

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 24, 2009

TO: Office of Commission Clerk (Cole)

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

RE: Docket No. 090227-SU – Application for partial transfer of wastewater facility to City of Sebring, and amendment of Certificate No. 361-S, by Highlands Utilities Corporation, in Highlands County.
County: Highlands

AGENDA: 10/06/09 – 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\090227.RCM.DOC

Case Background

Highlands Utilities Corporation (HUC or utility) is a Class B utility providing wastewater service to approximately 1,531 wastewater equivalent residential connections (ERC) in Highlands County. The utility is within the Southwest Florida Water Management District (SWFWMD) in the Highlands Ridge Water Use Caution Area. The utility's 2008 annual report indicates that the utility had gross wastewater revenue of \$658,197 and net operating loss of (\$80,897).

The utility's wastewater system was originally issued Certificate No. 361-S in 1984.¹ The utility has had six amendments since it received its certificate.²

On April 22, 2009, the City of Sebring (City) filed an application for transfer of all of the HUC wastewater systems, except for the Lake Placid system. The transfer includes all HUC customers except for about 396 remaining Lake Placid customers. It is anticipated that the remaining service area will be sold by the end of 2009.

The purpose of this recommendation is to address whether the partial transfer of HUC's wastewater territory to the City should be acknowledged as a matter of right and to amend Certificate No. 361-S. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

¹ Order No. 13507, issued July 11, 1984, in Docket No. 830009-S, In re: Application of Highlands Utilities Corporation for a certificate to operate a sewer system in Highlands County, pursuant to Section 367.171, Florida Statutes.

² Order No. 14092, issued February 15, 1985, in Docket No. 830466-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory in Highlands County, Florida; Order No. 15908, issued March 28, 1986, in Docket No. 860171-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory in Highlands County, Florida; Order No. 22556, issued February 15, 1990, in Docket No. 890800-SU, In re: Application of Highlands Utilities Corporation for amendment of Certificate No. 361-S to include additional territory and cancellation of Pugh Septic Tank Services, Inc.'s Certificate No. 346-S in Highlands Co.; Order No. PSC-92-1185-AS-SU, issued October 19, 1992, in Docket No. 920093-SU, In re: Application for amendment of Certificate No. 349-S to include additional territory in Highland County by Harder Hall-Howard, Inc. and in Docket No. 920069-SU, In re: Complaint against Harder Hall-Howard, Inc. for alleged infringement upon certificated area in Highlands County served by Highlands Utilities Corporation; Order No. PSC-02-0250-PAA-WS, issued February 26, 2002, in Docket No. 990374-WS, In re: Application for certificates to operate a water and wastewater facility in Highlands County by the Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation; and, Order No. PSC-02-1732-FOF-SU, issued December 9, 2002, in Docket No. 001660-SU, In re: Application for amendment of Certificate No. 361-S to extend and to delete wastewater service area in Highlands County by Highlands Utilities Corporation.

Discussion of Issues

Issue 1: Should the transfer of a portion of Highlands Utilities Corporation wastewater territory to the City of Sebring be acknowledged as a matter of right and should Certificate No. 361-S be amended to reflect the deletion of territory?

Recommendation: Yes. The transfer of a portion of HUC's wastewater territory to the City of Sebring should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate No. 361-S should be amended to reflect the territory deletion effective November 20, 2008, which was the closing date of the sale. A description of the territory remaining after the partial transfer is appended to this recommendation as Attachment A. The resultant order should serve as HUC's wastewater certificate and should be retained by HUC. (Clapp, Kaproth, Brown)

Staff Analysis: As stated in the case background, the City applied for a partial transfer of the HUC facilities and amendment of Certificate No. 361-S on April 22, 2009, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.) The closing on the sale of the utility facilities took place on November 20, 2008. Included with the application are copies of the closing statements between the two parties. Therefore, November 20, 2008, is the effective date of the sale.

Pursuant to Section 367.071(4)(a), F.S., the sale 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. The application had deficiencies which were corrected as of August 26, 2009. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contains a statement that the City obtained HUC'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), F.A.C. A statement was provided indicating that HUC collected no customer deposits. Additionally, pursuant to the requirements of Rule 25-30.037(4)(h), F.A.C., a statement was included that HUC has paid all outstanding regulatory assessment fees (RAFs). The utility has filed all RAFs and annual reports through 2008. A description of the territory remaining after the partial transfer is appended to this recommendation as Attachment A.

Staff recommends that the transfer of a portion of HUC's wastewater territory to the City should be acknowledged as a matter of right pursuant to Section 367.071(4)(a), F.S., and Certificate No. 361-S should be amended to reflect the territory deletion effective November 20, 2008, which was the closing date of the sale. A description of the territory remaining after the partial transfer is appended to this recommendation as Attachment A. The resultant order should serve as HUC's wastewater certificate and should be retained by HUC.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendations in Issue 1, this docket should be closed because no further action is necessary. (Brown)

Staff Analysis: If the Commission approves staff's recommendations in Issue 1, this docket should be closed because no further action is necessary.

