

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-

DATE: May 25, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Lewis, King, Ramos) *TB*
Division of Accounting and Finance (Sewards, Bennett, Fletcher) *ALM*
Division of Economics (Bethea, Hudson) *JGH*
Office of the General Counsel (Sandy) *JSC*

RE: Docket No. 20210191-SU – Application for certificate to provide wastewater service in Orange County by Gulfstream Utility LLC

AGENDA: 06/07/22 – Regular Agenda – Proposed Agency Action for Issue 2 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 06/23/22 (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes)

SPECIAL INSTRUCTIONS: None

Case Background

Gulfstream Utility LLC (Gulfstream or Utility) provides wastewater service to approximately 976 residential and two general service customers within the Gulfstream Harbor Mobile Home Park located in Orange County. Water service is provided by the Utility through a bulk purchase agreement with Orange County. The Utility applied only for a certificate for wastewater service, as the Utility acts as a reseller for its water service, and is, therefore, exempt from Commission regulation pursuant to Section 367.022(8), Florida Statutes (F.S.).

During late 2014 and early 2015, Sun Communities, Inc. (Sun Communities) acquired the Utility while purchasing several other mobile home and residential vehicle parks throughout the United

States. Sun Communities also owns three other utilities that are regulated by the Commission: GCP Plantation Landings, LLC, GCP Fairfield Village, LLC, and Sunlake Estates Utilities, L.L.C. Upon acquiring Gulfstream, in a purchase along with several other systems, Sun Communities believed Gulfstream to be exempt from Commission regulation. However, Sun Communities has now determined that Gulfstream's wastewater system should be certificated because the wastewater system does not meet any exemptions pursuant to Section 367.022, F.S. Approximately half of Gulfstream's wastewater service is treated using its own wastewater treatment plant and the other half is serviced by a bulk wastewater treatment agreement with Orange County.

On December 3, 2021, Gulfstream filed an application for an original certificate and initial rates and charges for wastewater service pursuant to Rule 25-30.033, Florida Administrative Code (F.A.C.).¹ However, based on Exhibit K of the application and after discussions with the Utility, it was determined that Gulfstream already had existing rates in place that it was charging for wastewater service. Therefore, the Utility filed an amended application, which was for an original certificate for an existing utility currently charging for service pursuant to Rule 25-30.034, F.A.C.² Staff found this amended application to be deficient, and issued a deficiency letter on January 14, 2022. The Utility cured the deficiencies on January 27, 2022.

On February 9, 2022, Orange County filed an objection to Gulfstream's amended application and request for an evidentiary hearing. Commission staff held two noticed informal meetings on March 1, 2022, and April 8, 2022, to discuss the objection with Orange County and the Utility. On March 25, 2022, Gulfstream filed a Motion to Dismiss Orange County's objection; Orange County filed its response in opposition on April 1, 2022. However, on April 7, 2022, Orange County withdrew its objection and request for hearing, and subsequently, Gulfstream withdrew its Motion to Dismiss on April 11, 2022.

This recommendation addresses the application for an original wastewater certificate and the appropriate rates and charges for the Utility. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, F.S.

¹Document No. 12937-2021, filed December 3, 2021.

²Document No. 13066-2021, filed December 15, 2021.

Discussion of Issues

Issue 1: Should the application by Gulfstream Utility LLC for a wastewater certificate be approved?

Recommendation: Yes. Gulfstream should be granted Certificate No. 579-S to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as Gulfstream's wastewater certificate and should be retained by the Utility. The Utility should be required to file a copy of the executed lease within 30 days of the issuance of the Commission's order approving the certificate. The existing rates should remain in effect until a change is authorized by the Commission in a subsequent proceeding. (Lewis, Bennett, Bethea)

Staff Analysis: As discussed in the Case Background, Gulfstream filed its amended application for an original certificate with existing facilities in Orange County on December 15, 2021. Commission staff determined the original filing was deficient and the Utility corrected these deficiencies on January 27, 2022, the official filing date for the application. The Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S.

Notice

On January 24, 2018, Gulfstream filed proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C. As stated previously, a protest was received from the County Commission of Orange County which was later withdrawn.

Land Ownership and Service Territory

In its application, the Utility states that it has entered into a long-term land lease with the related party land owner for the property on which the wastewater treatment facility is located. A copy of the lease agreement will be provided to the Commission upon approval and granting of the certificate. A copy of the proposed lease was attached to the Utility's application as Exhibit I.³ Staff recommends that the Utility be required to file a copy of the executed lease within 30 days of the issuance of the Commission's order approving the certificate.

