



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: May 16, 2002
TO: Alice L. Crosby, Research Assistant, General Counsel Services
 Blanca S. Bayó, Commission Clerk & Admin. Svcs. Director, Division of the Commission
 Clerk & Administrative Services *RPR PK CB*
FROM: Richard P. Redemann, Utility Systems/Communications Engineer, Division of Economic
 Regulation *JOS 1.9**
RE: Docket No. 020354-WS; Application for Transfer of Sugar Mill Water and Wastewater
 Facilities in Volusia County from Florida Water Services Corporation to Utilities
 Commission, City of New Smyrna Beach, and for Amendment of Florida Water Services'
 Certificates Nos. 238-W and 182-S to Reflect the Deletion of Territory.

Florida Water Services Corporation, (Florida Water, FWSC or utility) is a Class A water and wastewater utility. Florida Water provided water service to approximately 710 water customers, and 681 wastewater customers in the Sugar Mill community. FWSC also provides water and wastewater service to the areas of Deltona Lakes and Jungle Den, and water only service to the area of Tomoka in Volusia County. Florida Water provides service in about 24 counties regulated by the Commission. The utility's 2000 annual report shows a total annual operating revenue of \$94,367,793 and a net operating income of \$11,856,982.

The Commission granted the transfer of Sugar Mill in Volusia County to Southern States Utilities, Inc., now Florida Water, in Docket No. 870936-WS, by Order No. 19841 issued August 22, 1988. In Docket No. 980750-WS, by Order No. PSC-98-1560-FOF-WS issued November 23, 1998, the Sugar Mill territory description was modified to correct an error. To reflect the transfer of territory, the Sugar Mill territory described in Attachment A will be deleted from Florida Water's Certificates Nos. 238-W and 182-S.

On August 7, 2000, the Circuit Court of the Seventh Judicial Circuit, in and for Volusia County, Florida, Civil Division, entered an Order of Taking in Utilities Commission, City of New Smyrna Beach, Florida v. Florida Water Services Corporation, et al. Volusia County Circuit Court Case No. 99-30789-CICI, pursuant to the "quick take" procedures established under Chapter 74, Florida Statutes. That Order was appealed by Florida Water to the Fifth District Court of Appeal. In Florida Water Services Corporation v. Utilities Commission, 790 So.2nd 501 (Fla 5th DCA 2001), the Fifth District Court of Appeal affirmed the circuit court order of taking. The condemnation proceeding remains pending before the circuit court and the trial has been rescheduled for the end of September 2002.

On April 19, 2002, Florida Water filed an application to transfer its facilities to Utilities Commission, City of New Smyrna Beach and to delete the territory from Certificates Nos. 238-W and 182-S. The application included a copy of the Order of Taking, Order Granting Florida Water's Emergency Motion for Stay, the Fifth DCA Opinion affirming the Order of Taking and Agreed Order Vacating the Stay. According to the Order, the Utilities Commission estimates the value of the Sugar Mill system to be \$2,920,000. The amount has been placed into the Registry and a final price will be determined after the condemnation proceedings. The Utilities Commission, City of New Smyrna Beach took possession of the property on August 24, 2001.

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A statement was provided in the application that the Utilities Commission, City of New Smyrna Beach, has obtained the most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid of construction applicable to the facilities to be sold. Florida Water refunded all customers deposits due to the Sugar Mill customers as of August 31, 2001 by applying such deposits as credits to customers bills. Customers whose deposits exceeded their last monthly bill from Florida Water were provided refunds by check from Florida Water for the remainder of the deposit due. The utility is current with its regulatory assessment fees and its annual report.

Section 2.07(C)(11), Administrative Procedures Manual, grants staff the authority to administratively approve the transfer of utilities from private to governmental agencies when filed and processed in accordance with Chapter 367. Based on the above, staff recommends the application is in compliance with Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. 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. An order should be issued within thirty days acknowledging the transfer of the Sugar Mill facilities from Florida Water to Utilities Commission, City of New Smyrna Beach, and for amendment of Florida Water Services' Certificates Nos. 238-W and 182-S to delete the territory in Attachment A.

cc: Division of the Commission Clerk & Administrative Services (Security File)
Division of Economic Regulation (Mailhot)
Division of Administration (Knight)

VOLUSIA COUNTY

SUGAR MILL

Description Of Water and Wastewater Territory to be Deleted

Township 17 South, Range 33 East, Volusia County, Florida.

Portions of Sections 2, 10, 11, 15, and 41 and all of Section 42 described more or less as follows:

