

State of Florida



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

RECEIVED-FPSC  
09 MAY 20 AM 11:00  
COMMISSION CLERK

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

DATE: May 20, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Redemann)  
Office of the General Counsel (Jaeger)

*Handwritten signatures and initials: RMR 10, JSB, and others.*

RE: Docket No. 090040-SU – Application for amendment of Certificate No. 249-S to extend territory in Volusia County by North Peninsula Utilities Corp. and a request for approval of a new class of service for a general service wastewater customer in Volusia County.  
County: Volusia

AGENDA: *02 - ac* 06/03/09 – Regular Agenda – Tariff Filing - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Skop

CRITICAL DATES: 06/22/09 (60-Day Suspension Date), 12/21/09 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\090040.RCM.DOC

Case Background

North Peninsula Utilities Corp. (North Peninsula or utility) is a Class C utility. By Order No. 8116, issued December 22, 1977, the Commission granted Certificate No. 249-S to the utility to serve territory in Volusia County; original wastewater rates were also established in that docket.<sup>1</sup> A transfer occurred in 1989 and the utility has had four amendments. North Peninsula

<sup>1</sup> In Docket No. 770595-S, In re: Application of Shore Utility Corporation for a certificate to Operate a Sewer Utility in Volusia County, Florida. Section 367.041, Florida Statutes.

DOCUMENT NUMBER-DATE

04991 MAY 20 09

FPSC-COMMISSION CLERK

Docket No. 090040-SU

Date: May 20, 2009

provides wastewater service to approximately 563 residential wastewater customers. Water service is provided by the City of Ormond Beach to these customers.

On March 2, 2009, the utility applied for a "Quick Take" amendment in Volusia County for its wastewater system. On April 21, 2009, the utility filed for approval of Original Sheet No. 18.1 to establish a new general service wastewater rate. The proposed area is located in the St. Johns River Water Management District. The Commission has jurisdiction pursuant to Section 367.045, 367.081 and 367.091, Florida Statutes (F.S.).

### **Discussion of Issues**

**Issue 1:** Should the Commission acknowledge North Peninsula's "Quick Take" application to amend Certificate No. 249-S in Volusia County?

**Recommendation:** Yes, the Commission should acknowledge North Peninsula's amendment application to expand its territory. The proposed territory amendment is described in Attachment A to this recommendation. The resultant order should serve as North Peninsula's amended certificate and it should be retained by the utility. (Redemann)

**Staff Analysis:** On March 2, 2009, North Peninsula applied for "Quick Take" amendment to Certificate No. 249-S in Volusia County, Florida, pursuant to Rule 25-30.036(2), Florida Administrative Code (F.A.C.), to serve a restaurant. The completed application was filed on March 18, 2009. The requested territory is contiguous to the utility's existing service territory.

The application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for amendment of certificate. Adequate service territory maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e) and (i), F.A.C. The additional territory requested by North Peninsula is described in Attachment A. The utility has submitted an affidavit consistent with Section 367.045(2)(d), F.S., that it has tariffs and annual reports on file with the Commission.

The "Quick Take" amendment is designed to provide water and/or wastewater service quickly for areas that serve less than 25 equivalent residential connections (ERCs). Typically, a well or septic tank fails or service is otherwise not available and is needed as soon as possible. The request for service territory expansion and amendment of an existing certificate is considered approved when the utility complies with Rule 25-30.036(2), F.A.C., and if no protest is timely filed to the notice of application. The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C.

The utility states that the new territory will not exceed a maximum of 25 ERCs at the time the territory is built out. The proposed amendment is for an existing restaurant whose septic tank is failing. According to North Peninsula, no other utility in the area is willing or capable of providing reasonably adequate service to the territory.

North Peninsula's wastewater plant is regulated by the DEP Central District office in Orlando. The utility is current in all of the required chemical analyses and the utility has met all required standards for wastewater. The wastewater effluent quality is considered to be satisfactory by the DEP.

Based on the above information, the Commission should acknowledge North Peninsula's amendment application to expand its territory. The proposed territory amendment is described in Attachment A to this recommendation. The resultant order should serve as North Peninsula's amended certificate and it should be retained by the utility.

**Issue 2:** Should North Peninsula's Original Sheet No. 18.1 for a new class of service for a general service wastewater customer be approved as filed?

