

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: March 15, 2007

TO: Commission Clerk (Cole)

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

RE: Docket No. 060806-WU – Application for amendment of Certificate No. 347-W to add territory in Marion County by Marion Utilities, Inc.

AGENDA: 03/27/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: None

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060806.RCM.DOC

Case Background

Marion Utilities, Inc. (Marion) filed its application for amendment of certificate on December 18, 2006. Marion County objected to the notice of application, and the utility opted to withdraw the application and request a refund of the filing fee paid to the Commission.

Pursuant to Section 2.07(C)(6)(d), of the Administrative Procedures Manual, staff may administratively close dockets in which the applicant seeks to withdraw its initial pleading as long as there are no pending issues that need to be addressed by the Commission, no requests for refund of filing fees, and no agency actions taken. Since a request for a refund of the filing fee has been made, this recommendation is being brought to the Commission for acknowledgement of Marion's withdrawal of its amendment application and for consideration of the utility's request for a refund of the filing fee.

The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes.

Discussion of Issues

ISSUE 1: Should the Commission acknowledge withdrawal of the application and refund the filing fee?

RECOMMENDATION: Yes, the Commission should acknowledge withdrawal of the application and refund the \$100 filing fee paid by Marion Utilities, Inc. (Walden, Jaeger)

STAFF ANALYSIS: Along with the application filed December 18, 2006, the utility paid a \$100 filing fee, pursuant to Rule 25-30.020, Florida Administrative Code. Marion County objected to the notice of application, and subsequently, the utility withdrew its request for amendment. The letter of withdrawal was followed up with a request for a refund of the filing fee.

When a utility requests a refund of its filing fee, the request is analyzed in terms of the amount of time and work that staff has devoted to processing the utility's application. In cases where staff has not yet committed significant time and effort, such as where only the Case Assignment and Scheduling Record has been established, the Commission has refunded the utility's application fee.¹

However, where staff has devoted a significant amount of time in processing the application, the Commission has denied the refund of the filing fee.² In Docket No. 931198-WS, staff expended a considerable amount of time processing deficiencies and an audit of the utility's books and records had been completed.

A minimal amount of staff time has been expended in the review of the filing in the instant docket involving Marion Utilities, Inc. A CASR was prepared and this agenda recommendation was written. Thus, staff recommends the Commission acknowledge Marion's

¹ See Order No. PSC-95-0466-FOF-WU, issued April 12, 1995, in Docket No. 950015-WU; In re: Application for transfer of Certificate No. 388-W in Lee County from Tamiami Village Utility, Inc.; and for a limited proceeding to increase rates to recover increased operation and maintenance expenses as a result of pending transfer by Tamiami Village Water Company, Inc.; Order No. 20717, issued February 9, 1989, in Docket No. 880830-WS, finding that Commission practice is to refund a filing fee if no significant time and effort have been spent on a case; In re: Objection to application of Seacoast Utilities for approval of transfer of Certificates Nos. 29-W and 29-S in Palm Beach County to Juniper Development Group; and Order No. 19133, issued April 12, 1988, in Docket No. 871326-SU directing that the filing fee be refunded, as virtually no Commission staff time or resources had been expended; In re: Objection of Highlands Utilities Corporation to notice of C & H Utilities Corporation of application to amend Certificate No. 423-S in Highlands County; and application of C & H Utilities Corporation for amendment of Certificate No. 423-S in Highlands County.

² See Order No. 20717, issued February 9, 1989, in Docket No. 880830-WS; In re: Objection to application of Seacoast Utilities for approval of transfer of Certificates Nos. 29-W and 29-S in Palm Beach County to Juniper Development Group; and Order No. PSC-94-0776-FOF-WS, issued June 22, 1994, in Docket No. 931198-WS; In re: Application for transfer of Certificates Nos. 326-W and 274-S in Volusia County from Pine Island Utility Corporation to Landis Enterprises, Inc.

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withdrawal of its application for amendment of Certificate No. 347-W, and approve the request for a refund of the filing fee.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed because no further action is required. (Jaeger)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, this docket should be closed because no further action is required.