



Public Service Commission
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COMMISSION
CLERK

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RECEIVED-FPSC

DATE: DECEMBER 5, 2001

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

FROM: DIVISION OF REGULATORY OVERSIGHT (CLAPP, RIEGER) *BSM*
DIVISION OF ECONOMIC REGULATION (IWENJIORA) *SPR*
DIVISION OF LEGAL SERVICES (HARRIS) *DM* *PH* *AL* *JWA*

RE: DOCKET NO. 010986-WS - NOTICE OF SALE OF ASSETS OF REGENCY
UTILITIES, INC. IN DUVAL COUNTY TO JACKSONVILLE ELECTRIC
AUTHORITY, AND REQUEST FOR CANCELLATION OF CERTIFICATE
NOS. 197-W AND 143-S.
COUNTY: DUVAL

AGENDA: 12/17/01 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\010986WS.RCM

CASE BACKGROUND

Regency Utilities, Inc. (Regency or utility) is a Class B utility serving approximately 1,627 water and 1,352 wastewater equivalent residential connections (ERCs) in Duval County. Pursuant to Order No. 6448, issued January 9, 1975, in Dockets Nos. 74425-W and 74426-S, Regency was granted Water Certificate No. 197-W and Wastewater Certificate No. 143-S. The utility is within the St. Johns River Water Management District (SJRWMD). The utility's 2000 annual report shows total operating revenue of \$323,528 for water and \$763,935 for wastewater and net operating income of \$37,844 and \$24,899, for water and wastewater, respectively.

DOCUMENT NUMBER-DATE

15204 DEC-5

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On July 19, 2001, the utility filed an application for transfer of facilities to JEA (formerly known as the Jacksonville Electric Authority). The transfer includes Regency's entire service area except for the area which encompasses the Regency Square Mall (Mall). Since the time of the closing on April 10, 2001, Regency has purchased bulk water and wastewater services from JEA and resold the services to the Mall customers at Regency's purchase price. It is contemplated that the remaining service area will meet the reseller exemption under Section 367.022(8), Florida Statutes.

The purpose of this recommendation is to address whether the transfer of Regency's water and wastewater facilities to JEA should be approved as a matter of right, to cancel Certificates Nos. 197-W and 143-S, and to determine whether the remaining services provided by Regency are exempt pursuant to Section 367.022(8), Florida Statutes. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the transfer of Regency's water and wastewater facilities to JEA be approved as a matter of right and should Certificates Nos. 197-W and 143-S be cancelled?

RECOMMENDATION: Yes. The transfer of Regency's water and wastewater facilities to JEA should be approved as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes, and Certificates Nos. 197-W and 143-S should be cancelled effective April 10, 2001. The remaining activities of Regency are exempt from Commission regulation pursuant to Section 367.022(8), Florida Statutes. (CLAPP, RIEGER, IWENJIORA, HARRIS)

STAFF ANALYSIS: Regency was issued Certificates Nos. 197-W and 143-S pursuant to Order No. 6448, on January 9, 1975, in Dockets Nos. 74425-W and 74426-S. The utility's certificates were amended twice to extend the utility's service territory; by Order No. 8045, issued November 16, 1977, in Docket No. 770504-WS, and by Order No. 9518, issued September 3, 1980, in Docket No. 800151-WS.

On July 19, 2001, this Commission received an application to transfer Regency's facilities to JEA pursuant to Section 367.071, Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. Included with the application is a copy of the transfer agreement between the two parties. The application states that the closing should take place on or before June 30, 2001. Staff has confirmed that the closing actually took place on April 10, 2001. Therefore, April 10, 2001, is the effective date of the sale.

Pursuant to Section 367.071(4)(a), Florida Statutes, the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required, pursuant to Rule 25-30.030(9), Florida Administrative Code, and no filing fees apply, pursuant to Section 367.071(3), Florida Statutes. The application is in compliance with Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code.

The application contains a statement that JEA obtained Regency's most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction pursuant to Rule 25-30.037(4)(e), Florida Administrative Code. Pursuant to Rule 25-30.037(4)(g), Florida Administrative Code, the application includes a statement that the customer deposits and interest were applied to the final Regency billing and any excess owed to customers was paid by check. Additionally, pursuant to the requirements of Rule 25-30.037(4)(h), Florida Administrative Code, a statement was included that Regency would pay outstanding regulatory assessment fees (RAFs). The utility has filed all annual reports through 2000 and no annual report is due for 2001. In addition, all RAFs have been paid through April 10, 2001, and there are no outstanding penalties, interest, or refunds due.

Staff recommends that the application is in compliance with all provisions of Rule 25-30.037, Florida Administrative Code. Therefore, staff recommends that the Commission approve, as a matter of right, the transfer of the Regency facilities to JEA and cancel Certificates Nos. 197-W and 143-S as of April 10, 2001.

According to the Water and Sewer Asset Purchase Agreement included with the application, JEA specifically excluded the service area Regency is required to service under the Utility Agreement, which service area encompasses the Regency Square Mall.

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The agreement requires Regency to continue to provide the resale of service to this area until the first of two events occurs: 1) JEA accepts assignment of the Utility Agreement from Regency, or 2) Midnight, June 30, 2004. Since the closing on April 10, 2001, Regency has purchased bulk service from JEA and resold the service to customers within the Regency Square Mall. Regency included a statement in its application that it resells the water and wastewater services provided by JEA at a rate which is exactly equal to the purchase price of the bulk services, allocated among the retail customers on a monthly basis. Therefore, staff recommends that Regency is exempt from Commission regulation pursuant to Section 367.022(8), Florida Statutes.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The docket should be closed. (HARRIS)

STAFF ANALYSIS: If the Commission approves staff's recommendation is Issue 1, no further action is required and therefore, this docket should be closed.