

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: May 6, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Brady, Williams, Slemkewicz) *pb JW JS P.D. [initials]*
Office of the General Counsel (Holley) *JMH JSB*

RE: Docket No. 100011-WU – Application for grandfather certificate to operate water utility in St. Johns County by Wildwood Water Company, Inc.
County: St. Johns

AGENDA: 05/18/10 – Regular Agenda – Proposed Agency Action for Issue 3 -- Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Stevens

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100011.RCM.DOC

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COMMISSION
CLERK

Case Background

On December 2, 2008, the Board of County Commissioners of St. Johns County passed Ordinance No. 2008-57, declaring the privately owned water and wastewater utilities in St. Johns County to be subject to the provisions of Chapter 367, Florida Statutes (F.S.). The Ordinance was filed with the Commission on January 16, 2009, and acknowledged on February 12, 2009.¹ The effective date of the transfer of jurisdiction is January 16, 2009. Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system shall be

¹ Order No. PSC-09-0092-FOF-WS, issued February 12, 2009, In re: Ordinance by Board of County Commissioners of St. Johns County relating to regulation of water and wastewater utilities within the unincorporated areas of St. Johns County.

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entitled to receive a certificate for the area served by such utility on the day the chapter becomes applicable to the utility. Therefore, the effective date of Wildwood Water Company's (Wildwood or utility) water certificate will be January 16, 2009.

On January 4, 2010, Wildwood filed an application for a certificate to provide water service in St. Johns County pursuant to Section 367.171(2), F.S. Wildwood has been in existence since 1979 and provides water service to approximately 367 residential and commercial customers. The utility is located in the St. Johns River Water Management District, but outside the water resource caution area. Wastewater service is provided by septic tank. This utility was previously regulated by the Commission from 1985 to 1989, prior to St. Johns County rescinding Commission jurisdiction.

This recommendation addresses the application for a grandfather water certificate, rates, and charges. The Commission has jurisdiction pursuant to Sections 367.171 and 367.091, F.S.

Discussion of Issues

Issue 1: Should the application for a grandfather water certificate in St. Johns County by Wildwood Water Company, Inc. be acknowledged?

Recommendation: Yes, Wildwood Water Company, Inc.'s application should be acknowledged and the utility should be issued Certificate No. 648-W, effective January 16, 2009, to serve the territory described in Attachment A. Based on extensions that were granted, Wildwood was required to file an annual report and pay regulatory assessment fees (RAFs) for the period of jurisdiction from January 16, 2009, through December 31, 2009, by April 30, 2010, and by March 31st of every year beyond that for the prior calendar year. As of the filing date of this recommendation, the utility has not paid its RAFs nor has it filed its annual report. Therefore, Wildwood should be directed to file its RAFs and annual report no later than June 1, 2010, and pay the associated penalties and interest from April 30, 2010, through the actual date of the filings. (Brady, Williams, Slemkewicz, Holley)

Staff Analysis: The Board of County Commissioners of St. Johns County transferred jurisdiction of privately-owned water and wastewater utilities in the county to the Commission effective January 16, 2009. On January 4, 2010, an application was filed on behalf of Wildwood to provide water service under the grandfather rights of Section 367.171(2)(b), F.S. The application is in compliance with the governing statute and other pertinent statutes and administrative rules concerning an application for grandfather certificates.

The application contains proof of ownership of the land on which the water treatment facilities are located and an accurate territory description. Adequate service territory and system maps were also provided. A description of the territory the utility is currently serving is appended to this memorandum as Attachment A.

Wildwood began providing water service in 1979. The water treatment plant uses a combination of hypochlorination and aeration to treat raw groundwater from its 13 wells. The plant has a design capacity to treat 171,360 gallons of water per day and storage capacity of 60,000 gallons by means of two ground storage tanks.

