

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 27, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Johnson)
Office of the General Counsel (Brubaker)

RE: Docket No. 041294-WS – Transfer of water and wastewater service areas from Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida, Inc. to DeSoto County, and cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties.

AGENDA: 10/09/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\041294.RCM.DOC

Case Background

Lake Suzy Utilities, Inc. (Lake Suzy or utility) is a Class B water and wastewater utility providing service to 495 water customers and 221 wastewater customers in DeSoto and Charlotte Counties. DeSoto County has jurisdiction over the privately owned water and wastewater utilities in that County. However, the Lake Suzy water system is subject to Commission jurisdiction pursuant to Section 367.171(7), Florida Statutes, because it provides water service which transverses the DeSoto and Charlotte County boundary.¹

¹ The Commission granted Lake Suzy Utilities, Inc. its Certificate Nos. 599-W and 514-S in Order No. PSC-00-0575-PAA-WS, issued March 22, 2000, in Docket No. 970657-WS, In Re: Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

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On September 30, 2004, DeSoto County and Lake Suzy entered into a master utility conveyance agreement to transfer the Lake Suzy water facilities to DeSoto County and, in exchange, to transfer the County wastewater facilities to Lake Suzy. On November 9, 2004, an application was filed requesting a transfer of the water facilities from Lake Suzy to Desoto County and for the cancellation of Certificate Nos. 599-W and 514-S. The transfer to DeSoto County was approved as a matter of right and the certificates were to be cancelled administratively upon staff receipt of the executed master utility conveyance agreement in Order No. PSC-05-0313-FOF-WS, issued March 21, 2005, in Docket No. 041294-WS. The utility and DeSoto County worked on the agreement for several months, without resolve. All efforts to execute the agreement have been abandoned.

On August 10, 2007 the utility requested the withdrawal of the application filed in Docket No. 041294-WS, for the transfer of Lake Suzy's water facilities to DeSoto County and the cancellation of Certificate Nos. 599-W and 514-S. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

Discussion of Issues

Issue 1: Should Lake Suzy's request to unwind the transfer of the water facilities authorized in Order No PSC-05-0313-FOF-WS be approved?

Recommendation: Yes, the Commission should approve Lake Suzy's request. Order No. PSC-05-0313-FOF-WS should be vacated, and Certificates Nos. 599-W and 514-S should remain active. In addition, the parties should be put on notice that if they should enter into a new agreement for the transfer of the utility, they are required to file an application with the Commission to seek approval of the transfer. (Johnson, Brubaker)

Staff Analysis: On August 10, 2007, Lake Suzy filed a request to withdraw its application to transfer the water and wastewater service areas from Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida, Inc. to DeSoto County, and the cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties in Docket No. 041294-WS. DeSoto County and Lake Suzy had a preliminary conveyance agreement to transfer the Lake Suzy water facilities to DeSoto County and, in exchange, to transfer the County wastewater facilities to Lake Suzy. In Order No. PSC-05-0313-FOF-WS, issued March 21, 2005, the Commission approved the transfer of the facilities and the cancellation of Certificate Nos. 599-W and 514-S in Charlotte and DeSoto Counties, pursuant to Section 367.071(4)(a), Florida Statutes. According to the order, upon receipt of the executed agreement the certificates were to be cancelled and the docket was to be closed administratively.

DeSoto County and Lake Suzy have mutually agreed to terminate the master conveyance agreement that formed the basis for the transfer transaction in this docket. Therefore, the utility continues to be under the jurisdiction of the Commission and the certificates remain active. Lake Suzy continues to be responsible for the regulatory assessment fees and annual report.

Since the agreement was never executed, and the parties have terminated the agreements that were formed, the transfer approved in Order No. PSC-05-0313-FOF-WS did not occur. Therefore, Lake Suzy remains subject to this Commission's jurisdiction. Accordingly, the Commission should approve Lake Suzy's request. Order No. PSC-05-0313-FOF-WS should be vacated, and Certificates Nos. 599-W and 514-S should remain active. In addition, the parties should be put on notice that if they should enter into a new agreement for the transfer of the utility, they are required to file an application with the Commission to seek approval of the transfer.

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Issue 2: Should this docket be closed?

Recommendation: Yes, because no further action is necessary, this docket should be closed.
(Brubaker)

Staff Analysis: Because no further action is necessary, this docket should be closed.