

State of Florida



Public Service Commission

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COMMISSION CLERK
ALM

DATE: June 7, 2012

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Daniel, Kaproth, Mouring, Simpson)
Office of the General Counsel (Barrera)

RE: Docket No. 120042-WS – Notice of abandonment of water and wastewater systems in Okeechobee County by Pine Ridge Management Corporation.
County: Okeechobee

AGENDA: 06/19/12 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\120042.RCM.DOC

Case Background

Pine Ridge Management Corporation (Pine Ridge or Utility) is a Class C water and wastewater utility providing service to approximately 118 water and 116 wastewater customers in the Pine Ridge subdivision of Lake Placid, located in Okeechobee County (County). The Utility is within the South Florida Water Management District in a water use caution area. Pine Ridge's 2011 annual report indicates that the Utility had gross revenues of \$13,817.19 and \$54,079.90 for water and wastewater services, respectively, and net operating losses of \$19,231.92 and \$386.26 for water and wastewater services, respectively. The Utility also had gross revenues of \$147,770.00 and net operating income of \$82,167.55 for other services.

DOCUMENT NUMBER: 1A

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FPSC-COMMISSION CLERK

On May 13, 2004, the Okeechobee County Board of County Commissioners adopted Resolution No. 2004-16, which declared the water and wastewater utilities in the county subject to the provisions of Section 367, Florida Statutes (F.S.). The Commission acknowledged the resolution,¹ and Pine Ridge subsequently filed an application for grandfather certificates. In 2005, the Commission granted the Utility Certificate Nos. 630-W and 539-S.² Following its certification, the Utility experienced no transfers or amendments.

On February 16, 2012, in accordance with Section 367.165, F.S., Pine Ridge provided the County and the Commission with 60 days' notice of the owner's intent to abandon the water and wastewater facilities as of April 18, 2012. The Utility has complied with the provisions of Section 367.165, F.S., and Rule 25-30.090, Florida Administrative Code (F.A.C.), regarding abandonment of a utility. This recommendation addresses Pine Ridge's notice of abandonment. The Commission has jurisdiction, pursuant to Sections 367.022 and 367.165, F.S., and Rule 25-30.090, F.A.C.

¹ See Order No. PSC-04-0593-FOF-WS, issued June 15, 2004, in Docket No. 040469-WS, In re: Resolution of the Board of County Commissioners of Okeechobee County declaring Okeechobee County subject to the provision of Chapter 367, F.S.

² See Order No. PSC-05-1116-PAA-WS, issued November 7, 2005, in Docket No. 050061-WS, In re: Application for grandfather certificates to operate water and wastewater facility in Okeechobee County by Pine Ridge Management Corporation.

Discussion of Issues

Issue 1: Should the Commission acknowledge Pine Ridge Management Corporation's notice of abandonment, and the appointment of the Okeechobee Utility Authority as receiver, and cancel Certificate Nos. 630-W and 539-S?

Recommendation: Yes, the Commission should acknowledge Pine Ridge's notice of abandonment pursuant to Section 367.165, F.S., and appointment of the Okeechobee Utility Authority as receiver for the Utility. Certificate Nos. 630-W and 539-S should be cancelled effective April 12, 2012. (Daniel, Kaproth, Mouring, Simpson)

Staff Analysis: On February 16, 2012, in accordance with Section 367.165, F.S., Pine Ridge provided the County and the Commission with 60 days' notice of the owner's intent to abandon the water and wastewater facilities as of April 18, 2012. The Utility has complied with the provisions of Section 367.165, F.S., and Rule 25-30.090, F.A.C., regarding abandonment of a utility. Pine Ridge's notice specified as the reason for abandonment that the revenues generated by the systems are insufficient to fund the reasonable costs of operation and maintenance and provide necessary funds for required capital improvements.

Section 367.165(2), F.S., requires that the county, after receiving notice of abandonment of a utility, petition the circuit court of the judicial circuit in which the utility is located to appoint a receiver. Pursuant to this statute, such receiver may be the governing body of a political subdivision, such as a county (or counties if more than one is affected), or any other person deemed appropriate. The receiver is responsible for operating the utility from the date of abandonment until the receiver disposes of the property of the utility in a manner designed to continue the efficient and effective operation of utility service. By Order dated April 12, 2012, issued in Case No. 2012-CA-000086, the Circuit Court of the Nineteenth Judicial Circuit in and for Okeechobee County (Circuit Court) acknowledged the County's petition and appointed the Okeechobee Utility Authority (OUA) as receiver of Pine Ridge effective the date of the Order. Rule 25-30.090(3), F.A.C., states that within 10 days of the circuit court's appointment of a receiver, the receiver must request from the Commission a copy of the utility's tariff and most recent annual report. Staff provided a representative of the OUA with these documents on March 19, 2012.

The Circuit Court's April 12, 2012 Order required the Utility's now-prior owner, Virginia Gadsden, to allow the OUA to operate the systems on the property upon which they are located. The Order also stated that Ms. Gadsden must be responsible for payment of the Utility's mortgage and should use her best efforts to accomplish a release from the mortgage for the assets that are subject to the receivership.

Section 367.022(2), F.S., states that utility systems that are owned, operated, managed, or controlled by governmental authorities are exempt from Commission regulation. Given the OUA's appointment as receiver, Pine Ridge will no longer be jurisdictional.

The Utility has filed annual reports for 2011 and all prior years, in accordance with 25-30.110(3)(a), F.A.C. In addition, the Utility has paid its 2011 regulatory assessment fees

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(RAFs), in conformance with Rule 25-30.120(2)(b), F.A.C. Because the Utility will not be jurisdictional as of December 31, 2012, no annual report needs to be filed for 2012. However, cancellation of Pine Ridge's certificates does not relieve the Utility's obligation to pay outstanding RAFs for the period January 1 through April 18, 2012. Although the Utility has not yet made payment for RAFs for the period January 1 through April 18, 2012, staff notes that payment is not due until March 31, 2013.

Based on the above, staff recommends that the Commission acknowledge Pine Ridge's notice of abandonment, pursuant to Section 367.165, F.S., and appointment of the OUA as receiver for the Utility. Certificate Nos. 630-W and 539-S should be cancelled effective April 12, 2012.

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Issue 2: Should this docket be closed?

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

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