Financial and Technical Ability

Rule 25-30.033(1)(h), and (i), F.A.C., requires a statement showing the financial and technical ability of the applicant to provide service, a detailed financial statement, and a list of all entities upon which the applicant is relying to provide funding along with those entities' financial statements. Gulfstream is relying upon the financial backing of its parent, Sun Communities. The Commission has traditionally allowed reliance on the parent's financial ability. The Commission's reasoning has been the logical vested interest of a parent in the financial stability of its subsidiary. The application contains Sun Communities' most recent financial statements, as well as a letter of commitment from Sun Communities "to provide or assist Gulfstream Utility, LLC in securing necessary funding" for Gulfstream to operate the system in Orange County. Staff believes that Sun Communities' financial statements and extensive business operations in Florida show adequate and stable funding reserves for the Utility. Therefore, staff recommends

³Document No. 130666-2021, filed December 15, 2021.

that Gulfstream has demonstrated that it will have access to adequate financial resources to operate the Utility.

Gulfstream is a subsidiary of Sun Communities which owns and operates the Gulfstream Harbor Mobile Home Park. The Florida Department of Environmental Protection reissued a permit to operate the wastewater treatment facility to Sun Communities, Inc. on June 2, 2020, which is due to expire on September 14, 2025. Gulfstream has contracted US Water Services Corporation to operate and maintain the Utility's wastewater treatment facilities. US Water Services Corporation is a national company which operates several water and wastewater systems in Florida. Based on the above, Gulfstream has demonstrated the financial and technical ability to provide service to the existing service territory.

Continuing Existing Rates

The Utility provides wastewater service to approximately 976 residential customers and two general service customers. Wastewater service is provided through a combination of bulk service provided by Orange County and the treatment plant operated by Gulfstream. The Utility proposes to continue billing its existing rates for residential and general service customers, which consists of a base facility charge of \$2.10 and gallonage charge per 1,000 gallons of \$4.26.⁴ Staff recommends that Gulfstream's existing rates, as shown on Schedule No. 1, should remain in effect until a change is authorized by the Commission in a subsequent proceeding.

Conclusion

Based on the foregoing, staff recommends that it is in the public interest to approve Gulfstream's application. Gulfstream should be granted Certificate No. 579-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Gulfstream's wastewater certificate and it should be retained by the Utility.

⁴See Document No. 00216-2022, filed January 13, 2021.

Issue 2: What are the appropriate miscellaneous service charges for Gulfstream Utility LLC?

Recommendation: The appropriate miscellaneous service charges are shown on Schedule No. 1 and should be approved. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. Gulfstream should be required to charge the approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding. (Bethea)

Staff Analysis:

Miscellaneous Service Charges

Gulfstream requested miscellaneous service charges. Section 367.091, F.S., authorizes the Commission to establish miscellaneous service charges. Gulfstream's request was accompanied by its cost justification as required by Section 367.091(6), F.S. The purpose of these charges is to place the burden for requesting or causing these services on the cost causer rather than the general body of ratepayers. The Utility's requested charges are based on the cost of the Utility to administer and perform miscellaneous services.

The Utility requested an \$8 late payment charge to recover administrative and supply cost for processing late payment notices. The Utility's cost justification for its requested late payment charge is shown below on Table 2-1.

**Table 2-1
Late Payment Cost Justification**

Administrative Labor (\$31.48/hr x 1/4 hr)	\$7.87
Supplies/Postage	\$0.60
Calculated Total	\$8.47
Requested Charge	\$8.00

Source: Utility's Cost Justification

The Utility requested a premises visit charge of \$16 for normal hours and \$20 for after hours. In addition, Gulfstream requested initial connection, normal reconnection, and violation reconnection charges at actual cost. Gulfstream will perform the administrative labor, operational field labor, and transportation cost associated with the miscellaneous services. It should be noted that Gulfstream's request for initial connection and normal reconnection charges do not conform with the miscellaneous service charges rule. Effective June 24, 2021, Rule 25-30.460, F.A.C., was amended to remove initial connection and normal reconnection charges.⁵ The definitions for initial connection charges and normal reconnection charges were subsumed in the definition of

⁵Order No. PSC-2021-0201-FOF-WS, issued June 4, 2020, in Docket No. 20200240-WS, *In re: Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

the premises visit charge. Therefore, Gulfstream’s proposed initial connection and normal reconnection charges are obsolete based on the revised rule.

