall not seek or ever collect an acquisition adjustment in this Proceeding or any future docket with regard to NFMU's purchase of the Utility Systems.

(2) NFMU shall forego any indexes to be filed no later than March 31, 2001 and 2002 in the future.

(3) NFMU shall continue to impose the rates and charges being imposed by MHC as of the date NFMU purchased the Utility Systems, and shall not file for rate relief until some date after March 31, 2002, except under circumstances where additional requirements or costs are imposed by duly authorized authorities which necessitate changes in operations, capital additions, purchased water, or taxes, for which NFMU may seek recovery.

(4) NFMU and any successors or assigns shall continue to be bound by the provisions of that certain Reclaimed Water Use Agreement dated as of November 1, 1994 ("Reuse Agreement") relating to Pine Lakes Country Club ("Pine Lakes") and to provide reuse water to Pine Lakes pursuant to the terms and obligations thereof.

(5) Should NFMU abandon the wastewater treatment plant purchased from MHC (the "WWTP") and interconnect the associated collection system with its central system, NFMU shall continue to faithfully perform all of the terms and conditions of the Reuse Agreement. This continued obligation shall include but not be limited to providing at least the same quantity of reuse water for Pine Lakes that was provided by the abandoned WWTP when it was operational.

(6) Should NFMU abandon the WWTP and interconnect the associated collection system with its central system, NFMU shall not impose any connection or service availability charges upon the owners or residents of the Pine Lakes and Lake Fairways communities with respect to the existing manufactured homes, home sites and other improvements therein.

(7) The obligations created by this Settlement Agreement shall not be binding upon any governmental successor or assign of NFMU. However to the extent any of the

prior agreements between MHC and NFMU, including the Reuse Agreement, would be binding upon a governmental successor or assign, this Settlement Agreement in no way releases a governmental successor or assign from the binding effects of any such prior agreements.

(8) Each party shall bear its own costs and expenses. NFMU shall not seek or collect from any other party or any ratepayer, in this Proceeding or in any future rate proceeding, its costs and expenses associated with this Proceeding.

(9) Varga, PLEHOA, and HOAII hereby withdraw their objection to the Application, and the Application should be approved by the PSC. By executing this Settlement Agreement, all of the parties agree to the settlement and closure of Docket No. 000277-WS, and to be bound to and abide by the resolution of each issue addressed herein.

(10) Each party hereto does hereby, for and on behalf of itself, its affiliates, parents and subsidiaries, and the respective officers, directors, shareholders, partners, members, executors, administrators, attorneys, successors and assigns of each (collectively, the "Releasing Parties"), release, remise, acquit, satisfy and forever discharge each other party hereto, its affiliates, parents and subsidiaries, and the respective officers, directors, shareholders, partners, members, executors, administrators, attorneys, successors and assigns of each (collectively, the "Released Parties"), of and from any and all manner of actions, causes, causes of action, suits, claims and demands whatsoever, in law or in equity, which any of the Releasing Parties ever had or now has, or hereafter can, shall or may have, against any of the Released Parties, for, upon or by reason of the PSC's approval of the Application and this Settlement Agreement, and the

agreed resolution of the issues raised in this case as specifically set forth in the Settlement Agreement; provided, however, that the terms of this release do not apply to the performance by the parties hereto of the obligations created by this Settlement Agreement.

(11) By executing this Settlement Agreement, neither NFMU nor MHC intends to modify or supersede in any manner any prior agreements between NFMU and MHC, including but not limited to the Reuse Agreement, that certain Agreement for Purchase and Sale of Water and Wastewater Assets dated as of December 16, 1999, and all other agreements between MHC and NFMU referenced or provided for therein, except that paragraphs (2) and (3) herein shall control over any conflicting provisions previously agreed to by MHC and NFMU. Varga, PLEHOA, and HOAII acknowledge that they are not parties to any of these prior agreements between NFMU and MHC. By executing this Settlement Agreement, neither Varga, PLEHOA, or HOAII are necessarily agreeing to the terms of any of these prior agreements.

