

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: September 9, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Walden)
Office of the General Counsel (Vining)

RE: Docket No. 040497-WS - Application for amendment of Certificates 387-W and 331-S to add territory in Martin County by Indiantown Company, Inc.
County: Martin

AGENDA: 09/21/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040497.RCM.DOC

Case Background

Indiantown Company, Inc. (Indiantown) is a Class B water and wastewater utility company serving 1779 metered water customers and 1707 wastewater customers in Martin County. The 2003 annual report on file with this Commission lists operating revenues of \$1,503,831, with a net operating loss of \$262,675. The utility's service area lies in the South Florida Water Management District and is in a critical water supply problem area.

The utility filed this application on May 25, 2004, to amend its water and wastewater certificates, pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code. Martin County protested the notice given. Indiantown discussed the protest with the county, provided a second notice, and amended its application on July 8, 2004. Martin County did not protest the territory that was renoticed. The application is in compliance with the governing statute, and other statutes and rules concerning amendment of certificates.

Discussion of Issues

Issue 1: Should the utility's request to amend its water and wastewater certificates be granted?

Recommendation: Yes. The water and wastewater certificates of Indiantown Company, Inc. should be amended to include the territory listed on Attachment A. Indiantown should charge the customers in the territory added herein the rates and charges contained in its tariffs until authorized to change by this Commission in a subsequent proceeding. Indiantown should further comply with Rule 25-30.036(3)(d), Florida Administrative Code, within sixty days of the date of the Commission order. (WALDEN)

Staff Analysis: On May 25, 2004 Indiantown filed an application for amendment of its certificates. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate.

Adequate service territory maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e) and (i), Florida Administrative Code. The utility has received inquiries for service in the territory requested, and development is expected to be single family and multi-family dwellings. There are no outstanding notices of violation or consent orders with the Department of Environmental Protection. Future construction of facilities that may be necessary, depending upon development density, will be funded approximately 75 percent by developers and 25 percent by Indiantown. A description of the territory is appended to this recommendation as Attachment A.

In addition, the application contained proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. One objection was filed by Martin County, and after discussion with the utility and Commission staff, the utility renoticed the territory, modifying the original notice to include Primary Urban Service District parcels, and to exclude territory in the Secondary Urban Service District. Martin County did not protest the territory that was renoticed. The Department of Community Affairs (DCA) has identified no growth management concerns with the proposed expansion of the utility.

Indiantown has been serving the local community for over 50 years. The owner of the company also owns the telephone, refuse, and related companies, as well as the local bank. Staff is satisfied that the utility company is sufficiently embedded so as to have the financial and technical ability to provide service to the area requested.

Rule 25-30.036(3)(d), Florida Administrative Code requires the utility to own the land where the treatment facilities are located, or have an agreement such as with a long term lease, to have continuous access to the land. Although Indiantown has been providing service more than 50 years, the land ownership is not clear. Staff therefore recommends that the Commission require Indiantown within sixty days to comply with this rule for the water and wastewater facilities.

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Based upon the above information, staff recommends that it is in the public interest that the utility's application be granted and the land area described in Attachment A be added to the water and wastewater certificated territory of Indiantown.

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Issue 2: Should the docket be closed?

Recommendation: No. Staff must review the utility's proof of ownership of the land upon which the water and wastewater facilities are located. Once this information is provided and is satisfactory to staff, the docket can be closed administratively. (VINING)

Staff Analysis: Staff must review the utility's proof of ownership of the land upon which the water and wastewater facilities are located. Once this information is provided and is satisfactory to staff, the docket can be closed administratively.

AMENDMENT TO WATER AND WASTEWATER SERVICE TERRITORY FOR
INDIANTOWN COMPANY, INC. IN MARTIN COUNTY

Parcel 1

In Section 26, Township 39 South, Range 38 East, commence at the Northwest corner of said Section 26, thence south along the west line of said Section 26 to the intersection with the westerly projection of the north line of Tract 56, Block B according to the Plat of Indiantown Farms as recorded in Plat Book 1, page 80 Public Records, Martin County, Florida, and the Point of Beginning; thence east along the north line of Tracts 56 and 11 and the easterly projection thereof to the east line of the west one-half of said Section 26; thence south along said east line to the intersection with the easterly projection of the south line of said Tract 11; thence west along the south lines of said Tracts 11 and 56 and the westerly projections thence to the west line of the aforesaid Section 26; thence north along said west line to the Point of Beginning.

Parcel 2

Begin at the Northwest corner of Section 31, Township 39 South, Range 39 East, in the centerline of County Road 609 (SW Allapattah Road); thence east along the north line of said Section 31 to the northeast corner of said Section 31; thence south along the east line of said Section 31 to the intersection with the south line of the North half of the South half of said Section 31; thence west along said south line to the intersection with the west line of said Section 31 and the centerline of said County Road 609; thence north along said west line and centerline to the Northwest corner of said Section 31 and the Point of Beginning.

Parcel 3

Begin at the Northeast corner of Section 32, Township 39 South, Range 39 East; thence south along the east line of said Section 32 a distance of 1656 feet; thence northwest to the intersection with the north line of said Section 32 at a point 1880 feet west of the Northeast corner of said Section 32; thence east along said north line to the Northeast corner of said Section 32 and the Point of Beginning.

Parcel 4

Begin at the Southwest corner of Section 32, Township 39 South, Range 39 East; thence north along the west line of said Section 32 to the intersection with the north line of the Southwest one quarter (SW 1/4) of said Section 32; thence east along said north line to the intersection with the east line of said Southwest one quarter (SW 1/4) of Section 32; thence south along said east line to the intersection with the south line of said Section 32; thence west along said south line to the Southwest corner of said Section 32 and the Point of Beginning.

Parcel 5

Being a parcel of land lying in Sections 8 and 9, Township 40 South, Range 39 East, Martin County, Florida, being more particularly described as follows:

Being bounded on the northwest by the southerly right-of-way line of State Road 76 and being bounded on the northeast and southeast by the westerly and northwesterly right-of-way line of SW Indiantown Avenue and being bounded on the southwest by the easterly right of way line of State Road 710.