

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of abandonment of
water and wastewater services in
Volusia County by DeBary
Associates, Inc.

DOCKET NO. 000292-WS
ORDER NO. PSC-01-0999-FOF-WS
ISSUED: April 23, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER ACKNOWLEDGING APPOINTMENT OF RECEIVERSHIP,
CANCELLATION OF CERTIFICATES NOS. 061-W AND 061-S,
AND CLOSING DOCKET

BY THE COMMISSION:

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 utility sent a certified letter to this Commission's Division of Water and Wastewater, the 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 books and records, operating permits and the keys to the facilities of the utility be turned over to the County.

DOCUMENT NUMBER-DATE

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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 our 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 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 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 regulatory assessment fees (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 this Commission. Therefore, for the purposes of determining RAFs for 2000, this Commission's regulation effectively ended June 1, 2000.

The owner of DeBary, Mr. Charles Shalett, while no longer the operator of the utility, remains responsible for the RAFs for the period of January through May of 2000, pursuant to Rule 25-30.120(2), Florida Administrative Code. However, Mr. Shalett 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 our staff to verify the amounts paid as correct, Mr. Shalett shall file revenue information using the appropriate pages from the annual report along with its 2000 RAFs form and payment.

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Based on the above, we acknowledge the appointment of the County as the receiver for DeBary, and cancel Certificates Nos. 061-W and 060-S.

Based on the foregoing, it is

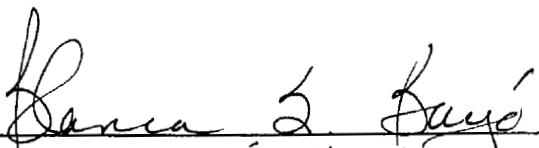
ORDERED by the Florida Public Service Commission that the appointment of Volusia County as the receiver for DeBary Associates, Inc. is hereby acknowledged. It is further

ORDERED that Certificates Nos. 061-W and 060-S, issued to DeBary Associates, Inc. are hereby canceled. It is further

ORDERED that Mr. Charles Shallet is responsible for payment of the regulatory assessment fees for the period of January through May of 2000 and shall file revenue information using the appropriate pages from the annual report along with its 2000 regulatory assessment fees form and payment in order for our staff to verify the amounts as correct. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 23rd day of April, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.