

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION  
CLERK

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REC'D - FPSC

**DATE:** FEBRUARY 20, 2003

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

**FROM:** DIVISION OF ECONOMIC REGULATION (RIEGER) *SDR*  
OFFICE OF THE GENERAL COUNSEL (GERVASI) *RS* *JOS*

**RE:** DOCKET NO. 020831-WS - RESCISSION BY NASSAU COUNTY OF  
RESOLUTION NO. 2001-128, WHICH RESCINDED FLORIDA PUBLIC  
SERVICE COMMISSION JURISDICTION OVER INVESTOR-OWNED WATER  
AND WASTEWATER SYSTEMS IN NASSAU COUNTY.  
COUNTY: NASSAU

**AGENDA:** 03/04/03 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\020831.RCM

CASE BACKGROUND

On September 17, 2001, the Board of County Commissioners of Nassau County (County Board) adopted Resolution No. 2001-128, rescinding this Commission's jurisdiction over investor-owned water and wastewater utilities in the County effective immediately. The Commission acknowledged the Resolution by Order No. PSC-02-0555-PAA-WS, issued April 23, 2002, in Docket No. 011344-WS. That order was consummated by Order No. PSC-02-0691-CO-WS, issued May 21, 2002.

On July 15, 2002, the County Board adopted Resolution No. 2002-130, which rescinded Resolution No. 2001-128. By Resolution No. 2002-130, the County ceded jurisdiction of Florida Public Utilities Company (FPUC), the sole investor-owned water and wastewater system regulated by the County, to the Commission. The

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Commission acknowledged the Resolution by Order No. PSC-02-1411-FOF-WS, issued October 10, 2002, in Docket No. 011344-WS, and in the instant docket. In addition to acknowledging that jurisdiction was returned to the Commission effective July 15, 2002, the Commission granted FPUC's request for reactivation of its Certificate No. 001-W, authorizing FPUC to provide water service in Nassau County in its previously approved service territory at its previously approved rates and charges.

Additionally, by Order No. PSC-02-1411-FOF-WS, the Commission required FPUC to file revised tariff sheets reflecting a corrected territory description which complies with Rule 25-30.035(9), Florida Administrative Code, within 90 days of the issuance date of the Order. On January 2, 2003, prior to the expiration of the 90-day filing deadline, FPUC filed a Motion for Extension of Time to File Revised Tariff Sheets. No responses have been filed thereto. This recommendation addresses the Motion. The Commission has jurisdiction pursuant to Sections 367.045(2)(b) and 367.071(4)(a), Florida Statutes.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should FPUC's Motion for Extension of Time to File Revised Tariff Sheets be granted?

**RECOMMENDATION:** Yes. FPUC should be given a 90-day extension of time from the issuance date of the Order arising from this recommendation within which to either file the revised tariff sheets required by Order No. PSC-02-1411-FOF-WS, or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code, if the sale of its water division to the City of Fernandina Beach is consummated. (GERVASI, RIEGER)

**STAFF ANALYSIS:** By Order No. PSC-02-1025-AS-WS, issued July 29, 2002, in Docket No. 990817-WS, in which the Commission approved a settlement agreement between Florida Water Services Corporation (FWSC) and FPUC concerning an amendment application filed by FWSC, the Commission found that FPUC had no metes and bounds description of its territory. The Commission further noted that by Order No. 3798, issued April 28, 1965, in Docket No. 7848-W, FPUC was granted a certificated territory which encompassed the corporate limits of the City of Fernandina Beach (City) and any additions legally annexed by the City from time to time. However, because FPUC was non-jurisdictional at the time the settlement agreement was approved, the Commission found that there was no need to correct FPUC's territory description at that time.

By Order No. PSC-02-1411-FOF-WS, the Commission found that because FPUC is again a jurisdictional utility, an appropriate territory description is now necessary. Therefore, the Commission required FPUC to file revised tariff sheets reflecting the territory description of its previously approved service area using township, range, and section references, pursuant to Rule 25-30.035(9), Florida Administrative Code, within 90 days of the issuance date of the Order.

In its Motion for Extension of Time to File Revised Tariff Sheets, FPUC states that on December 3, 2002, it entered into an Agreement for Purchase and Sale of Water Assets (Agreement) with the City, providing for the sale of FPUC's water division in Nassau County to the City. Under the Agreement, the due diligence period is underway, with a closing currently scheduled to occur on or before March 31, 2003. FPUC states that in the event that the sale to the City is in fact consummated, the Commission would no longer

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exercise jurisdiction over FPUC's water division, as it would be exempt from Commission jurisdiction pursuant to Section 367.022(2), Florida Statutes. According to FPUC, in that event, the preparation and processing of the revised tariff sheets, and the associated costs incurred by FPUC and the Commission, would serve no useful purpose. Moreover, FPUC states that in the event that the sale is not consummated, it will prepare and submit the revised tariff sheets required by Order No. PSC-02-1411-FOF-WS. FPUC requests a 90-day extension of time within which to either file the revised tariff sheets or to notify the Commission that the sale of its water division to the City has been consummated.

Staff agrees that FPUC's water division will become exempt from Commission regulation if it is sold to the City, and that if the sale is consummated, there will be no reason for the Commission to have the corrected tariff sheets on file. Therefore, staff recommends that FPUC's Motion for Extension of Time to File Revised Tariff Sheets should be granted. FPUC should be given a 90-day extension of time from the issuance date of the Order arising from this recommendation within which to either file the revised tariff sheets required by Order No. PSC-02-1411-FOF-WS, or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code, if the sale of its water division to the City is consummated.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No, this docket should remain open to allow FPUC time to revise its tariff to reflect a revised territory description of its service area or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code. If FPUC files the revised tariff sheets, upon verification that the tariff sheets comply with Rule 25-30.035(9), Florida Administrative Code, an administrative order should be issued reflecting the revised territory description and closing the docket. If FPUC instead consummates the sale of its water division to the City, this docket should be closed administratively once the transfer application is filed and a new docket should be opened to process the transfer application. (GERVASI)

**STAFF ANALYSIS:** This docket should remain open to allow FPUC time to revise its tariff to reflect a revised territory description of its service area or to file a transfer application pursuant to Rule 25-30.037(4), Florida Administrative Code. If FPUC files the revised tariff sheets, upon verification that the tariff sheets comply with Rule 25-30.035(9), Florida Administrative Code, an administrative order should be issued reflecting the revised territory description and closing the docket. If FPUC instead consummates the sale of its water division to the City, this docket should be closed administratively once the transfer application is filed and a new docket should be opened to process the transfer application.