**Recommendation:** Yes. Original Sheet No. 18.1 for a new class of service for a general service wastewater customer should be approved as filed. The utility should file a proposed customer notice to reflect the Commission approved rate. The approved rate should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475, Florida Administrative Code, provided that the notice has been approved by staff. The utility should provide proof that the customer has received notice within 10 days after the date that the notice is sent.

**Staff Analysis:** Section 367.091(5), F.S., provides as follows:

If any request for service of a utility shall be for a new class of service not previously approved, the utility may furnish the new class of service and fix and charge just, reasonable, and compensatory rates or charges therefor. A schedule of rates or charges so fixed shall be filed with the commission within 10 days after the service is furnished. The commission may approve such rates or charges as filed or may approve such other rates or charges for the new class of service which it finds are just, reasonable, and compensatory.

On April 21, 2009, the utility filed for approval of Original Sheet No. 18.1 to establish a new class of service for a general service wastewater customer. The utility's existing tariff contains only a residential flat rate.

The proposed wastewater rate of \$421.28 per month is based on the utility's existing residential rate of \$30.12. It is estimated that the flow of the restaurant is equal to 14 ERCs. The utility has discussed the proposed rate with the restaurant and the restaurant has agreed to the rate.

Based on the above, staff believes Original Sheet No. 18.1 for a new class of service for a general service wastewater customer should be approved as filed. The utility should file a proposed customer notice to reflect the Commission approved rate. The approved rate should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475, F.A.C. provided that the notice has been approved by staff. The utility should provide proof that the customer has received notice within 10 days after the date that the notice is sent.

Docket No. 090040-SU

Date: May 20, 2009

**Issue 3:** Should this docket be closed?

**Recommendation:** If no protest is filed by a person whose interests are substantially affected within 21 days of the issuance of the Order, the Tariff Order will become final upon the issuance of a Consummating Order and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the tariff should remain in effect pending the resolution of the protest, and the docket should remain open. (Jaeger)

**Staff Analysis:** If no protest is filed by a person whose interests are substantially affected within 21 days of the issuance of the Order, the Tariff Order will become final upon the issuance of a Consummating Order and the docket should be closed. If a protest is filed within 21 days of the issuance of the Order, the tariff should remain in effect pending the resolution of the protest, and the docket should remain open.

North Peninsula Utilities Corp.  
Volusia County  
Description of Wastewater Territory Added

Pip's Place

Lot 67 And The East 45 Feet Of Lot 66, Atlantic Shores, Map Book 23, Page 28, Public Records Of Volusia County, Florida, In Section 21, Township 13 South, Range 32 East, More Particularly Described As Follows:

Commence At The Intersection Of The North Line Of Said Section 21 With The Centerline Of Ocean Shore Boulevard; Thence S23°22'14" E Along Said Centerline 1070.60 Feet; Thence S88°04'46"W, 42.98 Feet To The Northeast Corner Of Said Lot 67 And Point Of Beginning Thence S23°22'14"E Along The East Line Of Said Lot 67, A Distance Of 104.75 Feet To The Southeast Corner Of Said Lot 67; Thence Along The South Line Of Said Lot 67 And Said Lot 66 S88°04'46"W, 155.00 Feet To The South West Corner Of The East 45 Feet Of Said Lot 66; Thence Along The West Line Of The East 45 Feet Of Said Lot 66 N23°22'14"W 104.75 Ft To The Northwest Corner Of The East 45 Feet Of Said Lot 66; Thence Along The North Line Of Said Lot 66 And Said Lot 67 N88°04'46"E, 155.00 Feet To The Point Of Beginning. Containing 0.35 Acres, More Or Less.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**North Peninsula Utilities Corp.**  
**pursuant to**  
**Certificate Number 249-S**

to provide wastewater service in Volusia County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, canceled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
8116	12/22/77	770595-S	Original Certificate
9365	05/09/80	800320-S	Amendment
22345	12/27/89	891016-SU	Transfer Certificate
24272	03/21/91	900659-SU	Amendment
PSC-96-0262-FOF-SU	02/23/96	951373-SU	Amendment
*		090040-SU	Amendment

**\*Order Number and date to be provided at time of issuance.**