

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

**DATE:** June 19, 2008

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Johnson, Marsh)  
Office of the General Counsel (Hartman)

*Handwritten signatures and initials: Johnson, Marsh, Hartman, and others.*

**RE:** Docket No. 080199-SU – Application for transfer of wastewater facilities to City of Sanibel in Lee County, and cancellation of Certificate No. 207-S, by Sanibel Bayous Utility Corporation.

**AGENDA:** 07/01/08 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Edgar

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\080199.RCM.DOC

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### Case Background

Sanibel Bayous Utility Corporation (Sanibel Bayous or utility) is a Class C wastewater utility serving approximately 150 residential, 116 multi-family, and four general service customers in Sanibel Bayous Subdivision, Heron's Landing Subdivision, the Ridge Subdivision, and Blind Pass Condominiums on Sanibel Island. Sanibel Bayous was granted Certificate No. 207-S pursuant to Order No. 7402, issued August 24, 1976, in Docket No. 760364-S, In Re: Application of Sanibel Bayous Utility Corporation for a certificate to operate a sewer system in Lee County, Florida. The utility's 2007 annual report indicates gross revenue of \$71,627 and a net operating loss of \$20,519.

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The City of Sanibel (City) and Sanibel Bayous have entered into an Agreement in which Sanibel Bayous will sell all personal and real properties along with all rights, title, and interest to the City of Sanibel. On March 3, 2008, the City closed on the acquisition of Sanibel Bayous. On April 4, 2008, an application was filed for the transfer of the utility to the City and for the cancellation of Certificate No. 207-S. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

**Discussion of Issues**

**Issue 1:** Should the transfer of the wastewater facilities from Sanibel Bayous Utility Corporation to the City of Sanibel and the cancellation of Certificate No. 207-S be approved?

**Recommendation:** Yes. The transfer of the wastewater facilities from Sanibel Bayous Utility Corporation to the City of Sanibel should be approved as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificate No. 207-S should be cancelled effective March 3, 2008. (Johnson, Hartman)

**Staff Analysis:** On April 4, 2008, Sanibel Bayous filed a completed application to transfer its facilities to the City of Sanibel pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), and (5) Florida Administrative Code. According to the application, the City began providing service to the customers of Sanibel Bayous on March 3, 2008. Therefore, the effective date of the transfer is March 3, 2008.

According to the application, the utility holds no customer deposits. Therefore, no deposits or accumulated interest will be transferred to the City or applied to the customer accounts. The application contains a statement that the City obtained Sanibel Bayous's most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction pursuant to Rule 25-30.037(4)(e), Florida Administrative Code.

In accordance with Rule 25-30.110, Florida Administrative Code, Sanibel Bayous filed its annual reports for 2007 and prior years. Pursuant to Rule 25-30.120, Florida Administrative Code, the utility's RAFs for 2007 and all prior years have been paid. Sanibel Bayous is not required to file an annual report for the period of January 1, 2008, through March 3, 2008, because of its transfer to the City. The seller of Sanibel Bayous should, however, be put on notice that he is responsible for the RAFs for the period of January 1, 2008, through the date of closing.

Staff recommends that the Commission find 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 facilities to a governmental authority shall be approved as a matter of right. Therefore, staff recommends that the transfer of Sanibel Bayous's facilities to the City should be approved and Certificate No. 207-S should be cancelled effective March 3, 2008.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. Because no further action is necessary, this docket should be closed.  
(Hartman)

**Staff Analysis:** Because no further action is necessary, this docket should be closed.