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Public Service Commission

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COMMISSION
CLERK

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

DATE: July 6, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bay6)

FROM: Division of Economic Regulation (Redemann, Johnson) *PPR*
Office of the General Counsel (Fleming) *KEY* *WAT* *AK* *JRS*

RE: Docket No. 060481-WU – Determination of Florida Public Service Commission
Jurisdiction for Provision of Water Service in Columbia County by Lance Water
System.
County: Columbia

AGENDA: 07/18/06 – Regular Agenda – Proposed Agency Action – Interested Persons May
Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Arriaga

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060481.RCM.DOC

Case Background

Lance Water System (Lance Water or utility) is a small water system, which provides water service to approximately 41 mobile homes and single family homes in Columbia County. Mr. Jeffery Hill is the owner. Lance Water is located in the Suwannee River Water Management District (Suwannee River); however, the utility does not have a Consumptive Use Permit (CUP). Suwannee River has indicated that Lance Water refuses to apply for a CUP. In addition, Suwannee River has filed a suit against Mr. Hill for modifying a dam that has caused flooding. Wastewater service is provided by individual owned septic tanks.

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On November 30, 2005, staff received a complaint from a customer regarding a utility bill. As a result of a number of letters and telephone calls to Mr. Hill, staff believes that the utility is subject to Commission regulation. Staff provided Mr. Hill with an application for a water certificate and instructions on how to complete it. However, Mr. Hill believes that Lance Water is exempt from Commission regulation as a small system pursuant to section 367.022(6), Florida Statutes, and therefore, did not complete the application for certificate. Section 367.031, Florida Statutes, requires that a utility subject to the jurisdiction of the Florida Public Service Commission obtain a certificate of authorization to provide water or wastewater service. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes.

Discussion of Issues

Issue 1: Is Lance Water System exempt from Public Service Commission jurisdiction pursuant to section 367.022(6), Florida Statutes, as a small system?

Recommendation: No. Lance Water is not exempt from Public Service Commission jurisdiction. Lance Water should be ordered to submit an original certificate application pursuant to section 367.045, Florida Statutes, and Rule 25-30.033, Florida Administrative Code, within 60 days from the date of the consummating order. In addition, the utility should be put on notice not to change rates until the jurisdictional status of the utility is resolved. Staff will bring a recommendation to the Commission if it is determined that the current rates should be subject to refund. (Redemann, Johnson, Fleming)

Staff Analysis: On November 30, 2005, staff received a complaint from a customer regarding a utility bill. On December 2, 2005, staff sent a jurisdictional information form to the utility. Staff received the response on December 27, 2005. Based on the information provided on the jurisdictional information form, staff determined that the utility is subject to Commission regulation, and sent Lance Water an application for a water certificate on January 5, 2006. Mr. Hill responded that it was a small system and, therefore, exempt from PSC regulation. Staff sent a certified letter on March 7, 2006, to Mr. Jeffery Hill and advised him that a completed certificate application was needed by March 31, 2006; however, the utility did not respond. Staff has had numerous telephone conversations with Mr. Hill in an effort to explain the Commission's jurisdiction.

Mr. Hill believes that the utility is exempt from Commission regulation as a small system pursuant to section 367.022(6), Florida Statutes. Rule 25-30.055(1), Florida Administrative Code, states that a water or wastewater system is exempt under section 367.022(6), Florida Statutes, if its current or proposed water or wastewater treatment facilities and distribution or collection system have and will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day or if the entire system is designed to serve no greater than 40 equivalent residential connections (ERCs). According to the Florida Department of Environmental Protection Sanitary Survey, Lance Water's plant design capacity is 26,000 gallons per day (gpd). This exceeds the 10,000 gpd limit for a small system exemption as set forth in Rule 25-30.055(1), Florida Administrative Code. In addition, the utility is serving in excess of 40 ERCs. Therefore, Lance Water is not exempt as a small system pursuant to section 367.022(6), Florida Statutes.

Section 367.021(12), Florida Statutes defines a utility as every person, lessee, or receiver owning, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation. The utility is receiving compensation from its customers and therefore, Lance Water is subject to the Commission's jurisdiction. This recommendation is consistent with prior Commission Orders.¹

Customers are being billed at varying rates, including \$9.95 per month plus \$4.29 for every 1,000 gallons and, a \$0 charge for 9000 gallons of water plus \$3.00 for every 1,000 gallons over 9000 gallons. Recent correspondence from the customer indicates that Mr. Hill intends to increase the rates.

Based on the above information, staff recommends that Lance Water is not exempt from the Public Service Commission jurisdiction. Lance Water should be ordered to submit an original certificate application pursuant to section 367.045, Florida Statutes, and Rule 25-30.033, Florida Administrative Code, within 60 days from the date of the consummating order. In addition, the utility should be put on notice not to change rates until the jurisdictional status of the utility is resolved. Staff will bring a recommendation to the Commission if it is determined that the current rates should be subject to refund.

¹ See, Order No. PSC-94-0958-FOF-WU, issued August 9, 1994, in Docket No. 940365-WU, In Re: Request for exemption from Florida Public Service Commission regulation for provision of water service in Nassau County by American Beach Water System; Order No. PSC-95-0552-FOF-WS, issued May 8, 1995, in Docket No. 950008-WS, In Re: Request for cancellation of Certificates Nos. 400-W and 338-S and request for exemption from Florida Public Service Commission for provision of water and wastewater service in Marion County by SATEKE UTILITIES, INC.; and Order No. PSC-94-0501-FOF-WU, issue April 27, 1994, in Docket No. 940194-WU, In Re: Request for Exemption from Florida Public Service Commission Regulation for Provision of Water Service in Putnam County by PARADISE VIEW ESTATES.

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Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open to process the original certificate application for Lance Water System. (Fleming)

Staff Analysis: This docket should remain open to process the original certificate application for Lance Water System.