

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: November 16, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Jones-Alexis, Gardner, Hillier)
Office of the General Counsel (Jaeger)

RE: Docket No. 100402-SU – Application for transfer of wastewater facilities in Seminole County from Alafaya Utilities, Inc., to City of Oviedo and cancellation of Certificate No. 379-S.

Handwritten notes and initials:
 JSC
 MB
 JS
 ALM
 (circled symbol)

AGENDA: 11/30/10 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100402.RCM.DOC

Case Background

Alafaya Utilities, Inc. (Alafaya or Utility), a wholly-owned subsidiary of Utilities, Inc., is a Class A Utility providing wastewater service to approximately 7,283 residential customers in Seminole County, Florida. Water service is provided by the City of Oviedo (the City). Alafaya is within the St. Johns River Water Management District in the Water Resource Caution Area, as designated pursuant to Rule 40C-23.001, Florida Administrative Code (F.A.C.). The Utility's 2009 annual report indicates that the Utility had gross operating revenues of \$3,914,424 and net operating income of \$518,143.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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Alafaya was originally granted Certificate No. 379-S for its wastewater facilities and territory in 1985.¹ The Utility has had 11 amendments and two transfers since it was certificated. On September 21, 2010, Alafaya filed an application for transfer of its facilities and territory to the City and cancellation of its Certificate No. 379-S, in accordance with Rule 25-30.036(2), F.A.C.

The purpose of this recommendation is to acknowledge the transfer of Alafaya's wastewater facilities and territory to the City as a matter of right and to cancel Alafaya's Certificate No. 379-S. The Commission has jurisdiction, pursuant to Sections 367.071 and 367.022(2), Florida Statutes (F.S.).

¹ Order No. 14841, issued September 3, 1985, in Docket No. 850209-SU, In re: Application of OVIEDO UTILITIES, INC., for a certificate to provide sewer service in Seminole County, pursuant to the provisions of Section 367.041, Florida Statutes.

Discussion of Issues

Issue 1: Should the transfer of Alafaya's wastewater facilities and territory to the City be acknowledged as a matter of right and Certificate No. 379-S be cancelled?

Recommendation: Yes. The transfer of Alafaya's wastewater facilities and territory to the City should be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 379-S should be cancelled effective September 14, 2010. (Jones-Alexis, Gardner, Hillier, Jaeger)

Staff Analysis: Alafaya filed an application for transfer of its wastewater system to the City and cancellation of its Certificate No. 379-S on September 21, 2010. Pursuant to Section 367.071(4)(a), F.S., the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. In addition, the City is exempt from regulation by the Commission as a governmental authority, in accordance with Section 367.022(2), F.S. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

On April 15, 2010, the Utility and the City executed an Agreement for Purchase & Sale of Reclaimed Water and Wastewater Assets. A copy of this contract was included in the application. The closing on the sale of the Utility's wastewater system took place on September 14, 2010, the effective date of the transfer.

The application contains a statement that prior to closing, the City obtained copies of the Utility's most recent available 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), F.A.C. The Utility's application also includes a statement that all customer deposits and interest accrued through the closing date will be transferred to the City. Staff has confirmed with a Utility representative that the customer deposits were, in fact, transferred to the City.

Alafaya has paid regulatory assessment fees (RAFs) for 2009 and all prior years, pursuant to Rule 25-30.120, F.A.C. The Utility has also paid RAFs for the period January 1, 2010, through June 30, 2010. The application states that the Utility will pay any and all outstanding RAFs and file its final Regulatory Assessment Fee Return. Therefore, Alafaya is responsible for RAFs accrued for the period July 1, 2010, through September 14, 2010, the closing date. Payment of the required RAFs for the stated period should be made by January 30, 2011.

In accordance with Rule 25-30.110, F.A.C., Alafaya has filed annual reports for 2009 and all prior years. The Utility will be exempt from regulation by the Commission once the Commission acknowledges the application for transfer to the City as a matter of right, in accordance with Section 367.022(2), F.S. Because Alafaya will no longer be jurisdictional as of December 31, 2010, it is not required to file a 2010 annual report, pursuant to Rule 25-30.110(3), F.A.C.

In addition, in accordance with Rule 25-30.037(4)(d), F.A.C., Alafaya's application indicates that after closing, the Utility will not retain any utility assets that would constitute a

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system providing or proposing to provide reclaimed water or wastewater service to the public for compensation. The application states that Alafaya is currently unable to locate its original Certificate No. 379-S.

Staff recommends that the transfer of Alafaya's wastewater facilities and territory to the City be acknowledged as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate No. 379-S be cancelled effective September 14, 2010.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, the docket should be closed, as no further action is required. (Jaeger, Jones-Alexis)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, the docket should be closed, as no further action is required.