

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: April 21, 2005

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

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

RE: Docket No. 020907-WS – Application for amendment of Certificate Nos. 496-W and 465-S to extend water and wastewater service areas in Lake County by Lake Utility Services, Inc.

AGENDA: 05/03/05 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\020907.RCM.DOC

Case Background

Lake Utility Services, Inc. (LUSI) is a Class A utility owned by Utilities, Inc. For the calendar year 2003, the utility served 6,373 water customers and 2,083 wastewater customers. The 2003 annual report on file with this Commission lists operating revenues of \$2,341,429, with a net operating income of \$713,549.

The utility filed this application on August 20, 2002, to amend its water and wastewater certificates, pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code. The application is in compliance with the governing statutes and rules concerning amendment of certificates. A number of timely protests were received to the notice of application, and those protests have all been resolved, either through reduction of the service area requested, or a negotiated settlement by the utility.

Discussion of Issues

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

Recommendation: Yes. Certificate Nos. 496-W and 465-S held by Lake Utility Services, Inc. should be amended to include the territory listed on Attachment A. Lake Utility Services, Inc. should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (Walden)

Staff Analysis: The application filed by LUSI is in compliance with the governing statute, Section 367.045, Florida Statutes, and the administrative rules concerning an application for amendment of certificates. 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. Documentation has been provided confirming LUSI's right to use the property upon which the water and wastewater facilities are located.

Several landowners and developers have approached the utility and expressed interest in receiving water and wastewater service in connection with the development of their property. One of those landowners was the State of Florida, and LUSI entered into an agreement with Lake Louisa State Park to provide water and wastewater service to a portion of the proposed service territory. The current territory has experienced considerable development and growth, and the utility in this application proposes to provide service to the adjacent areas in the southeastern portion of Lake County in the reasonably foreseeable future.

Noticing of the application resulted in numerous protests to that application, but those protests have been resolved, either through reduction of the service area requested, or a negotiated settlement by the utility. The application contained proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code.

The Department of Community Affairs (DCA) has said that the proposed service territory expansion seems inconsistent with two Future Land Use Elements, including one which states that central water and sewer lines are not intended nor required in areas designated as rural, and another which addresses efficient distribution and provision of public facilities. In addition, the DCA notes that the proposed area does not comport with Policy 1-10.2, which states that the county shall encourage growth and development in areas where public facilities and services are already in place. There have been no filings with the DCA by Lake County to update the Future Land Use Elements. The DCA would have a higher degree of comfort with updated data to review and analyze the growth that is occurring in this area, indicating that the area is ready for expansion.

Lake County is preparing a revision to its comprehensive plan, and it anticipates filing with the DCA in December 2005. With regard to this amendment application, Amye King with Lake County Planning said the county does not have the facilities in place to provide service to the area applied for by LUSI and, when given the preference for private wells and septic tanks or centralized water and wastewater service, the county would choose centralized systems. The county acknowledged this is a high growth area.

While the concerns expressed by the DCA are noted, in light of the comments provided by Lake County Planning, staff believes the county's preference for a centralized water and wastewater system in this area, one which is experiencing high growth, to be more persuasive in this instance. For this reason, staff is recommending that the amendment application be approved by the Commission.

Service will be provided from the existing water and wastewater plants. Reclaimed water is intended to be provided within the next several years, and the utility should be directed to prepare a tariff filing for reuse when that service is available. The utility states it has both the financial and technical ability to render the required service, and that financial information is on file with the Commission in the company's annual reports. LUSI is a wholly owned subsidiary of Utilities, Inc., a company which has 35 years of experience in the water and wastewater industry.

Based on 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 territory of LUSI. The utility should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Issue 2: Should the docket be closed?

Recommendation: Yes. If the amendment is approved, there is no further action to be taken by the Commission, and the docket should be closed. (Vining)

Staff Analysis: If the amendment is approved, there is no further action to be taken by the Commission and the docket should be closed.

