

State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: November 18, 2004

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

FROM: Division of Economic Regulation (Clapp, Romig) *JSP*
Office of the General Counsel (Brubaker) *JSB* *W* *TS* *TJD*

RE: Docket No. 040577-WU – Application for transfer of facilities in Osceola County to Tohopekaliga Water Authority and for cancellation of Certificate No. 595-W, by Morningside Utilities, Inc.
County: Osceola

AGENDA: 11/30/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040577.RCM.DOC

Case Background

Morningside Utilities, Inc. (Morningside or utility) is a Class C utility providing water service to approximately 219 residential customers in Osceola County. The water system is not in a priority water resource caution area of the South Florida Water Management District. The utility's 2003 annual report indicates that the utility had gross revenue of \$76,605 and net operating loss of \$4,015.

The utility's water system was originally issued Certificate No. 595-W pursuant to Order No. PSC-97-1211-FOF-WU, issued October 7, 1997, in Docket No. 970636-WU, In Re: Application for certificate to provide water service in Osceola County by Morningside Utility Inc. The certificate was amended once pursuant to Order No. PSC-99-1810-FOF-WU, issued September 20, 1999, in Docket No. 990247-WU, In re: Application for amendment of Certificate No. 595-W to add territory in Osceola County by Morningside Utilities, Inc.

DOCUMENT NUMBER-DATE

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Pursuant to Order No. PSC-03-1275-FOF-WS, issued November 10, 2003, in Docket No. 030921-WS, In re: Joint application for acknowledgment of sale of land and facilities in Osceola County to Osceola County by Florida Water Services Corporation, and for cancellation of Certificates Nos. 66-W and 289-S, Tohopekaliga Water Authority (TOHO) was noted to be a governmental authority as defined by section 1.01(8), Florida Statutes, and therefore is a non-jurisdictional entity. TOHO is an independent special district, and thus meets the definition of section 1.01(8), Florida Statutes.

On June 18, 2004, Morningside submitted an application for transfer of facilities to TOHO and for cancellation of Certificate No. 595-W. The Commission has jurisdiction pursuant to sections 367.045, 367.071 and 367.081, Florida Statutes.

Discussion of Issues

Issue 1: Should the transfer of the Morningside water facilities to TOHO and the cancellation of Certificate No. 595-W be approved?

Recommendation: Yes. The transfer of Morningside's water facilities to TOHO should be approved, as a matter of right, pursuant to section 367.071(4)(a), Florida Statutes, and Certificate No. 595-W should be cancelled effective July 29, 2004. (Clapp, Romig, Brubaker)

Staff Analysis: On June 18, 2004, Morningside filed an application to transfer the utility's land and facilities to TOHO pursuant to section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. According to the application, the facilities were to be transferred to TOHO on June 30, 2004. Staff verified that the closing did take place on July 29, 2004; therefore, July 29, 2004, is the effective date of the transfer.

Pursuant to section 367.071(4)(a), Florida Statutes, the transfer of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply.

The application contains a statement that the customer deposits and any accrued interest of the transferred customers will be transferred to TOHO with the individual customer accounts at the time of the actual transfer.

Staff verified that, in accordance with Rule 25-30.110, Florida Administrative Code, Morningside filed its annual reports for 2003 and prior years. No annual report is required for 2004 as the utility is being transferred to a non-regulated entity. Staff also verified that, in accordance with Rule 25-30.120, Florida Administrative Code, the utility's RAFs for January 1 through July 29, 2004, and all prior years, have been paid. No penalties or interest are outstanding for annual reports or RAF payments.

Staff recommends that the application is in compliance with the provisions of Rule 25-30.037, Florida Administrative Code. Pursuant to section 367.071(4)(a), Florida Statutes, the transfer of land and facilities to a governmental authority shall be approved as a matter of right. Therefore, staff recommends that the transfer of Morningside's land and facilities to TOHO should be approved, as a matter of right, and Certificate No. 595-W should be cancelled, effective July 29, 2004.

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Issue 2: Should this docket be closed?

Recommendation: Yes. No further action need be taken and the docket may be closed.
(Brubaker)

Staff Analysis: No further action need be taken and the docket may be closed.