(12) The provisions of this Settlement Agreement are not severable and shall become effective only after the PSC has entered an order approving this Settlement Agreement in total. In the event this Settlement Agreement is not approved by the PSC in whole, without modification, on or before the date 180 days after the date of this Settlement Agreement, this Settlement Agreement shall be deemed withdrawn and null and void as of such date, and in such event no party may use this proposed Settlement Agreement in this Proceeding or in any other proceeding. Following such approval by the PSC, this Settlement Agreement shall be binding upon the parties hereto and their respective shareholders/members, successors and assigns.

The parties have caused this Settlement Agreement to be made and effective on
the last dated party's signature as indicated below.

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ALEXANDER WILLIAM VARGA

Date: February 23, 2001

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PINE LAKES ESTATES HOMEOWNERS ASSOCIATION, INC.


By: Leon J. Beekman
Leon J. Beekman, President

Date: FEBRUARY 23, 2001

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DATE: March 22, 2001

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NORTH FORT MYERS UTILITY, INC.

By: 
A.A. Reeves, III, Vice President

Date: 2-27-2001

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PINE LAKES HOMEOWNERS ASSOCIATION, II, INC.

By: Jermaine Troiano, President
Jermaine Troiano, President

Date: 02/24/01

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MHC SYSTEMS, INC.

By: David W. Fell
David W. Fell, Vice President

Date: February 27, 2001

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TOTAL P.11

NORTH FORT MYERS UTILITIES, INC.
SERVING PINE LAKES AND LAKE FAIRWAYS
WATER AND WASTEWATER SERVICE AREA
LEE COUNTY

Order No. PSC-95-1271A-FOF-WS

The original territory was granted to the utility on February 11, 1983, by Order No. 11606 in Docket No. 800733-WS and an amendment of territory was granted on December 24, 1986, by Order No. 17020 in Docket No. 861440-WS. The territory was last transferred on November 3, 1995, by Order No. PSC-95-1271A-FOF-WS in Docket No. 950193-WS. The composite North Fort Myers Utility, Inc. certificated area for wastewater reflects this area.

The following described lands located in portions of Lee County, Florida

Township 43 South, Range 24 East, Sections 8 and 9, Lee County, Florida

Beginning at the southeast corner of said Section 8, and continuing south 88° 31' 00" west, 2349.04 feet; thence north 88° 31' 33" west, 1612.29 feet; thence north 0° 11' 10" east 2199.89 feet; thence south 88° 31' 33" east, 1612.32 feet; thence north 88° 31' 00" east, 2349.30 feet; thence north 0° 11' 10" east, 362.19 feet; thence south 89° 51' 50" east, 1365.22 feet; thence north 64° 05' 00" east, 380.0 feet; to the west right of way line of U.S. 41; thence south 25° 55' 00" east along said right of way line 1420.27 feet; thence south 25° 57' 31" east, 349.0 feet; thence south 64° 48' 12" west, 380.03 feet to a point on the FP&L easement; thence north 25° 57' 31" west along said easement 30.172 feet; thence south 63° 06' 47" west, 2210.44 feet; thence south 89° 59' 53" west, 155.30 feet; to the point of beginning.

Township 43 South, Range 24 East, Section 8, Lee County, Florida

Beginning at the northeast corner of that parcel described in deed recorded in Official Record Book 1086 at page 797, Lee County Records, run south 88° 31' 00" west parallel with the south line of the southeast quarter (SE 1/4) of said Section 8 along the north line of said parcel for 2349.30 feet to an intersection with a line