The Utility’s cost justification for its requested premises visit charge is shown below in Table 2-2. Staff believes the premises visit and violation reconnection charges are reasonable and should be approved pursuant to Rule 25-30.460, F.A.C.

**Table 2-2
 Premises Visit Cost Justification**

	Normal Hours	After Hours
Administrative Labor ($\$31.48/\text{hr} \times 1/4 \text{ hr}$)	\$7.87	\$7.87
Field Labor ($21.24/\text{hr} \times 1/3 \text{ hr}$)	\$7.08	N/A
Field Labor ($31.86/\text{hr} \times 1/3 \text{ hr}$)	N/A	\$10.62
Transportation	\$1.10	\$1.10
Calculated Total	\$16.05	\$19.59
Requested Charge	\$16.00	\$20.00

Source: Utility’s Cost Justification

In addition, the Utility requested nonsufficient funds charges (NSF) pursuant to Section 68.065, F.S. Staff believes that Gulfstream should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- 1) \$25, if the face value does not exceed \$50,
- 2) \$30, if the face value exceeds \$50 but does not exceed \$300,
- 3) \$40, if the face value exceeds \$300,
- 4) or 5 percent of the face amount of the check, whichever is greater.

The Utility’s proposed and staff’s recommended miscellaneous service charges are shown below in Tables 2-3 and 2-4.

**Table 2-3
 Utility Proposed Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	Actual Cost	Actual Cost
Normal Reconnection Charge	Actual Cost	Actual Cost
Violation Reconnection Charge	Actual Cost	Actual Cost
Premises Visit Charge (in lieu of disconnection)	\$16.00	\$20.00
Late Payment Charge	\$8.00	
NSF Charges	Pursuant to Section 68.065, F.S.	

Table 2-4
Staff Recommended Miscellaneous Service Charges

	<u>Normal Hours</u>	<u>After Hours</u>
Violation Reconnection Charge	Actual Cost	Actual Cost
Premises Visit Charge	\$16.00	\$20.00
Late Payment Charge	\$8.00	
NSF Charges	Pursuant to Section 68.065, F.S.	

Based on the above, the appropriate miscellaneous service charges are shown on Schedule No.1 and should be approved. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved miscellaneous service charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. Gulfstream should be required to charge the approved charges until authorized to change them by the Commission in a subsequent proceeding.

Issue 3: What are the appropriate initial customer deposits for Gulfstream?

Recommendation: As shown on Schedule No. 1, the appropriate initial customer deposit should be \$28 for the residential 5/8 inch x 3/4 inch meter size for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for wastewater. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding. (Bethea)

Staff Analysis: Rule 25-30.311, F.A.C., contains criteria for collecting, administering, and refunding customer deposits. Rule 25-30.311(1), F.A.C., requires that each company's tariff shall contain its specific criteria for determining the amount of initial deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of rate payers. In addition, collection of customer deposits is consistent with one of the fundamental principles of rate making ensuring that the cost of providing service is recovered from the cost causer.

Rule 25-30.311(7), F.A.C., authorizes utilities to collect new or additional deposits from existing customers not to exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. The two billing periods reflect the lag time between the customer's usage and the Utility's collection of the revenues associated with that usage. Commission practice has been to set initial customer deposits equal to two months bills based on the average consumption for a 12-month period for each class of customers. Based on the average residential usage of 2,777 gallons per month, the average residential monthly bill is \$13.93 for wastewater service.

Based on the above, as shown on Schedule No. 1, the appropriate initial customer deposit should be \$28 for the residential 5/8 inch x 3/4 inch meter size for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for wastewater. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding.

Issue 4: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and a copy of the executed long-term lease has been provided. Once these actions are complete, this docket should be closed administratively. (Sandy)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and a copy of the executed long-term lease has been provided. Once these actions are complete, this docket should be closed administratively.

