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Public Service Commission

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: May 20, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Brady) *PD CSU JDS*
Office of the General Counsel (Helton) *Walt*

RE: Docket No. 040469-WS – Resolution of the Board of County Commissioners of Okeechobee County declaring Okeechobee County subject to the provisions of Chapter 367, F.S.

AGENDA: 06/01/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040469.RCM.DOC

Case Background

On May 13, 2004, the Okeechobee County Board of County Commissioners (Okeechobee County) adopted Resolution No. 2004-16 declaring the water and wastewater utilities in that county subject to the provisions of Chapter 367, Florida Statutes. This recommendation addresses the acknowledgement of that resolution. The Commission has jurisdiction pursuant to Section 367.171, Florida Statutes.

DOCUMENT NUMBER-D

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Discussion of Issues

Issue 1: Should the Commission acknowledge Resolution No. 2004-16 by the County Commissioners of Okeechobee County which transfers regulatory jurisdiction over the County's water and wastewater utilities to the Commission?

Recommendation: Yes. The Commission should acknowledge the resolution effective May 13, 2004. All non-exempt, privately-owned water and wastewater utilities in Okeechobee County should be directed to comply with the provisions of Chapter 367, Florida Statutes. (Brady, Helton)

Staff Analysis: Pursuant to Section 367.171(1), Florida Statutes, the provisions of the Chapter become effective in a County upon the adoption of a resolution by the Board of County Commissioners declaring the County subject to the provisions of the Chapter. Any Board of County Commissioners which adopts such a resolution is required to immediately notify the Commission of its adoption and submit the resolution to the Commission.

On May 13, 2004, the Board of Commissioners of Okeechobee County adopted Resolution No. 2004-16 which invoked the jurisdiction of the Florida Public Service Commission over water and wastewater utilities in the County effective May 13, 2004. On May 14, 2004, staff was telephonically notified of the resolution. On May 17, 2004, staff was provided with a facsimile copy of the resolution. On May 18, 2004, this docket was established to acknowledge the resolution.

Pursuant to Section 367.171(2)(a), Florida Statutes, each utility in Okeechobee County is required to register with the Commission within thirty (30) days of the date the Commission received jurisdiction, or by June 11, 2004. All utilities must obtain either a certificate of authorization, or be exempt from regulation, pursuant to Section 367.031, Florida Statutes.

Pursuant to Section 367.171(2)(b), Florida Statutes, each utility engaged in the operation or construction of a system is entitled to receive a grandfather certificate for the area served by the utility on the day the Chapter becomes applicable to it. Within 90 days after the day the Chapter becomes applicable to it, the utility is required to make application for a grandfather certificate by filing an application with the Commission. In addition, since they are subject to the Chapter, each utility must continue to collect the rates and charges for water and wastewater service which were being collected on May 13, 2004, until changed by the Commission.

Staff has obtained a listing of all water and wastewater utilities in Okeechobee County from the Florida Department of Environmental Protection for the purpose of advising them of the County's ordinance and providing them with information to determine whether or not they are exempt from Commission regulation pursuant to Section 367.022, Florida Statutes. Entities which are not exempt from Commission regulation, will receive instruction for filing an application for grandfather certificates. The resulting applications will be processed in individual dockets in the order they are filed.

Staff, therefore, recommends that the Commission acknowledge Resolution No. 2004-16 by the County Commissioners of Okeechobee County which transfers regulatory jurisdiction over the County's water and wastewater utilities to the Commission effective May 13, 2004. All

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non-exempt, privately-owned water and wastewater utilities in Okeechobee County should be directed to comply with the provisions of Chapter 367, Florida Statutes

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Issue 2: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order. (Helton)

Staff Analysis: Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order.