ATTACHMENT A

**AMENDMENT TO WATER AND WASTEWATER SERVICE TERRITORY FOR LAKE
UTILITY SERVICES, INC. IN LAKE COUNTY**

A tract of land lying in Township 22 South, Range 25 East; Township 22 South, Range 26 East; Township 23 South, Range 25 East; Township 23 South, Range 26 East; and Township 24 South, Range 26 East, Lake County, Florida, being more particularly described as follows:

Begin at the Southwest corner of Section 35, Township 22 South, Range 25 East; thence North along the West line of Section 35 to the Northwest corner of said section; thence East along the North lines of Sections 35 and 36, Township 22 South, Range 25 East and Sections 31 and 32, Township 22 South, Range 26 East to the centerline of U.S. Highway No. 27; thence Southerly along the centerline of U.S. Highway No. 27 to a point lying on the North line of Section 28, Township 23 South, Range 26 East; thence East along the North line of Sections 28, 27, 26 and 25 to the Northeast corner of said Section 25; thence South along the East line of Range 26 East to the Southeast corner of Section 24, Township 24 South, Range 26 East; thence West along the South line of Sections 24 and 23 to the centerline of U.S. Highway No. 27; thence South along said centerline of U.S. Highway No. 27 to the South line of the North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest of Section 26, Township 24 South, Range 26 East; thence West along the aforesaid South line to the West line of Section 26, Township 24 South, Range 26 East; thence West along the South line of the North $\frac{1}{2}$ of the Southeast of the Northeast of Section 27, Township 24 South, Range 26 East to the Southwest corner of the North $\frac{1}{2}$ of the Southeast of the Northeast of said Section 27; thence North along the West line of the Southeast of the Northeast of said Section 27 to the Southeast corner of the Northwest of the Northeast of said Section 27; thence West along the South line of the Northwest of the Northeast of Section 27 to the Southwest corner of the East $\frac{1}{2}$ of the Northwest of the Northeast of said Section 27; thence North along the West line of the East $\frac{1}{2}$ of the Northwest of the Northeast of said Section 27 to the South line of Section 22, Township 24 South, Range 26 East; thence West along the South line of said Section 22 to the Southwest corner of the Southeast of said Section 22; thence North along the West line of the Southeast of said Section 22 to the Southeast corner of the Northeast of the Northeast of the Southwest of said Section 22; thence West to the Southwest corner of the Northeast of the Northeast of the Southwest of said Section 22; thence North to the Northwest corner of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 22; thence North along the West line of the East of the Northwest of said Section 22 to the Northwest corner of the Northeast of the Northeast of the Northwest of said Section 22; thence East along the North line of said Section 22 to the centerline of U.S. Highway No. 27; thence Northerly along said centerline to the Southeast corner of the McPherson Property; said corner being 1892.7 feet, more or less, South of the North line of said Section 15, as measured along the centerline of U.S. Highway No. 27; thence West along the South line of the McPherson Property a distance of 2265 feet, more or less, to existing wetlands; thence Northerly along the East Boundary of said wetlands to the North line of said Section 15; thence West along the North line of Sections 15, 16 and 17, Township 24 South, Range 26 East to the Southwest corner of Section 8, Township

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24 South, Range 26 East; thence North along the West line of Sections 8 and 5, Township 24 South, Range 26 East to the Northwest corner of said Section 5; thence West along the North line of Section 6, Township 24 South, Range 26 East to the Northwest corner of said Section 6; thence North along the West line of Sections 31 and 30, Township 23 South, Range 26 East to the Northwest corner of said Section 30; thence West along the South line of Sections 24 and 23, Township 23 South, Range 25 East to the Southwest corner of Section 23; thence North along the West line of Sections 23, 14, 11 and 2, Township 23 South, Range 25 East to the Southwest corner of Section 35, Township 22 South, Range 25 East and the POINT OF BEGINNING.