Highlands Utilities Corporation
Highlands County
Description of Wastewater Territory

Section 31, Township 36 South, Range 30 East

The West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 31, and the portion of the West 1/2 of the East 1/2 of said Section which lies South of Alderman Drive

Township 37 South, Range 30 East

Section 6

Beginning at a point on the North line of said Section 6 and the easterly right-of-way line of U.S. Highway No. 27; thence run in an easterly direction along the North line of said Section 6 for a distance of 660 feet; thence run in a southerly and southeasterly direction along a line 660 feet East of and parallel with the easterly right-of-way line of said U.S. Highway No. 27 to a point on the South line of said Section 6; thence run in a westerly direction along the South line of Section 6 to a point on the easterly right-of-way line of said U.S. Highway No. 27; thence run in a northwesterly and northerly direction along the easterly right-of-way line of said U.S. Highway No. 27 to the point of beginning and a parcel of land in the Northwest 1/4 of said Section 6, bounded on the North by Plumosa Avenue, on the West by Spruce Street, on the South by the Seaboard Coastline Railroad, on the East by U.S. Highway No. 27.

Section 7

Beginning at a point on the North line of said Section 7 and the easterly right of way of U.S. Highway No. 27; thence run along the North line of said Section to a point 660 feet easterly of and measured at right angles to the easterly right-of-way line of said U.S. Highway No. 27; thence run in a southeasterly direction along a line 660 feet easterly of and parallel with the easterly right-of-way of U.S. Highway No. 27 to a point on the East line of said Section 7; thence run in a southerly direction along the east line of said section 7 to a point on the easterly right-of-way line of said U.S. Highway No. 27; thence run in a northwesterly direction along the easterly right-of-way line of said U.S. Highway No. 27 to the point of beginning.

Section 8

Beginning at a point on the South line of said Section 8 and the easterly right-of-way line of U.S. Highway No. 27; thence run in an easterly direction along the south line of said Section 8 to a point 660 feet easterly of the easterly right-of-way line of said U.S. Highway No. 27 as measured at right angles; thence run in a northwesterly direction along a line 660 feet easterly of and parallel with the easterly right-of-way line of said U.S. Highway No. 27 to a point on the West line of said Section 8; thence run in a southerly direction along the West line of said section 8 to a point on the easterly right-of-way line of said U.S. Highway No. 27 to the point of beginning.

AND

The Southwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 8

LESS

The West 240 feet of the South 432 feet thereof.

Section 17

Begin at a point on the North line of said Section 17 and the easterly right-of-way line of U.S. Highway No. 27; thence run in an easterly direction along the North line of said Section 17 to a point 660 feet easterly of the easterly right-of-way line of said U.S. Highway No. 27 as measured at right angles; thence run in a southeasterly direction along a line 660 feet easterly of and parallel with the easterly right-of-way line of U.S. Highway No. 27 to the shoreline of Lake Grassy; thence run in a southwesterly and southerly direction along the shoreline of said Lake Grassy to a point on the South line of said Section 17; thence run in a northwesterly direction along the easterly right-of-way line of said U.S. Highway No. 27 to the point of beginning.

Section 20

That portion of the East 1/2 of said Section 20 which lies East of U.S. Highway No. 27.

Section 21

That portion of the Northwest 1/4 of the Southwest 1/4 of said Section 21 which lies West of Lake Grassy.

The East 1/2 of Section 31, Township 36 South, Range 30 East, Highlands County, Florida,
LESS

The West 1/2 of the Southeast 1/4 of the Southeast 1/4 of said Section 31, and the portion of the West 1/2 of the East 1/2 of said Section which lies South of Alderman Drive.

The East 1/2 of the West 1/2

AND

The West 1/2 of the East 1/2 of Section 6, Township 37 South, Range 30 East, Highlands County, Florida,

LESS

Beginning at a point on the North line of said Section 6 and the easterly right-of-way line of U.S. Highway No. 27; thence run in an easterly direction along North line of said Section 6 for a distance of 660 feet; thence run in a southerly and southeasterly direction along a line 660 feet east of and parallel with the easterly right-of-way line of said U.S. Highway No. 27 to a point on the South line of said Section 6; thence run in a westerly direction along the South line of Section 6 to a point on the easterly right-of-way line of said U.S. Highway No. 27; thence run in a northwesterly and northerly direction along the easterly right-of-way line of said U.S. Highway No. 27 to the point of beginning, and a parcel of land in the Northwest 1/4 of said Section 6, bounded on the North by Plumosa Avenue, on the West by Spruce Street, on the South by the Seaboard Coastline Railroad, on the East by U.S. Highway No. 27.

Section 8

The Southwest 1/4 of Section 8, Township 37 South, Range 30 East, Highlands County, Florida.

Section 9, Township 37 South, Range 30 East

(Highlands County School Board Parcel)

The portion lying northerly of the County Road 29 right-of-way of the East 650 feet of the South 1,247 feet of the East 1,485.7 feet of the South 1,875 feet of the West 1/2 of Section 9, Township 37 South, Range 30 East.

