

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: February 21, 2013

TO: Office of Commission Clerk (Cole)

FROM: Division of Engineering (Rieger, Lewis) *Shirley* CKL W/ TMS
Office of the General Counsel (Crawford) *JSC*

RE: Docket No. 130049-WS – Resolution of the Board of County Commissioners of Charlotte County declaring Charlotte County subject to the provisions of 367, F.S.

AGENDA: 03/05/13 – 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\ENG\WP\130049.RCM.DOC

Case Background

On February 12, 2013, the Board of County Commissioners of Charlotte County (County) passed and adopted Resolution No. 2013-003 (Resolution), transferring regulation of the privately owned for profit water and wastewater utilities in the County to the Florida Public Service Commission (Commission). Effective upon the adoption of the resolution, all non-exempt water and wastewater systems in the County became subject to the provisions of Chapter 367, Florida Statutes (F.S.). Therefore, the effective date of the transfer of jurisdiction is February 12, 2013. This recommendation addresses the acknowledgement of that resolution. The Commission has jurisdiction pursuant to Section 367.171, F.S.¹ This is the second time the

¹ It should be noted that staff intends to propose new language to grant staff administrative authority to acknowledge the adoption of a county resolution declaring privately owned water and wastewater facilities subject to the provisions of Chapter 367, F.S., for the Commission's consideration at its Internal Affairs Agenda.

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County invoked Commission jurisdiction over private water and wastewater utilities. The first was on September 27, 1994.² On September 25, 2007, the County adopted a resolution which rescinded Commission jurisdiction.³

² See Order No. PSC-94-1451-FOF-WS, issued November 28, 1994, Docket No. 941044-WS, In re: Resolution of Board Of Commissioners of Charlotte County Declaring Charlotte County subject to provisions of Chapter 367, Florida Statute.

³ See Order No. PSC-07-0984-FOF-WS, issued December 10, 2007, Docket No. 07643-WS, In re: Resolution No. 2007-143 by Charlotte County Board of Commissioners, in accordance with Section 367.171, F.S., rescinding Florida Public Service Commission jurisdiction over private water and wastewater systems in Charlotte County.

Discussion of Issues

Issue 1: Should the Commission acknowledge Resolution No. 2013-003 by the Board of County Commissioners of Charlotte County?

Recommendation: Yes. The Commission should acknowledge Resolution No. 2013-003 by the County Commissioners of Charlotte County, effective February 12, 2013. All non-exempt, privately-owned water and wastewater utilities in Charlotte County should be directed to comply with the provisions of Chapter 367, F.S. (Rieger, Lewis, Crawford)

Staff Analysis: On February 12, 2013, the Board of County Commissioners of Charlotte County passed and adopted Resolution No. 2013-003 which transfers jurisdiction over the County's privately-owned water and wastewater utilities to the Commission. Pursuant to Section 367.171(2)(a), F.S., each privately-owned and operated utility in Charlotte County is required to register with the Commission within thirty (30) days of the date the Commission received jurisdiction, or by March 14, 2013. All utilities must obtain either a certificate of authorization from the Commission, pursuant to Section 367.031, F.S., or must be exempt from Commission regulation.

Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system is entitled to receive a grandfather certificate for the area served by the utility. Within 90 days after, or by May 13, 2013, each utility is required to make application for a grandfather certificate by filing an application with the Commission. In addition, since it is subject to Chapter 367, F.S., each utility must continue to collect the rates and charges for water and wastewater service which were being collected on February 12, 2013, until changed by the Commission.

Staff has contacted the County Attorney for a list of the privately-owned water and wastewater utilities which were regulated by Charlotte County on February 12, 2013, along with available information on each utility's current rates, charges, and territory served. Staff has also contacted the Florida Department of Environment Protection (FDEP) to advise it of the Resolution, and to obtain a list of all privately-owned water and wastewater facilities in Charlotte County which FDEP monitors for environmental compliance. The utilities identified by the County and FDEP will receive a letter from Commission staff advising them of the transfer of jurisdiction and providing them with information to determine whether or not they are exempt from Commission regulation pursuant to Section 367.022, F.S.

Entities which are not exempt from Commission regulation will receive instruction for filing an application for grandfather certificates. The resulting applications will be processed in individual dockets. These applicants will also be advised of their responsibility to file an annual report for 2013, pursuant to Rule 25-30.110, Florida Administrative Code (F.A.C.), as well as their responsibility to remit annual regulatory assessment fees (RAFs) effective the date a certificate is issued pursuant to Rule 25-30.120, F.A.C. The applicants will also be advised of their right to file for a pass-through of RAFs, should they not be currently collecting RAFs, or if they are collecting a lesser amount than they would be paying to the Commission.

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Staff recommends that the Commission acknowledge Resolution No. 2013-003 by the County Commissioners of Charlotte County, effective February 12, 2013. All non-exempt, privately-owned water and wastewater utilities in Charlotte County should be directed to comply with the provisions of Chapter 367, F.S.

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Issue 2: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order. (Crawford)

Staff Analysis: Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order.