

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:** January 28, 2010

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

**FROM:** Division of Economic Regulation (Brady, Rieger) *pb PA DR*  
Office of the General Counsel (Holley) *OR*

**RE:** Docket No. 100015-WS – Territory correction for Hideaway water and wastewater systems held by FIMC Hideaway, Inc. in Levy County.  
County: Levy *YAM JB*

**AGENDA:** ~~03/09/10~~ *02/09/10-ac* – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** *all Commissioners-ac*

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\100015.RCM.DOC

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### Case Background

FIMC Hideaway, Inc. (FIMC or Utility) is a Class C utility serving approximately 186 water and 148 wastewater customers in the Hideaway and Springside developments. The Utility was granted original water and wastewater certificates in 1984 to serve the Hideaway development.<sup>1</sup> The Hideaway systems were transferred in 1992,<sup>2</sup> and there was a subsequent

<sup>1</sup> Order No. 13497, issued July 10, 1984, in Docket No. 830552-WS, In Re: Application of Hideaway Service, Inc. for a certificate to operate a water and sewer utility in Levy County.

<sup>2</sup> Order No. 25584, issued January 8, 1992, in Docket No. 910672-WS, In Re: Application for transfer of Certificates Nos. 426-W and 362-S from Hideaway Service, Inc. to FIMC Hideaway, Inc. in Levy County.

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transfer of majority organizational control to the current owners in 2005.<sup>3</sup> In 2009, the Commission approved the transfer of the Springside water and wastewater systems from Par Utilities, Inc. to FIMC Hideaway, Inc. (FIMC).<sup>4</sup> Subsequent to the Commission's approval of the transfer, staff discovered an error in the legal description of the original Hideaway service territory.

This recommendation addresses a territory correction to a prior Commission order. The Commission has jurisdiction to consider this matter pursuant to Section 367.045, Florida Statutes.

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<sup>3</sup> Order No. PSC-05-0298-PAA-WS, issued March 18, 2005, in Docket No. 040152-WS, In Re: Application for transfer of majority organizational control of FIMC Hideaway, Inc. in Levy County from Florida Investors Mortgage Corporation, a Florida corporation, to Robert and Janet McBride.

<sup>4</sup> Order No. PSC-09-0279-PAA-WS, issued April 29, 2009, in Docket No. 080268-WS, In Re: Joint Application for transfer of the Springside water and wastewater systems from Par Utilities, Inc. in Levy County to FIMC Hideaway, Inc.; amendment of Certificates 426-W and 362-W held by FIMC Hideaway, Inc.; and amendment of Certificate 428-W and cancellation of Certificate 366-S held by Par Utilities, Inc.

### Discussion of Issues

**Issue 1:** Should the corrected legal description of the original Hideaway water and wastewater service territory shown in Attachment A be approved?

**Recommendation:** Yes. The corrected legal description of the original Hideaway water and wastewater service territory shown in Attachment A should be approved. The resulting order should serve as Certificate Nos. 426-W and 362-S and should be retained by FIMC Hideaway, Inc. (Brady, Rieger, Holley)

**Staff Analysis:** The Commission approved the legal description of the Hideaway water and wastewater service territory in a grandfather application when Levy County turned jurisdiction over to the Commission in 1983. Subsequent to the Commission's approval of a recent transfer and amendment to the Utility's service territory, staff discovered an error in the legal description of the Hideaway service territory description. The original territory description includes the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 25 (approximately 10 acres). However, upon review of the Utility's original certificate application, it appears that the second "Northeast 1/4" was included in the legal description in error and the application was intended to have been for the Northeast 1/4 of the Southeast 1/4 of Section 25 (approximately 40 acres).

The approved legal description does not include all of the platted community that the Utility was serving in 1984 when the grandfather certificates were approved. Although the Utility's grandfather application described the lesser area (the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 25), the acreage of the territory served, which was included in the grandfather application along with the legal description, and the number of lots served are in the Northeast 1/4 of the Southeast 1/4 of Section 25. Staff has confirmed with the Utility that the Hideaway systems have always served this entire area.

Since the Utility has been serving the affected customers since 1984, staff believes the customers would be confused by a notice of a corrected legal description at this time. In addition, staff does not believe that a show cause is warranted because the Utility and its predecessors were only serving the area they believed was originally granted to the Hideaway systems. There does not appear to have been any attempt on the part of the Utility to deliberately serve territory different from that authorized by Commission orders. Also, the Utility has included the revenues for all the customers it serves in its Annual Reports and Regulatory Assessment Fees.

Based on the above, staff recommends that the corrected legal description of the original Hideaway water and wastewater service territory shown in Attachment A should be approved. The resulting order should serve as Certificate Nos. 426-W and 362-S and should be retained by FIMC Hideaway, Inc.

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

**Recommendation:** Yes. Since no further actions are required, the docket should be closed.  
(Holley)

**Staff Analysis:** Since no further actions are required, the docket should be closed.

**Territory Description**  
**FIMC Hideaway, Inc.**  
**Levy County**

**Township 11 South, Range 13 East**  
**Section 25**

The Northeast 1/4 of the Southeast 1/4 of Section 25.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**FIMC Hideaway, Inc.**  
**pursuant to**  
**Certificate Number 426-W**

to provide water service in Levy 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, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
13497	07/10/84	830552-WS	Grandfather Certificate (H)
15432	12/09/85	840235-WS	Original Certificate (S)
23970	01/08/91	900408-WS	Transfer Certificate (S)
25584	01/08/92	910672-WS	Transfer Certificate (H)
PSC-99-2112-FOF-WS	10/25/99	991206-WS	Abandonment (S)
PSC-00-0088-PAA-WS	01/10/00	991206-WS	Appointment Receiver (S)
PSC-04-0610-PAA-WS	06/21/04	030407-WS	Transfer System (S)
PSC-05-0298-PAA-WS	03/18/05	040152-WS	Transfer Majority Control (H)
PSC-09-0279-PAA-WS	04/29/09	080268-WS	Transfer System (S)
*	*	100015-WS	Territory Correction (H)

“H” are the orders for the Hideaway systems  
“S” are the orders for the Springside systems

**\* Order No. and date to be provided at time of issuance.**

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**FIMC Hideaway, Inc.**  
**pursuant to**  
**Certificate Number 362-S**

to provide wastewater service in Levy 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, cancelled or revoked by Order of this Commission.

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