

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: November 7, 2007

TO: Office of Commission Clerk (Cole)

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

RE: Docket No. 070349-WS – Application for amendment of Certificates 410-W and 305-S to extend water and wastewater service areas to include land in Marion County, by Utilities, Inc. of Florida.
County(ies): Marion

AGENDA: 11/20/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Skop

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070349.RCM.DOC

Case Background

Utilities, Inc. of Florida (UIF or utility) is a Class A utility providing water and wastewater service in Marion, Orange, Pasco, Pinellas, and Seminole Counties. Water and wastewater rates were last established for this utility by Order No. PSC-07-0505-SC-WS,¹ dated June 13, 2007, a rate case. The above order fined UIF for serving outside its certificated territory in apparent violation of Section 367.045(2), Florida Statutes (F.S.), and required the utility to file by September 30, 2007, an amendment application for all of its systems in which it was serving

¹ In Docket No. 060253-WS, In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas and Seminole Counties by Utilities, Inc. of Florida.

outside its territory. On May 30, 2007, the utility applied for an amendment to Certificate Nos. 410-W and 305-S in Marion County, Florida, pursuant to Rule 25-30.036(1), Florida Administrative Code (F.A.C.). This recommendation is one of five addressing the amendment applications submitted to comply with the order. UIF also filed amendment applications to address customers being served outside its territory in Orange, Pasco, and Seminole Counties, which have been addressed separately.²

After discussing the wastewater amendment application with staff, the utility has decided to withdraw the wastewater application. Therefore, no amendment of the wastewater territory is being recommended.

The system in this application is located in the Southwest Florida Water Management District (SWFWMD). The Commission has jurisdiction pursuant to Section 367.045, F.S.

²In Docket No. 070324-WU, In re: Application for quick-take amendment of Certificate No. 040-W to extend water service to certain territory in Orange County, by Utilities, Inc. of Florida.
In Docket No. 070326-WS, In re: Application for quick-take amendment of Certificate No. 107-W and 229-S to extend water and wastewater service to certain territory in Pasco County, by Utilities Inc. of Florida.
In Docket No. 070325-WU, In re: Application for quick-take amendment of Certificate No. 278-W to extend water service to certain territory in Seminole County, by Utilities, Inc. of Florida.
In Docket No. 070360-WS, In re: Application for amendment of Certificates 278-W and 225-S to extend water service area to include Ravenna Park/Lincoln Heights, Park Ridge, and Jansen systems, and to extend wastewater service area to include Ravenna Park/Lincoln Heights system in Seminole County, by Utilities, Inc. of Florida.

Discussion of Issues

Issue 1: Should the Commission approve Utilities, Inc. of Florida's application to amend Certificate No. 410-W?

Recommendation: Yes, the Commission should approve Utilities, Inc. of Florida's application to expand its territory and amend Certificate No. 410-W. The proposed territory amendment is described in Attachment A. The resultant order should serve as Utilities, Inc. of Florida's amended certificate and it should be retained by the utility. Utilities, Inc. of Florida should charge the customers in the added territory the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (Walden)

Staff Analysis: On May 30, 2007, UIF applied for an amendment to Certificate Nos. 410-W and 305-S in Marion County, Florida, pursuant to Rule 25-30.036(2), F.A.C. The wastewater application has been withdrawn and that portion of this application is discussed in Issue 2. This amendment application is for the Golden Hills water system. It appears that when this system was purchased by UIF in 1984, the customers served did not match the service area transferred to UIF by the Commission. The territory requested in the application is contiguous to the utility's existing service territory and includes 460 active customers, a portion of which the utility was serving when it bought this system in 1984, plus about 60 vacant lots that are planned to be developed, and be served at build out. Future development will involve a standard developer agreement where the water facilities necessary to provide service will be constructed by the developer and deeded to the utility. There are no other utilities nearby that can provide service to these lots.

The application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The utility provides water service through its two wells.

Adequate service territory maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e) and (i), F.A.C. A description of the territory requested by the utility is appended to this recommendation as Attachment A. The utility has submitted an affidavit consistent with Section 367.045(2)(d), F.S., that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C. No objections to the application have been received and the time for filing such has expired. The local planning agency was provided notice of the application and did not file a protest to the amendment. The Department of Community Affairs has reviewed the filing and commented that the proposed expansion of territory is consistent with the Marion County Comprehensive Plan.

Staff recommends that the rates and charges approved by the Commission for UIF's service area be applied to the customers in the new service territory. The utility has filed revised tariff sheets incorporating the additional water territory into its tariff.

Based on the above information, the Commission should approve UIF's application to expand its territory and amend Certificate No. 410-W. The proposed territory amendment is described in Attachment A. The resultant order should serve as UIF's amended certificate and

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the order should be retained by the utility. UIF should charge the customers in the added territory the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

Issue 2: Should the Commission acknowledge Utilities, Inc. of Florida's request for withdrawal of its application and a refund of the wastewater application fee?

