



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 23, 2001 .

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF REGULATORY OVERSIGHT (CLAPP) *Ben RFD AMT*
DIVISION OF LEGAL SERVICES (ESPINOZA) *JAE RBH*

RE: DOCKET NO. 010359-WU - NOTICE OF APPOINTMENT OF SUMTER
COUNTY AS RECEIVER FOR MAGNOLIA MANOR WATER WORKS AND
CANCELLATION OF CERTIFICATE NO. 495-W.
COUNTY: SUMTER

AGENDA: 09/04/01 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\010359WU.RCM

CASE BACKGROUND

Magnolia Manor Water Works (Magnolia Manor or utility) is a Class C utility providing service to approximately 40 water customers in Sumter County (County). Pursuant to Order No. 18707, issued January 19, 1988, in Docket No. 870889-WU, the utility was issued grandfather Certificate No. 495-W. The utility's 1999 annual report shows total gross revenues of \$8,608 with a net operating loss of \$3,510.

In Order No. 20874, issued March 10, 1989, in Docket No. 881417-WU, the Commission acknowledged the abandonment of the utility by its owner, George Wilkins, and the appointment of USA Utilities, Inc. (USA) as receiver. The appointment of USA Utilities, Inc. as receiver was also approved by the Fifth Judicial Circuit Court in and for Sumter County (Circuit Court).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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The Commission approved the name change of USA to Crystal River Utilities, Inc. (CRU) pursuant to Order No. PSC-93-1418-FOF-WS, issued September 29, 1993, in Docket No. 930614-WS. Pursuant to Order No. PSC-99-0483-FOF-WS, issued March 8, 1999, in Docket No. 981508-WS, the Commission approved the transfer of majority organizational control of CRU to AquaSource, Inc. Each of these subsequent owners assumed the responsibilities of receiver for the utility.

However, during the receivership of CRU, the property taxes for the land upon which the utility was located went unpaid, and a tax deed for the property was sold by the County to Mr. David Mitchell in 1997. After the transfer of ownership of CRU to AquaSource, Inc., Mr. Mitchell attempted to negotiate a lease payment for the land with AquaSource, Inc. However, the parties could not reach agreement on what would be considered a reasonable amount.

In April of 2000, AquaSource, Inc. petitioned the Circuit Court to be relinquished of its responsibilities as receiver and for the appointment of Mr. Mitchell as receiver. In May 2000, Mr. Mitchell petitioned the Circuit Court for reconsideration of the Court's order appointing him as receiver because he was disabled and unable to run the system. On September 18, 2000, the Circuit Court issued an order appointing the County as receiver. As a result, this docket was opened on March 23, 2001, to acknowledge the appointment of the County as substitute receiver and to address cancellation of the utility's certificate.

Pursuant to Section 367.022(2) Florida Statutes, systems owned, operated, managed, or controlled by governmental authorities are exempt from regulation by the Commission. This recommendation is being brought to the Commission to acknowledge the appointment of the County as receiver for the utility, and to cancel Certificate No. 495-W.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the withdrawal of AquaSource, Inc., as receiver for Magnolia Manor Water Works and the appointment of Sumter County as the successor receiver; and should Certificate No. 495-W be cancelled?

RECOMMENDATION: Yes. The Commission should acknowledge the withdrawal of AquaSource, Inc., as receiver for Magnolia Manor Water Works and the appointment of Sumter County as the successor receiver. Certificate No. 495-W should be canceled effective September 18, 2000. (CLAPP, ESPINOZA)

STAFF ANALYSIS: As stated in the Case Background, the utility has been operating under receivership by several companies due to the succession of transfers of the original receiver. Each receiver has met the Commission's requirements regarding operation of the utility, filing of annual reports and payment of Regulatory Assessment Fees (RAFs). The utility is current on its annual reports and RAFs through September 18, 2000.

In early 2000, AquaSource, Inc., petitioned the Circuit Court to be relieved of the responsibility of receivership for the utility. Sumter County was appointed substitute receiver by the Circuit Court on September 18, 2000. Upon discussion with the Sumter County Attorney, staff learned that in order to make the utility self sustaining, the County contacted each customer regarding the need to increase the water rates. Since the County itself does not provide utility service, it has also contacted a nonprofit cooperative which owns a water utility within one mile of the Magnolia Manor system about the possibility of interconnecting with the Magnolia Manor system. The County anticipates that this interconnection will take place within the next year.

Pursuant to Section 367.022(2), Florida Statutes, the County is not subject to this Commission's regulation. Additionally, the nonprofit cooperative would also not be subject to this Commission's regulation pursuant to Section 367.022(7), Florida Statutes. Therefore, Staff recommends that the County be acknowledged as the receiver for Magnolia Manor and Certificate No. 495-W should be canceled effective September 18, 2000.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Because no further action is necessary, this docket should be closed. (ESPINOZA)

STAFF ANALYSIS: No further action is necessary and the docket should be closed.