

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-

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**DATE:** February 27, 2014

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Accounting and Finance (Maurey) *ALM*  
Division of Economics (Bruce) *CRB*  
Division of Engineering (Rieger) *PR J.W.D*  
Office of the General Counsel (Corbari, Teitzman) *KFC/AST*

**RE:** Docket No. 120172-WS – Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

**AGENDA:** 03/13/14 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Balbis

**CRITICAL DATES:** 05-13-14 *(circled)*  
~~05/09/14~~ (15 month effective date (SARC))

**SPECIAL INSTRUCTIONS:** Please place this item immediately following the item regarding Docket No. 140031-WS.

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### Case Background

Country Club Utilities, Inc. (Country Club or Utility) is a Class C utility serving approximately 404 water and 401 wastewater customers in Highlands County. The Utility's service territory is located in the Southern Water Use Caution Area of the Southwest Florida Water Management District. Water and wastewater rates were last established for this Utility in an original certificate case initiated in 1991.<sup>1</sup>

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<sup>1</sup> See Order No. 25788, issued February 24, 1992, in Docket No. 910792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring.

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In February 2007, the Commission approved the Utility's application for transfer of majority organizational control and for a name change on Certificate Nos. 540-W and 468-S.<sup>2</sup> Ownership of the family-owned Utility was transferred from Mr. Roland A. Harris, the father, to Mr. R. Greg Harris, the son, and the name of the Utility was changed from Country Club of Sebring, Inc. to Country Club Utilities, Inc.

On June 13, 2012, Country Club filed an application for a staff-assisted rate case (SARC) and a docket was opened to process that application. This recommendation addresses a set of circumstances which leads staff to request that the SARC be dismissed and this docket be closed. The Commission has jurisdiction pursuant to Section 367.0814, Florida Statutes (F.S.).

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<sup>2</sup> See Order No. PSC-07-0121-FOF-WS, issued February 12, 2007, in Docket No. 060352-WS, In re: Application for transfer of majority organizational control of Country Club of Sebring, Inc. in Highlands County and for name change on Certificate Nos. 540-W and 468-S to Country Club Utilities, Inc.

### **Discussion of Issues**

**Issue 1:** Should this staff-assisted rate case be dismissed and the docket closed?

**Recommendation:** Yes. The lack of cooperation demonstrated by the Utility has made it difficult for staff to effectively fulfill its duties pursuant to Section 367.0814, F.S. Therefore, this docket should be closed. (Maurey, Cobari)

**Staff Analysis:** Rule 25-30.455(5) through (8), Florida Administrative Code (F.A.C.), states, in pertinent part, the following:

(5) Within 30 days of receipt of the completed application, the committee shall evaluate the application and determine the petitioner's eligibility for staff assistance. . . .

(6) Upon reaching a decision to officially accept or deny the application, the Director of the Division of Economic Regulation shall notify the petitioner by letter and initiate staff assistance for the accepted applicant.

(7) The official date of filing will be 30 days after the date of the letter notifying the applicant of the official acceptance of the application by the Commission.

(8) In arriving at a recommendation whether to grant or deny the petition, the following shall be considered: . . .

(d) Whether the petitioner has paid applicable regulatory assessment fees.

As stated in the Case Background, the Commission received the Utility's application for staff assistance on June 13, 2012. On July 13, 2012, the Utility was notified that it was eligible for a SARC and that August 11, 2012, would be the official filing date for the case.

On January 3, 2013, the staff Audit Report was issued. Based upon technical staff's review of the Audit Report and the financial records produced by the Utility, it was determined that the resulting revenue requirement from the documented levels of utility-related investment and operating costs was insufficient to support an increase in rates. The Utility filed a letter on February 5, 2013, identifying concerns it had with certain findings in the Audit Report. A conference call was held on February 18, 2013, to discuss the audit process and to afford the Utility the opportunity to explain its concerns. The Utility requested, and was provided with, a copy of the audit work papers in order for it to prepare a substantive response to the Audit Report. In addition, the issue of Country Club's past due regulatory assessment fees (RAFs) for the years 2010 and 2011 in the amount of approximately \$33,000 was also discussed.

On March 4, 2013, Country Club informed staff that it had entered negotiations with the City of Sebring for a possible sale of the utility. Country Club requested that it be excused from responding to the Audit Report while these discussions continued. In addition, the Utility offered to enter into a payment plan with respect to its past due RAF balance.

On March 6, 2013, the Utility formally requested a six-month abatement of its SARC. Country Club provided a six-month waiver of the statutory clock for processing the SARC in order to afford the Utility and the City of Sebring time to complete the due diligence process and enter into a sale agreement. In addition, Country Club confirmed its intent to pay \$500 per month towards its past due RAF amount and to pay the remaining outstanding balance at closing when the utility was sold.

On August 13, 2013, Country Club informed staff that it was unable to reach an agreement with the City of Sebring regarding a sale of the utility and that it wanted to resume the SARC. Staff informed Country Club that it was prepared to move forward with the SARC but, in order to do so, the Utility would have to complete its response to the Audit Report. In particular, the Utility was requested to provide documentation to support any additional investment and operating costs it believes were not adequately recognized in the audit.

When the September payment under its RAF payment plan was not received, staff contacted the Utility. Country Club informed staff that it would not be making any more payments. In total, the Utility paid \$2,500.00 under the payment plan, which was applied to the past due balance for 2010. In addition, the Utility did not pay its 2012 RAFs of \$11,293.07 when due on March 31, 2013.

By regular and certified letter dated January 9, 2014, legal staff informed Country Club that if payment in the amount of \$46,220.71 for the RAFs, including penalties and interest, for the years 2010 – 2012 was not received by January 15, 2014, staff may be forced to open a docket and initiate show cause proceedings against the Utility. By regular and certified letter dated February 11, 2014, legal staff advised Country Club that it had opened a docket to initiate show cause proceedings against the Utility for violation of Commission rules and regulations. Staff's recommendation regarding Country Club's failure to pay RAFs is addressed in Docket No. 140031-WS, scheduled for this same Agenda Conference.

Staff is aware of only two recommendations to dismiss a SARC after the acceptance of a utility's application. Staff notes that the Commission denied the staff recommendation in the Tymber Creek case and ordered the utility to provide staff any information required.<sup>3</sup> However, the Commission agreed with the staff recommendation in the Francis I case and closed the docket in this latter case.<sup>4</sup> Staff believes the instant case is distinguishable from the Tymber Creek case (which dealt with an argumentative and uncooperative owner) and is more analogous with the Francis I case (failure to provide sufficient supporting documentation). By definition, a SARC is a participatory process. In order to qualify for a rate increase, a utility must provide documentation supporting its level of investment and operating costs. It must actively participate in the process by being forthcoming with adequate documentation and financial records. Based on the information provided by the Utility to date, Country Club has failed to demonstrate that it is entitled to a rate increase.

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<sup>3</sup> See Order No. 23612, issued October 15, 1990, in Docket No. 900501, In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities.

<sup>4</sup> See Order No. PSC-11-0477-FOF-SU, issued October 21, 2011, in Docket No. 110086-SU, In re: Application for staff-assisted rate case in Highlands County by Francis I Utility, LLC.

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Absent the Utility's cooperation and active participation, it is impossible for staff to meet the statutory deadlines applicable to SARCs in accordance with Section 367.0814, F.S. Due to the lack of adequate documentation to support a greater revenue requirement for this Utility, staff does not believe it is an appropriate use of resources to continue its attempts to process this SARC. Therefore, staff recommends this SARC be dismissed and the docket closed.