Gulfstream Utility, LLC
Legal Description Wastewater Service Territory

EXHIBIT E

SERVICE PARCEL 1

THAT PART OF SECTIONS 13, 14, 23 AND 24. TOWNSHIP 23 SOUTH, RANGE 30 EAST, ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE NW CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 14; THENCE N 89°46'09" E, 1,342.12 FEET TO THE NORTHEAST CORNER OF SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SAID SECTION 14; THENCE S 89°59'16" E, ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SOUTHWEST 1/4 OF SAID SECTION 13, 1,311.45 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SOUTHWEST 1/4 OF SAID SECTION 13; THENCE S 00°35'35" E, ALONG THE EAST LINE OF SOUTHWEST 1/4 OF SOUTHWEST 1/4 OF SAID SECTION 13, 1329.17 FEET TO SOUTHEAST CORNER OF SOUTHWEST 1/4 OF SOUTHWEST 1/4 OF SAID SECTION 13; THENCE S 00°10'59" E, 1,284.05 FEET; THENCE S 00°10'26" E, 44.00 FEET; THENCE S 00°04'30" E, 1331.82 FEET; THENCE N 89°56'51" W, 1326.47 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF NORTHWEST 1/4 OF SAID SECTION 24; THENCE N 00°00'39" W, 1,328.44 FEET; THENCE S 89°53'09" W, 1324.03 FEET TO THE EAST RIGHT OF WAY LINE OF WAKULLA STREET; THENCE N 00°07'02" W, ALONG SAID EAST RIGHT OF WAY LINE OF WAKULLA STREET, 1300.37 FEET; THENCE N 00°06'29" W, ALONG SAID EAST RIGHT OF WAY LINE OF WAKULLA STREET, 31.08 FEET; THENCE N 00°04'45" W, ALONG SAID EAST RIGHT OF WAY LINE OF WAKULLA STREET, 1325.45 FEET TO THE POINT OF BEGINNING.

SERVICE PARCEL 2

A portion of Section 14, Township 23 South, Range 30 East, Orange County, Florida described as follows: Commence at the Northwest corner of the southeast 1/4 of the southeast 1/4 of said Section 14; said point being on the East right of way of Wakulla Street, thence S 89°55'15" W a distance of 30.01 feet to a point on the West right of way line of Wakulla Street; thence S 00°04'45" E, along said West right of way line a distance of 928.23 feet to the Point of Beginning; thence continue S 00°04'45" E, 301.36 feet to the North right of way line of DeSoto Avenue, thence S 89°56'26" W, along said North right of way line a distance of 426.36 feet; thence S 00°04'14" E, 15.00 feet along said North right of way line; thence S 89°56'26" W, 794.11 feet, along said North right of way line; thence N 45°04'35" W, 35.44 feet to a point on the East right of way line of Goldenrod Road; thence N 00°05'02" W, along said East right of way line a distance of 291.09 feet; thence N 89°55'51" E a distance of 1,245.55 feet to the Point of Beginning.

SERVICE PARCEL 3

A portion of Section 14, Township 23 South, Range 30 East, Orange County, Florida described as follows: Commence at the Northwest corner of the southeast 1/4 of the southeast 1/4 of said Section 14; said point being on the East right of way of Wakulla Street, thence S 89°55'15" W a distance of 30.01 feet to a point on the West right of way line of Wakulla Street; thence S 00°04'45" E, along said West right of way line a distance of 928.23 feet; thence continue S 00°04'45" E, 301.36 feet along said West right of way line; thence S 00°05'45" E, 75.00 feet to the South right of way line of DeSoto Avenue and the Point of Beginning; thence S 00°06'29" E, 158.88 feet along the West right of way line of Wakulla Street; thence S 89°55'34" W, 1,245.20 feet to a point on the East right of way line of Goldenrod Road; thence N 00°01'54" W, 134.21 feet along said East right of way; thence N 44°52'46" E, 35.32 feet to a point on the South right of way line of DeSoto Avenue; thence N 89°56'26" E, 1,220.41 feet along said South right of way line to the Point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

**Gulfstream Utility LLC
Pursuant to
Certificate No. 579-S**

to provide wastewater service in Orange County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, regulations and, Orders of the Commission in the territory described by the Orders of the Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled, or revoked by Order of the Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	*	Original Certificate

* Order Number and Date to be provided at time of issuance

Gulfstream Utility, LLC.

Monthly Wastewater Rates

Residential and General Service

Base Facility Charge by Meter Size

All Meter Sizes \$2.10

Charge Per 1,000 gallons \$4.26

Initial Customer Deposits

Meter Size

Residential

General Service

5/8" x 3/4"	\$28.00	2x the average estimated monthly bill
All other meter sizes	2x the average estimated monthly bill	2x the average estimated monthly bill

Miscellaneous Service Charges

	<u>Normal Hours</u>	<u>After Hours</u>
Premises Visit Charge	\$16.00	\$20.00
Violation Reconnection Charge	Actual Cost	Actual Cost
Late Payment Charge		\$8.00
NSF Charges	Pursuant to Section 68.065, F.S.	