

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: June 19, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Rieger)
Office of the General Counsel (Young)

RE: Docket No. 080164-WU – Application for quick-take amendment of Certificate 439-W to extend water service territory in Brevard County by San Sebastian Water, LLC.

AGENDA: 07/01/08 – Regular Agenda – Proposed Agency Action for Issues Nos. 2 and 3. - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: McMurrian

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080164.RCM.DOC

Case Background

San Sebastian Water, LLC (San Sebastian or utility) is a Class C water utility located in Brevard County. According to its 2007 annual report, San Sebastian serves 39 water connections with an annual operating revenue of \$6,116, and a net income of (\$53,720).

On March 19, 2008, the utility filed its initial application, with the completed follow-up application filed on May 7, 2008, for a “Quick take” amendment to Certificate 439-W for new territory in Brevard County, pursuant to Rule 25-30.036(2), Florida Administrative Code. The Commission has jurisdiction pursuant to section 367.045, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve San Sebastian's "Quick Take" application to amend Certificate 439-W?

Recommendation: Yes, the Commission should approve San Sebastian's amendment application to expand its territory. The proposed territory is described in Attachment A. The resultant order should serve as San Sebastian's amended certificate and it should be retained by the utility. The utility should charge the general service customer in the proposed territory the general service rates recommended in Issue 2 of this recommendation. Also, other existing charges contained in its tariff should be applied to the customer in the new territory until it is authorized by the Commission to change them in a subsequent proceeding. (Rieger, Young)

Staff Analysis: The "Quick Take" amendment is designed to provide water and/or wastewater service quickly for areas that serve less than 25 ERCs. The request for service territory expansion and amendment of existing certificates is considered approved when the utility complies with Rule 25-30.036(2), Florida Administrative Code, and if no protest is timely filed to the notice of application.

On March 19, 2008, the utility filed its initial application, with the completed follow-up application filed on May 7, 2008, for a "Quick Take" amendment to Certificate 439-W for new territory in Brevard County, pursuant to Rule 25-30.036(2), Florida Administrative Code. The proposed territory will include only one general service customer, a recently constructed marina, served by a two inch meter. The proposed territory is not expected to exceed 25 ERCs at the time the marina reaches full operation. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate.

The utility has provided verification that it owns the land upon which its water treatment facility is located. A description of the proposed territory and a list of orders identifying the utility's authorized service territory are appended to this recommendation as Attachment A. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.036(2), Florida Administrative Code. No objections to the application have been received and the time for filing such has expired. Staff has contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation issued for San Sebastian's water treatment facility. It appears that the utility has sufficient capacity to serve the existing and proposed customers.

The utility has filed revised tariff sheets incorporating the additional territory into its tariff. Presently, since the utility serves only residential customers, the existing tariffs do not reflect general service rates to accommodate the new general service customer who will be located within the proposed amended territory. The utility also submitted for approval a tariff sheet reflecting general service rates. In Issue 2, staff recommends approval of a new class of service for general service rates not previously approved by the Commission.

Based on the above information, staff believes it is in the public interest to approve the "Quick Take" amendment application filed by San Sebastian to add the territory described in

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Attachment A. Staff recommends that utility should charge the general service customer in the proposed territory the general service rates recommended in Issue 2 of this recommendation. Also, other existing charges contained in its tariff should be applied to the customer in the new service territory until it is authorized by the Commission to change them in a subsequent proceeding.

Issue 2: Should the utility's requested new class of service be approved?

Recommendation: Yes. The utility's proposed new class of service for general service customers should be approved. The rates for the new class of service, shown on Attachment B, should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code. (Rieger, Young)

Staff Analysis: As discussed in Issue 1, San Sebastian's existing tariff does not contain a general service rate schedule to accommodate the new general service customer who will be located in the proposed territory. On May 7, 2008, the utility submitted a proposed tariff for a new class of service for general service customers which contains the same rates and rate structure as its approved residential service tariff.

Typically, when a utility's rates are established in an original certificated docket, both residential and general service rates are approved. Further, the general service rates are typically identical to the residential rates because there is no significant difference in the cost to provide water service to residential and general service customers. In San Sebastian's original certificate case, Docket No. 840189-WU, the utility anticipated serving only residential customers, therefore only residential rates were approved. The utility's rates have not been changed since that time. The original development was delayed and construction did not begin until approximately 2004. The first customers were served in 2007.

Notice is not required for a new class of service. However, the two parties are aware of the proposed rates for the new class of service through a letter of agreement between the two parties to provide service. The new general service customer agreed to pay rates approved by the Commission in a manner similar to other customers of the utility. Pursuant to section 367.091(5), Florida Statutes, the Commission may approve rates or charges for a new class of service as filed, or may approve other rates or charges which it finds are just, reasonable, and compensatory.

Staff recommends that the utility's proposed new class of service for general service customers, which is based on the existing residential rates and rate structure, should be approved. The rates for the new class of service, shown on Attachment B, should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code.

Issue 3: Should San Sebastian's special service availability contract and developer's agreement with Sebastian Inlet Marina, LLC be approved?

