

State of Florida



## Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** September 7, 2006

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

**FROM:** Division of Economic Regulation (Johnson, Kaproth)  
Office of the General Counsel (Brown)

**RE:** Docket No. 060539-WS – Application for transfer of water and wastewater facilities to City of Leesburg and for cancellation of Certificate Nos. 627-W and 461-S in Lake County, by Lake Utility Company.

**AGENDA:** 09/19/06 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\060539.RCM.DOC

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### Case Background

Lake Utility Company (LUC or utility) is a Class B utility providing service to approximately 2,979 water customers and 2,607 wastewater customers in Lake County. The utility is in a priority water resource caution area of the St. Johns River Water Management District. LUC's 2005 annual report indicates water and wastewater gross revenue of \$1,760,745 and net operating income of \$101,446.

The utility was granted Certificate Nos. 627-W and 461-S pursuant to Order No. 22557, issued February 15, 1990, in Docket No. 891299-WS, In Re: Application of Lake Utility Company for water and sewer certificates in Lake county. On June 12, 2006, the City of Leesburg approved the acquisition of the utility for a purchase price of \$12,000,000. On August

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4, 2006, an application was filed for the transfer of the utility's water and wastewater facilities to the City of Leesburg and for the cancellation of Certificate Nos. 627-W and 461-S.

At issue in this docket is LUC's application for approval of the proposed transfer of the utility to the City of Leesburg and the cancellation of Certificate Nos. 671-W and 461-S. The Commission has jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission approve the transfer of facilities from Lake Utility Company to City of Leesburg and the cancellation of Certificate Nos. 627-W and 461-S?

**Recommendation:** Yes. The Commission should approve the transfer of the Lake Utility Company water and wastewater facilities to the City of Leesburg (City) as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes, and Certificate Nos. 627-W and 461-S should be cancelled effective July 31, 2006. (Johnson, Kaproth, Brown)

**Staff Analysis:** On August 4, 2006, LUC completed its application to transfer its water and wastewater facilities to the City pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.037(4), Florida Administrative Code. Included with the application is a copy of the executed Agreement for Purchase and Sale which states the closing date was July 31, 2006. According to the application, the City took over operations of the utility on July 31, 2006. Therefore, the effective date of the transfer of the utility is July 31, 2006.

Pursuant to Section 367.071(4)(a), Florida Statutes, the transfer of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply.

According to the applicant, the City obtained LUC's most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction pursuant to Rule 25-30.037(4)(e), Florida Administrative Code. Also a statement was included in the application that there are no customer deposits to refund, as required by Rule 25-30.037(4)(g), Florida Administrative Code.

LUC has no outstanding regulatory assessment fees (RAFs) and no fines or refunds are owed. The utility has filed its 2005 annual report and paid its 2005 RAFs and there are no outstanding penalties and interest. LUC has paid the water and wastewater RAFs for the period of January 1, 2006 through July 31, 2006. LUC is not required to file an annual report for the period of January 1, 2006, through July 31, 2006, because of the transfer to the City.

Staff recommends that the application is in compliance with the provisions of Rule 25-30.037(4), Florida Administrative Code. Therefore, staff recommends that the transfer of LUC's water and wastewater facilities to the City of Leesburg should be approved and Certificate Nos. 627-W and 461-S should be cancelled effective July 31, 2006.

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

**Recommendation**: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order. (Brown)

**Staff Analysis**: Since there are no pending issues in this docket, the docket should be closed upon the issuance of a final order.