Recommendation: Yes, the Commission should acknowledge withdrawal of the application and refund the \$500 filing fee paid by Utilities Inc. of Florida for the wastewater application. (Walden, Jaeger)

STAFF ANALYSIS: Along with the application filed May 30, 2007, the utility paid a \$1000 filing fee for the water amendment and the wastewater amendment application, pursuant to Rule 25-30.020(2)(b), F.A.C. After discussion with staff, on September 28, 2007, the utility filed its Amendment to Application for Amendment to Water and Wastewater Certificates in Marion County, whereby it withdrew its request to amend its wastewater service area. In this amendment, the utility also requested a refund of the filing fee of \$500. The utility is not serving any wastewater customers outside its current service area, and has decided not to enlarge its certificated territory to add customers at this time.

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.³

However, where staff has devoted a significant amount of time in processing the application, the Commission has denied the refund of the filing fee.⁴ 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, and the refund was denied.

A minimal amount of staff time has been expended in the review of the filing in the instant docket involving UIF. A CASR was prepared, a letter written to the utility requesting additional information for the water and wastewater applications, and this agenda recommendation was written. Thus, staff recommends the Commission acknowledge UIF's

³ 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; Order No. PSC-07-0326-FOF-WU, issued April 16, 2007, in Docket No. 060806-WU, In re: Application for amendment of Certificate No. 347-W to add territory in Marion County by Marion Utilities, Inc.

⁴ 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. 305-S, and approve the request for a refund of the filing fee for the wastewater application.

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Issue 3: Should this docket be closed?

Recommendation: Yes, no further action is required and the docket should be closed. (Jaeger)

Staff Analysis: No further action is required and the docket should be closed.

UTILITIES, INC. OF FLORIDA
Description of Territory Served
Water Service Territory
Marion County

Golden Hills

In Sections 25, 30, 31, and 36, Township 14 South, Range 20 East

Commence from the Southeast corner of Section 25 and run North 89°26'57" West a distance of 1,317.3 feet to the Point of Beginning; thence run North 0°16'32" East a distance of 3,723.7 feet; thence run South 89°35'26" East a distance of 181.9 feet; thence run North 0°22'15" East a distance of 200.9 feet; thence run North 89°57'19" East a distance of 255.6 feet; thence run North 46°3'51" East a distance of 118.1 feet; thence run North 0°00'00" East a distance of 152.8 feet; thence run North 90°0'0" a distance of 231.4 feet; thence run North 22°46'42" East a distance of 277.6 feet; thence run North 90°0'0" East a distance of 300.5 feet; thence run North 1°4'8" East a distance of 53.6 feet; thence run North 90°0'0" East a distance of 268.1 feet crossing the East line of Range 20; thence run North 1°5'39" East a distance of 115.2 feet; thence run South 89°12'17" East a distance of 201.7 feet; thence run North 0°0'0" East a distance of 56.5 feet; thence run South 89°10'26" East a distance of 249.7 feet; thence run North 0°0'0" East a distance of 124.5 feet; thence run South 89°28'50" East a distance of 242.6 feet; thence run North 1°13'35" East a distance of 98.1 feet; thence run South 89°26'26" East a distance of 1,249.3 feet; thence run South 0°40'24" West a distance of 246.8 feet; thence run South 89°18'40" East a distance of 241.2 feet; thence run South 0°38'34" West a distance of 445.7 feet; thence run South 89°23'13" East 224.3 feet; thence run South 0°36'44" West a distance of 1,497.3 feet; thence run South 89°14'50" East a distance of 1,316.7 feet; thence run South 0°43'3" West a distance of 2,100.1 feet; thence run North 89°15'23" West a distance of 654.9 feet; thence run South 0°34'26" West a distance of 1,707.2 feet; thence run North 89°42'52" West a distance of 641.8 feet; thence run South 0°52'49" West a distance of 1,770.4 feet; thence run North 77°59'54" West a distance of 1,421.6 feet; thence run North 84°54'36" West a distance of 1,004.2 feet; thence run North 89°14'10" West a distance of 3,971 feet crossing the West line of Range 21; thence run North 0°43'25" East a distance of 1,179.7 feet; thence run North 89°11'20" East a distance of 1,321.1 feet; thence run North 0°32'11" a distance of 1,314.1 feet to a point located on the South boundary line of Section 25, thence run South 89°19'45" East along the South boundary line of Section 25, a distance of 1,320.9 feet to the Point of Beginning.

Less:

The Northeast 1/4 of the Northeast 1/4 of Section 36, except the Southwest 1/4 of the Northeast 1/4 of the Northeast 1/4.

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Utilities, Inc. of Florida
pursuant to
Certificate Number 410-W

to provide water service in Marion County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
14586	07/19/85	850185-WU	Transfer
19445	06/06/88	880072-WS	Transfer
25643	01/27/92	910992-WS	Transfer
*		070349-WS	Amendment

***Order Number and date to be provided at time of issuance.**