Beginning at the Northwest corner of Section 42, run North $61^{\circ}31'38''$ East a distance of 5,204.73 feet; thence run North $62^{\circ}29'38''$ East a distance of 1,973.61 feet; thence run North $00^{\circ}41'15''$ East a distance of 342.35 feet to a point, the point of curvature of a circular curve concave to the Northeast having a radius of 840.06 feet; thence run Southeasterly along the arc of the said curve through a central angle of $10^{\circ}17'10''$ an arc distance of 150.81 feet; thence run North $86^{\circ}05'07''$ East a distance of 351.15 feet; thence run South $27^{\circ}47'40''$ East a distance of 87.81 feet; thence run South $27^{\circ}43'11''$ East a distance of 2,506.28 feet; thence run South $62^{\circ}04'50''$ West a distance of 342.02 feet; thence run North $27^{\circ}43'22''$ West a distance of 611.41 feet; thence run South $61^{\circ}50'23''$ West a distance of 684.13 feet; thence run South $27^{\circ}43'47''$ East a distance of 608.53 feet; thence run South $62^{\circ}04'50''$ West a distance of 1,520.76 feet; thence run South $28^{\circ}41'18''$ East a distance of 25.00 feet; thence run South $27^{\circ}11'42''$ East a distance of 590.82 feet; thence run South $27^{\circ}11'42''$ East a distance of 1,590.41 feet; thence run North $62^{\circ}02'10''$ East a distance of 1,091.46 feet; thence run South $11^{\circ}02'28''$ East a distance of 202.12 feet; thence run North $62^{\circ}32'45''$ East a distance of 210.03 feet; thence run North $11^{\circ}03'42''$ West a distance of 202.19 feet; thence run North $11^{\circ}03'42''$ West a distance 29.33 feet; thence run North $62^{\circ}02'10''$ East a distance of 969.80 feet; thence run South $01^{\circ}06'25''$ East a distance of 1,311.13 feet; thence run South $88^{\circ}47'16''$ West a distance of 1284.44 feet; thence run South $01^{\circ}06'25''$ East a distance of 1312.63 feet; thence run South $89^{\circ}40'30''$ West a distance of 1,283.74 feet; thence run South $89^{\circ}40'30''$ West a distance of 916.95 feet; thence run North $28^{\circ}23'41''$ West a distance of 297.16 feet; thence run South $61^{\circ}36'19''$ West a distance of 300.81 feet; thence run South $61^{\circ}36'19''$ West a distance of 218.70 feet; thence run South $28^{\circ}23'41''$ East a distance of 250.00 feet; thence run South $61^{\circ}36'19''$ West a distance of 66.92 feet; thence run South $30^{\circ}27'09''$ West a distance of 945.42 feet; thence run South $00^{\circ}42'02''$ East a distance of 225.96 feet to a point, the point of a curvature of a circular curve concave to the Southwest having a radius of 2,207.61 feet; thence run Southwesterly along the arc of said curve through a central angle of $07^{\circ}38'51''$ an arc distance of 294.66 feet; thence run South $06^{\circ}56'49''$ West a distance of 375.06 feet to a point, the point of a curvature of a circular curve concave to the Southeast having a radius of 2,308.36 feet; thence run Southeasterly along the arc of said curve through a central angle of $07^{\circ}36'00''$ an arc distance of 306.19 feet; thence run South $00^{\circ}39'11''$ East a distance of 127.27 feet; thence run North $61^{\circ}16'29''$ West a distance of 352.91 feet; thence run North $01^{\circ}02'12''$ West a distance of 543.71 feet; thence run North $89^{\circ}50'55''$ West a distance of 260.00 feet; thence run South $89^{\circ}16'45''$ West a distance of 301.15 feet; thence run South $25^{\circ}29'04''$ West a distance of 199.51 feet; thence run North $61^{\circ}16'29''$ West a distance of 144.50 feet; thence run North $28^{\circ}43'31''$ East a distance of 150.00 feet; thence run North $61^{\circ}16'29''$ West a distance of 175.00 feet; thence run North $28^{\circ}43'31''$ East a distance of 311.59 feet; thence run South $89^{\circ}10'05''$ West a distance of 297.85 feet; thence run South $35^{\circ}58'12''$ West a distance of 316.47 feet; thence run North $61^{\circ}41'37''$ West a distance of 728.35 feet; thence run North $01^{\circ}49'05''$ West a distance

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of 558.11 feet; thence run North 28°16'29" West a distance of 4,443.01 feet to the Point of Beginning.

Less the following described parcel:

Starting at the Southwest corner of Section 42 run North 61°43'48" East a distance of 834.13 feet to a point, the point of curvature of a circular curve concave to the Southeast having a radius of 898.67 feet; thence run Southwesterly along the arc of said curve through a central angle of 08°06'53" an arc distance of 127.28 feet; thence run South 00°56'20" East a distance of 100.00 feet to a point, the point of curvature of a circular curve concave to the Northwest having a radius of 235.00 feet; thence run Southwesterly along the arc of said curve through a central angle of 90°00'00" an arc distance of 369.14 feet; thence run South 89°03'40" West a distance of 318.04 feet to a point, the point of curvature of a circular curve concave to the Northeast having a radius of 235.00 feet; thence run Northwesterly along the arc of said curve through a central angle of 40°34'46" an arc distance of 166.44 feet to the Point of Beginning.

Containing 883 acres, more or less.

Also, the following described land in Section 15:

Beginning at the Northeast corner of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, run South 01°18'37" East a distance of 1,323.75 feet; thence run South 89°31'26" West a distance of 358.77 feet; thence run North 61°16'29" West a distance of 175.88 feet; thence run North 28°43'31" East a distance of 217.17 feet; thence run North 61°16'29" West a distance of 294.96 feet to a point, the point of curvature of a circular curve concave to the Southeast having a radius of 2,208.36 feet; thence run Northeasterly along the arc of said curve through a central angle of 05°54'37" an arc distance of 227.80 feet; thence run North 06°56'49" East an arc distance of 375.00 feet to a point, the point of curvature of a circular curve concave to the Northwest having a radius of 2,307.61 feet; thence run Northwesterly along the arc of said curve through a central angle of 07°38'24" an arc distance of 307.70 feet; thence run North 89°11'08" East a distance of 559.23 feet to the Point of Beginning.

Containing 17 acres, more or less.