

STATE OF FLORIDA

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DIVISION OF ENGINEERING  
TOM BALLINGER  
DIRECTOR  
(850) 413-6910

# Public Service Commission

March 15, 2013

RECEIVED-FPSC  
13 MAR 15 AM 10:53  
COMMISSION  
CLERK

Mr. Patrick C. Flynn  
Utilities Inc. of Sandalhaven  
200 Weathersfield Avenue  
Altamonte Springs, FL 32714-4027

**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.**

Dear Mr. Flynn:

The Board of County Commissioners of Charlotte County (County) adopted Resolution No. 2013-003 on February 12, 2013. The resolution transferred jurisdiction over privately-owned water and wastewater utilities in Charlotte County to the Florida Public Service Commission (FPSC or Commission), effective the date the County voted on the resolution. A copy of the Commission's order acknowledging the transfer of jurisdiction is attached.

The FPSC is a state agency which provides economic regulation over utility rates and charges pursuant to Chapter 367, Florida Statute (F.S.). Our jurisdiction is separate and distinct from the jurisdiction of the Florida Department of Environmental Protection and your local water management district. Please be aware that you may not change any rate or charge, extend or delete any territory, acquire another utility, transfer your utility or majority control of your utility, or change the name of your utility without prior Commission approval.

Pursuant to Section 367.171(2), F. S., you are entitled to receive a grandfather certificate for the area you are currently serving if you file an application by May 13, 2013. Pursuant to Rule 25-30.035, Florida Administrative Code (F.A.C.), the application must include, among other things, a map and legal description of the existing service area and tariffs listing all existing rates and charges. In addition, the application must be accompanied by a filing fee, as provided by Rule 25-30.020(2)(d), F.A.C.

If a utility fails to register with the FPSC within the prescribed time, the FPSC requires that utility apply for an original certificate of authorization in accordance with Chapter 367, F.S., which is a more rigorous and expensive application. Therefore it is important for you to take advantage of your right to file a grandfather certificate application on or before May 13, 2013. An application form and model tariff, in PDF format, may be downloaded from the Commission's website at:

<http://www.floridapsc.com/utilities/waterwastewater/applicationpkg/gfappexist.pdf>

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

DOCUMENT NUMBER-DATE  
01319 MAR 15 2013  
FPSC-COMMISSION CLERK

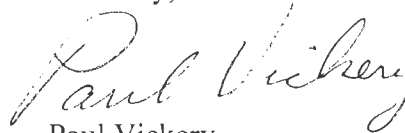
The application and filing fee should be mailed to :

Director, Office of Commission Clerk  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

In addition, regardless of whether you have filed an application or whether or not the application has been approved, your utility has been subject to FPSC regulation since February 12, 2013. Therefore, you will be required to file an annual report for 2013 pursuant to Rule 25-30.110, F.A.C., and remit 4.5% of your gross utility revenues to the Commission as regulatory assessment fees (RAFs) effective the date a certificate is issued pursuant to Rule 25-30.120, F.A.C. If you are not collecting RAFs for payment to the County, or if you are collecting less than 4.5% of your gross revenues, you are entitled to file for a pass through of RAFs.

If you have any questions or need any assistance completing the application, please contact Stanley Rieger at (850) 413-6970 or [srieger@psc.state.fl.us](mailto:srieger@psc.state.fl.us) . If you have any questions about annual reports or RAFs, please contact John Slemkewicz at (850) 413-6420 or [jslemkew@psc.state.fl.us](mailto:jslemkew@psc.state.fl.us).

Sincerely,



Paul Vickery  
Chief  
Reliability & Resource Planning

PV/SR:jc  
Enclosure

cc: Ballinger, Lewis, Rieger (Division of Engineering)  
Willis, Slemkewicz (Division of Accounting & Finance)  
Crawford (Office of the General Counsel)  
Cole (Office of Commission Clerk)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of the Board of County  
Commissioners of Charlotte County declaring  
Charlotte County subject to the provisions of  
367, F.S.

DOCKET NO. 130049-WS  
ORDER NO. PSC-13-0127-FOF-WS  
ISSUED: March 14, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

ORDER ACKNOWLEDGING RESOLUTION OF THE BOARD OF  
COUNTY COMMISSIONERS DECLARING PRIVATELY-OWNED WATER  
AND WASTEWATER UTILITIES IN CHARLOTTE COUNTY SUBJECT  
TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES

BY THE COMMISSION:

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 order addresses the acknowledgement of that resolution. We have jurisdiction pursuant to Section 367.171, F.S. This is the second time the County invoked our jurisdiction over private water and wastewater utilities. The first was on September 27, 1994.<sup>1</sup> On September 25, 2007, the County adopted a resolution which rescinded our jurisdiction.<sup>2</sup>

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<sup>1</sup> 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.

<sup>2</sup> 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.

Decision

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

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. Our 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 our 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 this Commission.

We hereby 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 are directed to comply with the provisions of Chapter 367, F.S.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Resolution No. 2013-003 by the County Commissioners of Charlotte County is hereby acknowledged, effective February 12, 2013. It is further

ORDERED that all non-exempt, privately-owned water and wastewater utilities in Charlotte County shall comply with the provisions of Chapter 367, Florida Statutes. It is further

ORDERED that since there are no pending issues in this docket, the docket shall be closed upon the issuance of this Order.

By ORDER of the Florida Public Service Commission this 14th day of March, 2013.

/s/ Hong Wang

HONG WANG

Chief Deputy Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JSC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.