Although the water quality is acceptable, the Department of Environmental Protection's (DEP) most recent sanitary survey conducted on December 30, 2008, notes several deficiencies, including the failure to provide storage tank inspection reports and improper well maintenance. Also, the utility is currently under enforcement action regarding a Notice of Violation which resulted from extensive monitoring and reporting violations over the past several years. An amended Final Order was issued in February of 2010, requiring the utility to complete several corrective actions, including the submission of various testing and monitoring reports and payment of \$11,000 in fines and penalties by April 26, 2010. The fines have not been paid and the submission of some of the required documentation has not been completed. DEP is currently planning to meet with the utility to evaluate the enforcement case and determine a course for future action.

The utility was advised that it must submit a 2009 annual report and remit 2009 RAFs for the period of January 16, 2009, through December 31, 2009, by March 31, 2010, and by March

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31st every year beyond that for the prior calendar year. Wildwood requested, and was granted, an extension until April 30, 2010, to file its 2009 RAFs and 2009 annual report. As of the filing date of this recommendation, the utility has not paid its RAFs nor has it filed its annual report. As a result, the utility is now subject to the associated penalties and interest for failure to timely file its RAFs and annual report.

The utility was advised of the need to maintain its books and records according to the National Association of Regulatory Utility Commissioners Uniform System of Accounts. According to the utility, it is aware of this requirement, since it was previously regulated by the Commission in the mid-1980s.

Based on the above information, staff recommends that Wildwood Water Company's application should be acknowledged and the utility should be issued Water Certificate No. 648-W, effective January 16, 2009, to serve the territory described in Attachment A. Based on extensions that were granted, Wildwood was required to file an annual report and pay regulatory assessment fees (RAFs) for the period of jurisdiction from January 16, 2009, through December 31, 2009, by April 30, 2010, and by March 31st of every year beyond that for the prior calendar year. As of the filing date of this recommendation, the utility has not paid its RAFs nor has it filed its annual report. Therefore, Wildwood should be directed to file its RAFs and annual report no later than June 1, 2010 and pay the associated penalties and interest from April 30, 2010 through the actual date of the filings.

Issue 2: What rates and charges should be approved for Wildwood Water Company, Inc.?

Recommendation: The utility's rates and charges that were in effect when St. Johns County transferred jurisdiction to the Commission, as shown on Schedule 1, should be approved. Wildwood should be required to charge the approved rates and charges until authorized to change in a subsequent Commission proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.). (Brady, Holley)

Staff Analysis: The service rates shown on Schedule 1 were authorized to be charged by Wildwood pursuant to a St. Johns County 2001 price index.² The initial customer deposit, miscellaneous service charges, meter installation charges and tap-in fees, and water unit connection charge, as also shown on Schedule 1, were authorized to be charged by Wildwood pursuant to a 1992 St. Johns County rate proceeding. County-approved tariff sheets and the minutes of a St. Johns County Water and Sewer Authority meeting were provided in support of the utility's authorized rates and charges.

Staff recommends that the Commission approve the rates and charges for Wildwood shown on Schedule 1. Wildwood should be required to charge these approved rates and charges until authorized to change in a subsequent Commission proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C.

² Wildwood's rates are based on a flat rate of \$29.67 for the first 4,000 gallons of water plus a County-approved \$2.50 billing fee and the County's regulatory assessment fee of 2.5%, which were shown as separate line items on customer bills.

Issue 3: What is the appropriate late payment charge for Wildwood Water Company?

Recommendation: A \$5.00 late payment charge should be approved. Once a consummating order is issued, the utility should be required to give notice to its customers of the Commission-approved late payment charge. An affidavit of the noticing should be provided to staff prior to closing the docket. Wildwood should be required to charge the approved late payment charge until authorized to change in a subsequent Commission proceeding. The charge should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. (Brady, Holley)

Staff Analysis: Wildwood requested approval of a \$10.00 late payment fee. Pursuant to Section 367.091, F.S., the utility provided the following information as justification for the late payment charge. In 2008, Wildwood was approved by St. Johns County to use a billing company. According to the utility, the billing company's charge to send out late payment notices is \$5.00. The remaining \$5.00 represents Wildwood's cost to oversee, approve, and finalize the cutoff notice list in preparation for service disconnection. The utility indicates that the benefits of offsetting these costs are only part of the necessity for the charge. The charge also supplies incentive for customers to pay their bill in a timely manner. Without this charge, the utility believes its customers would routinely pay their bills late without repercussion, causing an undue burden on the utility.

