

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval  
of new class of service for bulk  
wastewater service in Lee County  
by Forest Utilities, Inc.

DOCKET NO. 030748-SU  
ORDER NO. PSC-03-1286-FOF-SU  
ISSUED: November 12, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING VOLUNTARY WITHDRAWAL OF PETITION

BY THE COMMISSION:

Forest Utilities, Inc. (Forest or utility) is a Class B wastewater only utility providing service to approximately 2,068 wastewater customers in Lee County. As of December 31, 2002, the utility reported operating revenues of \$658,336 and operating expenses of \$620,559. On August 1, 2003, the utility filed an application pursuant to Section 367.091, Florida Statutes, for approval of a new class of service to provide bulk wastewater service to Jamaica Bay Mobile Home Park (Jamaica Bay) in Lee County. The application asserted that Jamaica Bay needed immediate assistance in treating its wastewater while it repairs its sewage treatment plant and ponds, as the Department of Environmental Protection has ordered it to do. On August 25, 2003, Lee County filed a motion to intervene, which was granted, and a motion to dismiss Forest's application.

On September 26, 2003, Lee County informed us that it had executed a contract with Jamaica Bay for temporary bulk wastewater service, and at the September 30, 2003, Agenda Conference, we suspended Forest's application pending review of the changed circumstances. Thereafter, on October 21, 2003, Forest filed a notice of voluntary withdrawal of its application for approval of

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a new class of service for bulk wastewater service to Jamaica Bay.

A petitioner has an absolute right to dismiss its case before the case has been submitted to the tribunal for a final decision. Fears v. Lunsford, 314 So. 2d 578, 579 (Fla. 1975). Once a timely voluntary dismissal is taken, the tribunal loses its jurisdiction to act, and cannot revive the original action for any reason. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So. 2d 68, 69 (Fla. 1978).

Forest's voluntary withdrawal has divested us of further jurisdiction over this docket. We therefore acknowledge the withdrawal without prejudice and close the docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Forest Utilities, Inc.'s notice of voluntary withdrawal of its August 1, 2003, petition for approval of a new class of service for bulk wastewater service to Jamaica Bay Mobile Home Park is hereby acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 12th Day of November, 2003.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

( S E A L )

JAR

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120,569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.