Order No. PSC-02-0250-PAA-WS

Deleted Area

Wastewater Service Area (Original Certificate) to be added to The Woodlands of Lake Placid, L.P. and Deleted from Highlands Utilities Corporation Service Area

Township 37 South, Range 30 East, Section 17- That portion of Lake Placid Camp Florida Resort, as recorded in Plat Book 15, Page 93, Highlands County, Florida, previously being part of the territory described in Highlands Utilities Corporation service area, being more particularly described as follows: Commence on the North line of Section 17, Township 37 South, Range 30 East, 660 feet Easterly of, as measured at right angles to the East right of way line of U.S. 27; thence Southeasterly along a line that is 660 feet East of and parallel with the said East right of way line, 300 feet more or less to the North line of said Lake Placid Camp Florida Resort and the Point of Beginning; thence continuing South easterly along the line 660 feet East of and parallel with said right of way line, 778.39 feet more or less to the South line of said Lake Placid Camp Florida Resort; the following 15 calls are along the boundary of said Lake Placid Camp Florida Resort, (1) thence N81 58'06"W, 29.61 feet; (2) thence N35 18'13"W, 256.10 feet; (3) thence S88 19'15" W, 135.89 feet; (4) N69 05'48"W, 8.86 feet; (5) thence S65 07'11"W, 291.84 feet; (6) thence N24 52'49"W, 174.00 feet; (7) thence S65 07'11"W, 165.76 feet to said right of way line; (8) thence N24 49'46"W, 157.95 feet; (9) thence N65 08'22"E, 25.57 feet; (10) thence N24 51'38"W, 219.42 feet; (11) thence N80 20'00"E, 107.91 feet; (12) thence N87 00'00"E, 218.15 feet; (13) thence N 50 00'00"E, 166.49 feet; (14) thence N75 29'10"E, 115.12 feet; (15) thence along the arc of a curve to the right with a central angle of 08 24'16", whose radius is 377.51 feet, with a chord bearing of N79 41'18"E, and a chord distance of 55.33 feet, an arc distance of 55.38 feet to the Point of Beginning.

Section 6, Township 37 South, Range 30 East

(Placid Arms Parcel)

The East 734.42 feet of the South 1/2 of the South 1/2 of the Southwest 1/4 of the Northeast 1/4 of Section 6, Township 37 South, Range 30 East, less 25 feet for right of way on the South side.

(Watersedge and Roberts Grove Parcel)

That portion of the Watersedge Subdivision which lies in the Northeast 1/4 of the Northeast 1/4 of Section 6, Township 37 South, Range 30 East, more particularly described as follows: The

North 860 feet of the Northeast 1/4 of the Northeast 1/4 of Section 6, Township 37 South, Range 30 East, all East of Lake Saddlebags. And the East 1/2 of the East 1/2 of the Northeast 1/4 of the Northwest 1/4 of Section 6, Township 37 South, Range 30 East.

Section 31, Township 36 South, Range 30 East

(Watersedge, Yesteryears, The Pines of Lake Huntley Condo)

The South 2,050 feet of the East 1/2 of the East 1/2 all lying South of County Road 621 of Section 31, Township 36 South, Range 30 East.

(Heron's Landing Parcel)

The West 640 feet of the South 420 feet of the Southeast 1/4 of the Northwest 1/4 of Section 31, Township 36 South, Range 30 East; AND the west 640 feet of the North 130 feet of the Northeast 1/4 of the Southwest 1/4 of Section 31, Township 36 South, Range 30 East.

Less: Road right of ways on the north and west sides.

Less: The North 340 feet of the South 385 feet of the East 430 feet of the West 455 feet of the Southeast 1/4 of the Northwest 1/4 of Section 31, Township 36 South, Range 30 East.

Section 32, Township 36 South, Range 30 East

(Yesteryears Parcel)

The South 1,150 feet of the West 300 feet of the Southwest 1/4 of Section 31, Township 36 South, Range 30 East, all North of Lake Huntley.

Order No. PSC-02-1732-FOF-SU

Deleted Area

Section 31, Township 36 South, Range 30 East

The West 1/2 of the East 1/2 which lies North of Lake Clay Drive in Township 36 South, Range 30 East, Section 31.

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Highlands Utilities Corporation
pursuant to
Certificate Number 361-S

to provide wastewater service in Highlands 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>
13507	07/11/84	830009-S	Grandfather Certificate
14092	02/15/85	830466-SU	Amendment
15908	03/28/86	860171-SU	Amendment
22556	02/15/90	890800-SU	Amendment
PSC-92-1185-AS-SU	10/19/92	920069-SU	Amendment
PSC-02-0250-PAA-WS	02/26/02	990374-WS	Amendment
PSC-02-1732-FOF-SU	12/09/02	001660-SU	Amendment
*	*	090227-SU	Partial Transfer to Government

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