

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:** November 22, 2005

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

**FROM:** Division of Economic Regulation (Hudson)  
Office of the General Counsel (Gervasi)

**RE:** Docket No. 050803-SU – Request for approval of new class of service for bulk wastewater service in Lee County by Forest Utilities, Inc.

**AGENDA:** 12/06/05 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 12/12/05 (60-Day Suspension Date)

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\050803.RCM.DOC

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### Case Background

Forest Utilities, Inc. (Forest or utility) is a Class B wastewater only utility providing service to approximately 2,138 wastewater customers in Lee County. As of December 31, 2004, the utility reported operating revenues of \$684,054 and operating expenses of \$686,671.

In Docket No. 030748-SU, In Re: Application for approval of new class of service for bulk wastewater service in Lee County by Forest Utilities, Inc., Forest requested the approval of a new class of service for bulk wastewater to Jamaica Bay Mobile Home Park (Jamaica Bay), and Lee County intervened. Lee County informed the Commission that it had executed a contract with Jamaica Bay for temporary bulk wastewater service. Forest withdrew this request, which was acknowledged by the Commission in Order No. PSC-03-1286-FOF-SU, issued November 12, 2003.

In Docket No. 031020-WS, In Re: Petition for declaratory statement by Forest Utilities, Inc. and Jamaica Bay West Associates, Ltd., to determine whether an extension of service territory pursuant to Section 367.045(2), Florida Statutes, is necessary to provide bulk wastewater service to Jamaica Bay, an exempt entity. Forest filed a Petition for Declaratory Statement requesting the Commission to declare that, contrary to Lee County's arguments, no extension of service territory is required in order for Forest to provided bulk service to Jamaica Bay because Jamaica Bay will connect to Forest's facilities within Forest's certificated territory. Lee County filed a petition to intervene. By Order No. PSC-04-0015-DS-WS, issued January 6, 2004, in the aforementioned docket, the Commission denied Lee County's Petition to Intervene and granted Forest's Petition for Declaratory Statement. On February 2, 2004, Lee County filed an appeal of the order to the First District Court of Appeal (First DCA). The Commission's order was affirmed per curiam. Lee County v. Jaber, 888 So. 2d 627 (Fla 1<sup>st</sup> DCA 2004).

Pursuant to Section 367.091, Florida Statutes, on October 13, 2005, Forest filed another application for approval of a new class of service for bulk wastewater service in Lee County. According to the application, Forest and Jamaica Bay have agreed to enter into a written agreement pursuant to which Forest will provide bulk wastewater service to Jamaica Bay. Forest has the additional wastewater capacity and is willing to provide that service on a permanent basis.

The Commission has jurisdiction pursuant to Section 367.091, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should Forest Utilities, Inc.'s request for a new class of service for bulk wastewater service be approved?

**Recommendation:** Yes. Forest's request for a new class of service for bulk wastewater service should be approved. The utility should be allowed to charge \$3.14 per 1,000 gallons. The utility's Original Sheet No. 17.1 should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved rate. The approved rate should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff to all customers. The utility should provide proof that the customers have received notice within 10 days after the date the notice was sent. (Hudson)

**Staff Analysis:** As discussed in the case background, Forest Utilities, Inc. has filed another application to request approval for a new class of service for bulk wastewater treatment service. Jamaica Bay is a 1,400 unit mobile home park. DEP is requiring Jamaica Bay to upgrade its wastewater treatment facility or to remove it from service without any interruption in service to its individual tenants. Jamaica Bay has decided to remove its existing wastewater treatment plant from service, retire it, and begin receiving wastewater treatment service from Forest. Forest and Jamaica Bay have entered into a written agreement pursuant to which Forest will provide immediate and permanent service for all of the sewage flows generated by Jamaica Bay. Jamaica Bay will pay the cost of extending a line from its existing facility to the facilities of Forest, including all necessary piping, lift stations and force mains.

The utility is proposing a charge of \$3.14 per 1,000 gallons. The utility determined the proposed charge for its new class of service by discounting its currently authorized rate for other classes of wastewater treatment service of \$3.71. In order to recognize the cost savings inherent in providing service to a bulk customer rather than to a individual customer, the utility removed the variable cost not incurred on behalf of the Jamaica Bay's customer base. Based on actual 2004 water usage and the proposed charge, the utility estimates that revenues from this new class of service will be approximately \$277,000 per year in additional revenue to the utility. Also, the utility believes that it will generate additional expenses approximately equal to the additional revenues. Staff believes the proposed rate of \$3.14 is reasonable, based on the cost justification that Forest submitted pursuant to Section 367.091(6), Florida Statutes.

Staff recommends that Forest's request for a new class of service for bulk wastewater service be approved. The utility should be allowed to charge \$3.14 per 1,000 gallons. The utility's Original Sheet No. 17.1 should be approved as filed. The utility should file a proposed customer notice to reflect the Commission-approved rate. The approved rate should be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the notice has been approved by staff. Within 10 days of the date the order is final, the utility should be required to provide notice of the tariff to all customers. The utility should provide proof that the customers have received notice within 10 days after the date the notice was sent.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If Issue 1 is approved, the tariff sheet will become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order. (Gervasi)

**Staff Analysis:** If Issue 1 is approved, the tariff sheet will become effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475, Florida Administrative Code. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with all increased charges held subject to refund pending resolution of the protest, and the docket should remain open. If no timely protest is filed, the docket should be closed upon the issuance of a Consummating Order.