

VOTE SHEET

February 13, 2007

Docket No. 020640-SU – Application for certificate to provide wastewater service in Lee County by Gistro, Inc. (Deferred from April 4, 2006, conference; revised recommendation filed.)

Issue 1: Should the Commission acknowledge Gistro, Inc.’s Notice of Withdrawal of its application for a wastewater certificate?

Recommendation: No. The Commission should decline to acknowledge the notice of withdrawal and should proceed with a ruling on the merits of the application as set forth in Issues 2 through 5 of staff’s February 1, 2007, recommendation. If the Commission disagrees, Issues 2 through 5 need not be ruled upon and the docket should be closed in Issue 6.

DEFERRED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS’ SIGNATURES

MAJORITY

DISSENTING

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

01489 FEB 14 5

FPSC-COMMISSION CLERK

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Issue 2: If the Commission declines to acknowledge Gistro, Inc.'s Notice of Withdrawal, should Gistro, Inc.'s application for a wastewater certificate be granted?

Recommendation: Yes. Gistro, Inc. should be granted Certificate No. 541-S to serve the territory described in Attachment A of staff's February 1, 2007, memorandum. The effective date of the certificate should be the date of the Commission vote. The resultant order should serve as Gistro Inc.'s wastewater certificate and should be retained by the applicant as such. Within 45 days after the issuance of a final order granting a certificate, the applicant should be required to file an affidavit attesting that Gistro's books and records have been established and will be maintained pursuant to the NARUC uniform system of accounts. The affidavit should attest that the applicant is aware of his responsibility to timely file annual reports and remit regulatory assessment fees for 2007 and in all future years. The applicant should also be put on notice that, pursuant to Rule 25-30.225(9), Florida Administrative Code, each utility is required to inspect its plant and facilities in such a manner and with such frequency as may be necessary to ensure that the plant and facilities are maintained in proper condition for rendering safe and adequate service and that failure to do so may result in show cause proceedings.

Issue 3: If the Commission grants Gistro, Inc. a certificate of authorization, what is the appropriate initial wastewater service rate?

Recommendation: A quarterly wastewater service rate of \$19.18 per residential connection should be approved. The applicant should be required to charge the approved rate until authorized to change by the Commission in a subsequent proceeding. The applicant should be put on notice that he may not require persons wishing to connect to the collection system to purchase stock in Gistro. The applicant should also be put on notice that, pursuant to Section 367.111(1), Florida Statutes, the utility is required to provide service to its certificated area within a reasonable time and that the Commission will not tolerate the refusal of such service. Within 10 days from the date of the Commission vote, the applicant should file a proposed customer notice and a revised tariff reflecting its approved rates and charges for staff's review. The approved rates and charges should be effective for service rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision and the proposed customer notice is adequate. The utility should provide proof of the date the staff-approved notice was given within 10 days after the date of notice. A return on equity of 8.88% plus or minus 100 basis points should be approved.

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Issue 4: If the Commission grants Gistro, Inc. a certificate of authorization, what are the appropriate miscellaneous service charges?

Recommendation: The Commission's standard miscellaneous wastewater services charges, as described in the analysis portion of staff's February 1, 2007, memorandum, should be approved. In addition, a \$5.00 late payment charge is reasonable and should be approved. These charges should become effective on or after the stamped approval date, pursuant to Rule 25-30.475, Florida Administrative Code, and should be included in the notice described in Issue 3.

Issue 5: If the Commission grants Gistro, Inc. a certificate of authorization, should the approved rates be implemented on a temporary basis, subject to refund with interest, in the event of a protest?

Recommendation: Yes. In the event of a protest, the applicant should be authorized to implement the approved rates on a temporary basis, subject to refund, pending the final outcome of this proceeding. Should the final rates be lower than the temporary rates, the applicant should be required to refund the difference, with interest, pursuant to Rule 25-30.360, Florida Administrative Code. Prior to the implementation of any temporary rates, the applicant should be required to provide evidence of security as described in the analysis portion of staff's February 1, 2007, memorandum. In addition, after the temporary rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the applicant should file monthly reports no later than the 20th of each month indicating the monthly and total amount of money that was subject to refund at the end of the preceding month until the final order is issued. The monthly reports should also indicate the status of the security being used to guarantee repayment of any potential refund.

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Issue 6: Should this docket be closed?

Recommendation: If the Commission acknowledges the applicant's Notice of Withdrawal in Issue 1, no further action is necessary and the docket should be closed. If the Commission declines to acknowledge the applicant's Notice of Withdrawal, grants a certificate of authorization, sets initial rates and charges and no timely protest is received to the proposed agency action issues, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of a proposed notice reflecting the applicant's approved rates, a statement confirming that the notice has been given, a revised tariff, and an affidavit attesting that the books and records for Gistro have been established pursuant to the NARUC uniform system of accounts, and that the applicant is aware of his responsibility to timely file annual reports and remit RAFs for 2007 and in all future years. Upon receipt and verification of such documents, the docket should be administratively closed. If a timely protest to a proposed agency action issue is filed by a person whose interests are substantially affected, the docket should remain open in order to proceed to hearing.