Recommendation: Yes. San Sebastian's special service availability contract and developer's agreement with Sebastian Inlet Marina, LLC should be approved. (Rieger, Young)

Staff Analysis: Pursuant to Rule 25-30.550(2) Florida Administrative Code, each special service availability contract shall be approved by the Commission prior to becoming effective. As part of the filing for this amendment, the utility submitted a February 6, 2008, Letter of Agreement between San Sebastian and Sebastian Inlet Marina, LLC (marina). This agreement indicated that the utility has treatment facilities with the physical capacity to add additional potable water customers to its service area, including fire flow capacity. The agreement indicated that the utility is responsible for obtaining formal approval from all pertinent governmental entities to expand its territory to include the marina. The marina will fund the cost of design, permitting, and construction of a main line extension of approximately 950 feet from the existing distribution lines of the utility across U.S. Highway No. 1 to the marina property. The total estimated cost for this project which includes surveying, engineering, permitting, lines and fittings, directional boring under a highway, road repair, and a 2 inch meter, is estimated to be approximately \$135,000.

At the completion of construction, all system improvements necessary to provide service to this customer will be contributed to the utility. The size of the main extended to provide service to the marina can accommodate additional connections. The utility has indicated its intent to enter into a refundable advance agreement with the marina. This agreement will allowed the marina to recover a portion of the line extension costs associated with new connections to the extension line that was funded by the marina. The utility has indicated that it intends to execute the refundable advance agreement within approximately 90 days of the Commission order. Pursuant to Rule 25-30.515(16), Florida Administrative Code, a refundable advance agreement is made so that the proposed extension may be rendered economically feasible. The advance is returned to the developer over a specified period of time in accordance with a written agreement as additional users connect to the system.

Staff believes that the special service availability contract and developer's agreement with Sebastian Inlet Marina, LLC is reasonable and should be approved.

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Issue 4: Should this docket be closed?

Recommendation: No. This docket should remain open pending expiration of the protest period. If a timely protest is not filed, a Consummating Order should be issued and the docket should be closed. (Rieger, Young)

Staff Analysis: This docket should remain open pending expiration of the protest period. If a timely protest is not filed, a Consummating Order should be issued and the docket should be closed.

SAN SEBASTIAN WATER, LLC
DESCRIPTION OF PROPOSED TERRITORY

Water Service Area

Brevard County

PARCEL I

SOUTH 469.17 FEET OF GOVERNMENT LOT 6, EAST OF U.S. HIGHWAY NO. 1 RIGHT-OF-WAY IN TOWNSHIP 30 SOUTH, RANGE 38 EAST, BREVARD COUNTY, FLORIDA.

PARCEL II

ALL THAT PART OF LAND LOCATED IN TRACT "A", SAN SEBASTIAN SUBDIVISION, AS RECORDED IN PLAT BOOK 8, PAGE 15, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING NORTH OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, 1353.43 FEET NORTHERLY FROM THE SOUTH LINE OF SECTION 14, TOWNSHIP 30 SOUTH, RANGE 38 EAST, AS MEASURED ALONG SAID EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THEN NORTH 65 DEGREES 29'30" EAST, TO AND INTO THE WATERS OF THE INDIAN RIVER.

PARCEL II IS CONTIGUOUS TO THE ENTIRE SOUTHERN BORDER OF PARCEL I, APPROXIMATELY 109 FEET IN WIDTH (NORTH TO SOUTH) AND RUNS FROM THE EAST RIGHT-OF-WAY LINE U.S. HIGHWAY NO. 1 TO THE WESTERN BORDER OF THE INDIAN RIVER.

PARCEL III

THE NORTH 10 FEET OF THE FOLLOWING DESCRIBED PROPERTY: BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF THE U.S. NO. 1 HIGHWAY, 1209.43 FEET NORTHERLY, FROM THE SOUTH LINE OF TOWNSHIP 30 SOUTH, RANGE 38 EAST, (LOCATED IN TRACT "A" OF SAN SEBASTIAN SUBDIVISION, AS RECORDED IN PLAT BOOK 8, PAGE 15 PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA) AS MEASURED ALONG THE EAST RIGHT-OF-WAY LINE OF U.S. NO. 1 HIGHWAY THENCE NORTHERLY ALONG SAID EAST RIGHT-OF-WAY LINE OF U.S. NO. 1 HIGHWAY 144 FEET, THENCE RUN NORTH 65 DEGREES 29'30" EAST TO THE BANK OF INDIAN RIVER, THENCE SOUTHERLY MEANDERING WITH THE BANK OF THE INDIAN RIVER TO A POINT LOCATED NORTH 65 DEGREES 29'30" EAST OF THE POINT OF BEGINNING, THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION

AUTHORIZES

SAN SEBASTIAN, LLC

PURSUANT TO

CERTIFICATE NUMBER 439-W

to provide water service in Brevard County in accordance with the provisions of Chapter 367, Florida Statutes, 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>
13816	10-29-84	840189-WU	Original Certificate
PSC-01-0426-FOF-WU	02-26-01	001145-WU	Transfer of Majority Control
*	*	080164-WU	Amendment

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

**Recommended Monthly Rates
General Service Water**

<u>Meter Size</u>	<u>Base Facility Charge</u>
5/8" x 3/4"	\$ 11.27
3/4"	16.91
1"	28.18
1 1/2"	56.35
2"	90.16
3"	180.32
4"	281.75
6"	563.50
Charge Per 1,000 Gallons	\$2.98