

State of Florida



Public Service Commission

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DATE: July 14, 2011

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Jones-Alexis, Davis, Kaproth)
Office of the General Counsel (Klancke)

Handwritten notes:
MKP
CJP KK-15
ALM
JSC

RE: Docket No. 110075-SU – Application for transfer of wastewater facilities in Highlands County from Highlands Utilities Corporation to Town of Lake Placid and cancellation of Certificate No. 361-S.
County(ies): Highlands

AGENDA: 07/26/11 – 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\110075.RCM.DOC

Case Background

Highlands Utilities Corporation (HUC or Utility) is a Class B wastewater utility located in central Highlands County in the South Florida Water Management District. The Utility serves approximately 258 customers, including 179 residential and 79 commercial customers. Water service is provided by the Town of Lake Placid (Town). HUC's 2009 annual report indicates that the Utility had gross operating revenues of \$120,862 and a net operating loss of (\$296,037).

HUC applied for a wastewater certificate after the Highlands County Board of County Commissioners transferred jurisdiction of its water and wastewater utilities to this Commission on September 7, 1982. The Commission granted the Utility original Certificate No. 361-S in

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1984.¹ HUC has had seven territory amendments, including one partial transfer to a governmental authority, since it was certificated.² Of the four plants originally owned by the Utility to serve the Sebring and Lake Placid areas, three were transferred to the City of Sebring by Order No. PSC-09-0710-FOF-SU, issued October 26, 2009. The remaining plant, the South Plant, serves the Lake Placid area. On March 18, 2011, the Utility filed an application for transfer of its remaining facilities and territory to the Town and cancellation of its Certificate No. 361-S.

The purpose of this recommendation is to acknowledge the transfer of HUC's wastewater facilities and territory to the Town as a matter of right and to cancel Certificate No. 361-S. The Commission has jurisdiction pursuant to Sections 367.071 and 367.022(2), Florida Statutes (F.S.).

¹ See Order No. 13507, issued July 11, 1984, in Docket No. 830009-SU, In re: Application of Highlands Utilities Corporation for a certificate to operate a sewer system in Highlands County, pursuant to Section 367.171, Florida Statutes.

² See Order No. 14092, issued February 15, 1985, in Docket No. 830466-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory in Highlands County, Florida; Order No. 15908, issued March 28, 1986, in Docket No. 860171-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory in Highlands County, Florida; Order No. 22556, issued February 15, 1990, in Docket No. 890800-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory and cancellation of Pugh Septic Tank Services, Inc.'s Certificate No. 346-S in Highlands Co.; Order No. PSC-92-1185-AS-SU, issued October 19, 1992, in Docket No. 920093-SU, In re: Application for amendment of Certificate No. 349-S to include additional territory in Highland County by Harder Hall-Howard, Inc. and in Docket No. 920069-SU, In re: Complaint against Harder Hall-Howard, Inc. for alleged infringement upon certificated area in Highlands County served by Highlands Utilities Corporation; Order No. PSC-02-0250-PAA-WS, issued February 26, 2002, in Docket No. 990374-WS, In re: Application for certificates to operate a water and wastewater facility in Highlands County by the Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation; Order No. PSC-02-1732-FOF-SU, issued December 9, 2002, in Docket No. 001660-SU, In re: Application for amendment of certificate No. 361-S to extend and to delete wastewater service area in Highlands County by Highlands Utilities Corporation; Order No. PSC-09-0710-FOF-SU, issued October 26, 2009, in Docket No. 090227-SU, In re: Application for partial transfer of wastewater facility to City of Sebring, and amendment of Certificate No. 361-S, by Highlands Utilities Corporation, in Highlands County.

Discussion of Issues

Issue 1: Should the Commission acknowledge the transfer of HUC's wastewater facilities and territory to the Town as a matter of right and cancel Certificate No. 361-S?

Recommendation: Yes. The Commission should acknowledge the transfer of HUC's wastewater facilities and territory to the Town of Lake Placid as a matter of right pursuant to Section 367.071(4)(a), F.S., and cancel Certificate No. 361-S effective October 5, 2010. (Jones-Alexis, Davis, Kaproth, Klancke)

Staff Analysis: HUC applied for the transfer of its wastewater system to the Town and cancellation of Certificate No. 361-S on March 18, 2011, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.). The application included a copy of the Agreement for the Sale and Purchase of Wastewater Collection and Treatment System (Agreement), which was executed by HUC and the Town on April 26, 2010. The closing on the sale of the Utility's facilities took place on October 5, 2010, the effective date of the transfer.

The Town is exempt from the Commission's regulation as a governmental authority, in accordance with Section 367.022(2), F.S.³ 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. Staff believes that the application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contained a statement that prior to purchase, the Town obtained a copy of the Utility's 2009 annual report filed with the Commission, which included its most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction, pursuant to Section 367.071(4)(a), F.S., and Rule 25-30.037(4)(e), F.A.C. In accordance with Rule 25-30.037(4)(g), F.A.C., the application specified that there were no customer deposits; therefore, no transfer or refunds of deposits were required at closing.

HUC has paid regulatory assessment fees (RAFs) accrued through October 5, 2010 and all prior years, pursuant to Rule 25-30.120, F.A.C. Since the closing and transfer of the Utility occurred on October 5, 2010, no RAFs were accrued or due from that time forward. HUC has filed its annual reports for 2009 and all prior years. The Utility should not be required to file a 2010 annual report since it was not jurisdictional as of December 31, 2010, pursuant to Rule 25-30.110(3), F.A.C.

Staff recommends that the Commission acknowledge the transfer of HUC's wastewater facilities and territory to the Town of Lake Placid as a matter of right pursuant to Section 367.071(4)(a), F.S., and cancel Certificate No. 361-S effective October 5, 2010.

³ See also Order No. PSC-03-1275-FOF-WS, issued November 10, 2003, in Docket No. 030921-WS, In re: Joint application for acknowledgment of sale of land and facilities in Osceola County to Osceola County by Florida Water Services Corporation, and for cancellation of Certificates Nos. 66-W and 289-S.

Docket No. 110075-SU

Date: July 14, 2011

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed, as no further action is necessary. (Klancke)

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