

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Emergency application for amendment of Certificate No. 422-S to extend wastewater service area to Seagull Townhouses in Gulf County, by ESAD Enterprises, Inc. d/b/a Beaches Sewer System.

DOCKET NO. 030644-SU
ORDER NO. PSC-04-0525-FOF-SU
ISSUED: May 24, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER AMENDING CERTIFICATE AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

ESAD Enterprises, Inc. d/b/a Beaches Sewer System (Beaches or utility) is a Class C utility serving approximately 256 wastewater customers in Gulf County. Water service is provided by the City of Mexico Beach. The Northwest Florida Water Management District does not consider this area a water resource caution area.

Pursuant to Order No. 17638, issued June 2, 1987, in Docket No. 861336-SU, In Re: Application of Gulf Aire Properties, Inc. d/b/a Gulf Aire Wastewater Treatment Plant for sewer certificate in Gulf County, under grandfather rights, the utility was granted Certificate No. 422-S for its wastewater system. The certificate was amended pursuant to Order No. 19621, issued July 7, 1988, in Docket No. 880621-SU, In Re: Application of Gulf Aire Wastewater Treatment Plant for amendment of Certificate No. 422-S in Gulf County. It was amended a second time pursuant to Order No. 25275, issued October 30, 1991, in Docket No. 910660-SU, In Re: Application for amendment of Certificate No. 422-S for deletion and addition of territory in Gulf County by Gulf Aire Wastewater Treatment Plant (Gulf Aire Properties, Inc.), to correct, add, and delete territory. The certificate was transferred from Gulf Aire Properties, d/b/a Gulf Aire Wastewater Treatment Plant, to the present ownership pursuant to Order No. PSC-02-1299-PAA-SU, issued September 23, 2002, in Docket No. 011379-SU, In Re: Application for transfer of Certificate No. 422-S in Gulf County from Gulf Aire Properties d/b/a Gulf Aire Wastewater Treatment Plant to ESAD Enterprises, Inc. d/b/a Beaches Sewer System. The utility's 2002 annual report shows total operating revenue of \$110,251 and a net operating income of \$11,337.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

On July 18, 2003, the utility filed an emergency service application with the Commission indicating that it intended to connect with Seagull Townhouses (Seagull). Prior to that time, the utility contacted our staff to advise them of the situation and that a sanitary nuisance existed. The utility indicated that this was an emergency situation, and that it was in the public's best interest to connect. The utility also argued that there are no other utilities that were available to connect and that no one was expected to object to the utility providing service to Seagull.

Seagull is located approximately three hundred feet outside the utility's service area and is a residential area consisting of thirteen townhouses with one vacant lot. Seagull's onsite sewage treatment and disposal system became hydraulically overloaded, and according to a July 15, 2003, letter to the utility from the Gulf County Health Department (Health Department), Seagull was in violation of Chapter 381, Florida Statutes, which pertains to sanitary nuisance. Based on the situation, the Health Department requested that the utility offer to connect Seagull. Because of the nature of the emergency, the utility made the connection on July 18, 2003. Our staff verified with the Health Department that the interconnection was made and that the sanitary nuisance has been properly eliminated as a result of the connection to the utility.

On August 25, 2003, we issued Order No. PSC-03-0963-PCO-SU in this docket, acknowledging the utility's emergency service application and authorizing it to provide wastewater service to Seagull. By that Order, we also authorized the utility to charge Seagull the appropriate rates and charges as set forth in its tariff, and required it to file an application for a quick-take amendment of its certificate to include Seagull in its territory.

We have jurisdiction to consider this amendment application pursuant to Section 367.045, Florida Statutes.

AMENDMENT OF CERTIFICATE

Pursuant to the above-noted Order, and in accordance with Section 367.045, Florida Statutes, and Rule 25-30.036(2), Florida Administrative Code, the utility filed with this Commission an initial application for a quick-take certificate amendment on July 28, 2003, with a follow up application being filed on August 22, 2003. However, there were deficiencies in the application, and these deficiencies were not corrected until April 13, 2004.

The utility's application is now in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning applications for amendment of certificate. The application contained a check in the amount of \$100 which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The application contained proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. This Commission received no objections and the time for filing has passed.

Pursuant to Rule 25-30.036(2)(a) and (b), Florida Administrative Code, the applicant provided a statement that the new territory will not exceed twenty-five ERCs, there are no other utilities in the area of the proposed territory that are willing and capable of providing reasonably adequate service to the new territory, and service is not otherwise available. Pursuant to Rule 25-30.036(3)(d), Florida Administrative Code, the utility also submitted evidence that it owns the land upon which the facilities are located. In addition, the utility provided an adequate service territory description -- appended to this Order as Attachment A, a territory map, and a customer description as prescribed by Rule 25-30.036(3)(e), (i), and (m), Florida Administrative Code. Pursuant to Rule 25-30.036(3)(o), (p), (q), and (r), Florida Administrative Code, the utility provided revised tariff sheets reflecting the amended area, its certificate for entry reflecting the corrected territory, the number of the most recent Commission order establishing rates, and an affidavit that it has tariffs and annual reports on file with this Commission.

Based on the above information, we find that Beaches' application to amend its territory, as described in Attachment A, is in the public interest and shall be granted. The utility shall charge the customers in the territory added herein the monthly service rates contained in its current tariff until authorized to change by this Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the quick-take application of ESAD Enterprises, Inc., d/b/a Beaches Sewer System, for amendment of its certificate is in the public interest and shall be granted, and Certificate No. 422-S shall be amended to include the territory as described in Attachment A of this Order. It is further

ORDERED that Attachment A is incorporated herein by reference. It is further

ORDERED that ESAD Enterprises, Inc., d/b/a Beaches Sewer System, shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission. It is further

ORDERED that this docket is hereby closed.

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By ORDER of the Florida Public Service Commission this 24th day of May, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

RRJ

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.

ESAD ENTERPRISES, INC. d/b/a BEACHES SEWER SYSTEM
LEGAL DESCRIPTION OF EXTENSION AREA
SEAGULL TOWNHOUSES

A portion of Section 5, Township 7 South, Range 11 West, Gulf County, Florida. Being more particularly described as follows:

Commence at the West corner of Lot 6, Block 17 of Yon's addition to Beacon Hill as recorded in Plat Book 1, Page 45 of the public records of Gulf County, Florida; thence along the Northeasterly right of way of US Highway 98 (State Road 30), N 39°20'45" W, 580.00 feet; thence S 50°39'15" W, 100 feet to a point on the Southwesterly right of way of US Highway 98 and the POINT OF BEGINNING; thence along the Southwesterly right of way line of said US Highway 98, N 39°20'45" W, 240 feet; thence leaving said right of way line, S 50°39'15" W, 222 feet, more or less to the mean high water line of the Gulf of Mexico; thence along said mean high water line, S 39°20'45" E, 240 feet, more or less to a point on a line that bears S 50°39'15" W of the POINT OF BEGINNING; thence N 50°39'15" E, 222 feet, more or less to the POINT OF BEGINNING.