A \$5.00 late payment fee, as charged by Wildwood's service company, is consistent with recent Commission decisions on the current cost of researching, printing, mailing, and tracking late payment charges.³ Further, staff does not believe that the additional \$5.00 amount requested by the utility is justified. Not all late payment notices result in disconnection of service. And, as discussed in Issue 2, the utility already has miscellaneous service charges for normal and violation reconnections. Staff believes the remaining costs are those that are recovered through base rates.

Staff recommends that the Commission approve a \$5.00 late payment charge for Wildwood. Once a consummating order is issued, Wildwood should be required to give notice to its customers of the Commission-approved late payment charge. An affidavit of the noticing should be provided to staff prior to closing the docket. Wildwood should be required to charge the approved late payment charge until authorized to change in a subsequent Commission proceeding. The charge should be effective for services rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C.

³ Order No. PSC-10-0014-TRF-WS, in Docket No. 090500, issued January 4, 2010, In re: Request for approval of late payment charge by Heather Hills Estates Utilities, LLC, in Manatee County; Order No. PSC-09-0752-PAA-WU, in Docket No. 090185-WU, issued November 16, 2009, In re: Application for grandfather certificate to operate water utility in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility; and Order No. PSC-09-0279-PAA-WS, in Docket No. 080268-WS, issued April 29, 2009, 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-S held by FIMC Hideaway, Inc.; and amendment of Certificate 428-W and cancellation of Certificate 366-S held by Par Utilities, Inc.

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Issue 4: Should this docket be closed?

Recommendation: Yes. If no timely protest to the proposed agency action in Issue 3 is filed with the Commission by a substantially affected person, a consummating order should be issued. The docket should closed upon the issuance of the consummating order and verification that notice has been given to customers of the Commission-approved late payment charge. (Holley)

Staff Analysis: If no timely protest to the proposed agency action in Issue 3 is filed with the Commission by a substantially affected person, a consummating order should be issued. The docket should closed upon the issuance of the consummating order and verification that notice has been given to customers of the Commission-approved late payment charge.

Wildwood Water Company
Description of Territory Served
St. Johns County

Township, 8 South, Range 29 East
Section 11

Part of Section 11, Township 8 South, Range 29 East, described as follows:

That part of the southerly half of Section 11 lying west of Wildwood Drive and the southeast quarter of the northwest quarter of Section 11.

**FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Wildwood Water Company
pursuant to
Certificate Number 648-W**

to provide water service in St. Johns 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>
*	*	100011-WU	Grandfather Certificate

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

MONTHLY SERVICE RATES
RESIDENTIAL AND GENERAL SERVICE

Flat Rate - First 4,000 gallons or less	\$ 32.97
4,001 gallons up to 10,000	4.37
10,001 gallons up to 20,000	5.36
20,001 gallons and over	6.51

INITIAL CUSTOMER DEPOSITS

Residential 5/8" x 3/4" Meter	\$75.00
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MISCELLANEOUS SERVICE CHARGES

DESCRIPTION	NORMAL HOURS	AFTER HOURS
Initial Connection	\$ 35.00	\$ 52.50
Normal Reconnection	\$ 35.00	\$ 52.50
Violation Reconnection	\$ 35.00	\$ 52.50
Premises Visit Charge	\$ 35.00	Not Applicable
Nonsufficient Funds Charge	\$ 27.50	Not Applicable

SERVICE AVAILABILITY CHARGES

Meter Installation Charges and Tap in Fees

5/8" x 3/4"	\$130.00
3/4"	\$390.00
1"	\$490.00
1 1/2"	\$1,400.00
2"	\$2,200.00
Water Unit Connection Fee	\$1,500.00