parallel with and 2199.89 feet north of (as measured on a line parallel with the east line of Section 8) the south line of the southwest quarter (SW 1/4) of said Section 8, said point being at the directional change on the north line of said parcel; thence run north 88° 31' 33" west along said parallel line along the north line of said parcel for 1612.32 feet to the northwest corner of said parcel; thence run south 00° 11' 10" west, parallel with the east line of said Section 8 along the west line of said parcel for 2199.89 feet to the south line of said Section 8; thence run north 88° 31' 33" west along said south line for 1032.32 feet to the southwest corner of said Section 8; thence run north 02° 22' 02" west along the west line of the southwest quarter (SW 1/4) of said Section 8 for 2689.76 feet to the northwest corner of said fraction of a section; thence run north 02° 13' 44" east along the west line of the northwest quarter (NW 1/4) for 1979.63 feet to the southwest corner of the north half (N 1/2) of the north half (N 1/2) of the north half (N 1/2) of said Section 8; thence run along the south line of said fraction of a section south 89° 31' 02" east for 2339.65 feet; thence run south 89° 51' 51" east for 2701.74 feet to the southeast corner of said fraction of a section; thence run south 00° 11' 10" west along the east line of said Section 8 for 2446.83 feet to the point of beginning. Containing 344.37 acres of land more or less.

Section 9, Township 43 South, Range 24 East, Lee County, Florida
Wolff Parcel)

From the intersection of the north line of said Section 9 and the former westerly right of way line (100 feet from the centerline) of State Road 45 run south 25° 53' 00" east along said former right of way line for 400.0 feet; thence run south 64° 07' 00" west, perpendicular with said former right of way line, for 60.00 feet to the new westerly right of way line (160 feet from the centerline) of State Road 45 as described in instrument recorded in Official Record Book 1080 at page 190, Lee County Records and the point of beginning.

From said point of beginning run south 25° 53' 00" east along said new right of way line for 360.53 feet to a point of transitional right of way width of said State Road 45; thence south 25° 30' 05" east along said transitional right of way line for 239.47 feet, thence run south 64° 07' 00" west, perpendicular with the former right of way line of said State Road 45, for 1002.93 feet to the west line of said Section 9; thence run north 00° 11' 10" east along said west line for 667.96 feet to an intersection with a line perpendicular to said former right of way line passing through the point of beginning; thence run north 64° 07' 00" east

along said perpendicular line for 710.98 feet to the point of beginning. Subject to a 100 foot Lee County Electric Cooperative Transmission Line Easement, the centerline of which being parallel with and 500 feet southwesterly of the former right of way line (100 feet from the centerline) of said State Road 45.

Section 9, Township 43 South, Range 24 East, Lee County, Florida
Salvatore Parcel)

From the intersection of the north line of said Section 9 and the former westerly right of way line (100 feet from the centerline) of State Road 45 run south $25^{\circ} 53' 00''$ east along said former right of way line for 1,000.0 feet; thence run south $64^{\circ} 07' 00''$ west, perpendicular with said former right of way line, for 61.60 feet to a point on the new right of way line as described in instrument recorded in Official Record Book 1001 at page 781, Lee County Records and the point of beginning.

From said point of beginning continue south $64^{\circ} 07' 00''$ west along said perpendicular line for 1002.93 feet to the west line of said Section 9; thence run south $00^{\circ} 11' 10''$ west along said west line for 293.45 feet to the southwest corner of the north half (N-1/2) of the northwest quarter (NW-1/4) of the southwest quarter (SW-1/4) of the northwest quarter (NW-1/4) of said Section 9; thence run south $89^{\circ} 51' 49''$ east along the south line of said fraction of a section for 827.90 feet to an intersection with a line parallel with and 450 feet southwesterly of said former right of way line; thence run north $25^{\circ} 53' 00''$ west along said parallel line for 376.53 feet to an intersection with a southwesterly prolongation of the southeasterly line of that parcel of land recorded in Deed Book 247 at page 447 of the land records of Lee County, Florida; thence run north $64^{\circ} 07' 00''$ east along said southwesterly prolongation for 386.51 feet to an intersection with the new right of way line of said State Road 45; thence run north $25^{\circ} 30' 05''$ west along said new right of way line for 250.01 feet to the point of beginning. Subject to a 100 feet Lee County Electric Cooperative Transmission Line Easement, the centerline of which being parallel with and 500 feet southwesterly of the former right of way line (100 feet from the centerline) of said State Road 45.