



Public Service Commission

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DATE: OCTOBER 3, 2002

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

FROM: DIVISION OF ECONOMIC REGULATION (JOHNSON)
OFFICE OF THE GENERAL COUNSEL (CROSBY, HELTON)

Handwritten initials: JQ, SR, Matt, JDS

RE: DOCKET NO. 020775-WS - JOINT PETITION FOR ACKNOWLEDGMENT
OF CORPORATE REORGANIZATION AND FOR NAME CHANGE ON
CERTIFICATES NOS. 533-W AND 464-S IN LAKE COUNTY FROM
SOUTHLAKE UTILITIES, INC. TO SOUTHLAKE WATER WORKS, L.L.C.
COUNTY: LAKE

AGENDA: OCTOBER 15, 2002 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020775.RCM

CASE BACKGROUND

Southlake Utilities, Inc. (Southlake or utility) is a Florida corporation which has operated a Class B water and wastewater utility in Lake County since 1990. The utility is located in a critical water use caution area as defined by the St. Johns River Water Management District. According to its 2001 annual report, Southlake is currently serving approximately 573 residential and 486 general service customers. The utility reported combined gross revenues of \$788,119 with a combined net operating loss of \$95,433.

Southlake's authority to operate the utility under Commission jurisdiction was granted in Certificates Nos. 533-W and 464-S pursuant to Order No. 23947, issued January 2, 1991, in Docket No. 900738-WS. The utility's initial rates and charges were established by Order No. 24564, issued May 21, 1991, also in Docket

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No. 900738-WS. At the time Southlake was originally certificated, it was anticipated it would serve approximately 8,000 equivalent residential customers (ERCs). Southlake has subsequently filed and received approval of four amendment applications. (Docket No. 920150-WS, Docket No. 960400-WS, Docket No. 961246-WS, and Docket No. 940303-WS)

In Order No. PSC-01-1671-FOF-WS, issued August 8, 2001, in Docket No. 010507-WS, the Commission approved the transfer of majority organizational control of Southlake to Southlake Utilities Holding, L.L.C. The sole member of Southlake Utilities Holding, L.L.C. is Cagan Crossing, Ltd.

On July 22, 2002, Southlake and Southlake Water Works, L.L.C. (Water Works) jointly filed a request for acknowledgment of a corporate reorganization and approval of a name change. Upon the completion of the reorganization and name change, the name of the entity to hold the certificates of authorization will be Southlake Water Works, L.L.C. d/b/a Southlake Utilities. Water Works, a Delaware limited liability company that has been in existence since May 7, 2002, is a wholly-owned subsidiary of Southlake.

Section 2.07(C)(2) of the Administrative Procedures Manual grants the Director of the Division of the Commission Clerk and Administrative Services, in coordination with the appropriate industry division and the Office of the General Counsel, authority to administratively approve name changes and corporate reorganizations of regulated utilities, where no change of ownership or control or transfer of assets is involved. However, because the reorganization will not be complete until early 2003 and the new name of the utility has not been registered with the Florida Department of State, this matter is being brought before the Commission for consideration. The Commission has jurisdiction pursuant to Sections 367.121 and 367.1214, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the proposed corporate reorganization and name change of Southlake Utilities Inc.?

RECOMMENDATION: Yes, the proposed corporate reorganization and name change of Southlake Utilities, Inc. to Southlake Water Works, L.L.C. d/b/a Southlake Utilities should be acknowledged. Southlake and Water Works should be required to provide proof of registration of the fictitious name of the utility with the Florida Division of Corporations prior to March 1, 2003. The utility has submitted tariff sheets reflecting the name change which will be effective for services provided or connections made on or after March 1, 2003. The utility should be put on notice that it may not operate under the fictitious name until it is registered with the Florida Department of State. (JOHNSON, CROSBY)

STAFF ANALYSIS: As stated in the Case Background, on July 22, 2002, Southlake and Water Works jointly filed a request for acknowledgment of a corporate reorganization. The proposed reorganization will take place in phases which will result in the deletion of three intermediate entities and one vertical merger. Ultimately, Southlake Water Works, L.L.C. d/b/a Southlake Utilities will be the utility with the same ownership and management that currently exists. Water Works was formed as a wholly-owned subsidiary of Southlake that will control and operate the utility. The purpose of the reorganization is to simplify the ownership and structure of the organization as well as to simplify accounting and financial reporting. According to the company, the reorganization will not be completed until the beginning of 2003 for tax purposes.

Southlake and Water Works also requested to change the name of the utility to Southlake Water Works, L.L.C. d/b/a Southlake Utilities. Staff has verified that Water Works is registered with the Division of Corporations, Florida Department of State as a Limited Liability Company. However, the fictitious name has not been registered with the Florida Department of State. The utility proposes to implement the name change and transfer the utility assets to Water Works in early 2003 and has assured Staff that the fictitious name will be registered early in 2003 and will not be used until it is registered. The proposed effective date of the name change is March 1, 2003. Southlake and Water Works have provided a copy of the notice that is to be sent to the customers

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of the utility notifying them of the reorganization and name change.

Staff does not believe that the reorganization rises to the level of a transfer of certificate or change in majority organizational control contemplated by Section 367.071, Florida Statutes. Both before and after the reorganization and name change, the utility will be owned and operated by the same individuals. The rates and charges of the utility will not be affected by the reorganization, nor will the reorganization affect the utility's management, operations and customer service. This reorganization is similar to those acknowledged by this Commission in order No. PSC-01-1498-FOF-WU (BE Utility Systems, L.L.C. d/b/a Buccaneer Water Service) and Order No. PSC-01-1499-FOF-WS (CM Utility Systems, L.L.C. d/b/a Colonies Water Company).

The utility has filed the information required by Section 367.01214, Florida Statutes, and Rule 25-30.039, Florida Administrative Code. Therefore, staff recommends that the corporate reorganization and name change of Southlake Utilities, Inc. to Southlake Water Works, L.L.C. d/b/a Southlake Utilities be acknowledged. Southlake and Water Works should be required to provide proof of registration of the fictitious name of the utility with the Florida Division of Corporations prior to March 1, 2003. The utility has submitted tariff sheets reflecting the name change which will be effective for services provided or connections made on or after March 1, 2003. The utility should be put on notice that it may not operate under the fictitious name until it is registered with the Florida Department of State.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: No, the docket should remain open pending receipt of proof of registration for the utility's fictitious name with the Division of Corporations, Florida Department of State, and completion of noticing of the utility's customers of the reorganization and name change. Once proof of registration is received and the noticing has been completed, the docket should be closed administratively. (CROSBY)

STAFF ANALYSIS: The docket should remain open pending receipt of proof of registration for the utility's fictitious name with the Division of Corporations, Florida Department of State, and completion of noticing of the utility's customers of the reorganization and name change. Once proof of registration is received and the noticing has been completed, the docket should be closed administratively.