

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|---|----------------------|
| In re: Application for amendment of) | DOCKET NO. 891249-WS |
| Certificates Nos. 502-W and 436-S in) | ORDER NO. 23411 |
| Nassau County by SUNRAY UTILITIES, INC.) | ISSUED: 8-27-90 |
| _____) | |

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
GERALD L. GUNTER

ORDER AMENDING CERTIFICATES NOS. 502-W AND 436-S
TO INCLUDE ADDITIONAL TERRITORY

BY THE COMMISSION:

CASE BACKGROUND

Sunray Utilities, Inc., (Sunray or utility) is presently a Class C utility providing water and wastewater service to approximately 35 single family homes in Nassau County. Sunray reported annual revenues of \$5,931 and \$3,713, respectively for water and wastewater within its 1989 annual report. During this same period it reported operating losses of \$85,947 for water and \$125,850 for wastewater. While the utility is now a Class C, it anticipates being a large regional facility based upon the projected future development within the county. In this case, Sunray seeks to add approximately 11,630 acres to its certificated territory.

Sunray's notice of amendment was initially protested by Yulee Utilities, Inc., (Yulee). At the time of the protest, Yulee had pending in Docket No. 881584-WS an application for original water and wastewater certificates. The basis of the protest was that Sunray's application was for a portion of the territory included within the Yulee application. To resolve the protest, a joint stipulation was filed wherein both parties agreed to delete portions of their requested territories. The stipulation was approved by the Commission in Order No. 22853, issued April 24, 1990.

DOCUMENT NUMBER-DATE

07709 AUG 27 1990

FPSC-RECORDS/REPORTING

ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 2

APPLICATION FOR AMENDMENT

On March 20, 1990, Sunray Utilities, Inc., filed its application for amendment of water and wastewater certificates to include additional territory in Nassau County. The application is in compliance with the governing statute, Section 367.041, Florida Statutes (1987), and other pertinent statutes and administrative rules concerning an application for amendment of certificate. In particular, the notarized application contains the following:

- 1) A check in the amount of \$4,500, which upon calculation is the correct filing fee prescribed by Rule 25-30.020, Florida Administrative Code.
- 2) Adequate service territory and system depiction maps and a territory description as prescribed by Rule 25-30.035, Florida Administrative Code. The territory description is appended to this Order as Attachment A.
- 3) Evidence that the utility owns or has continuous access to the land upon which the utility's facilities are located as required by Rule 25-30.035(3)(f), Florida Administrative Code. Sunray has purchase options for additional plant sites, as they are needed, from its parent company ITT Rayonier.
- 4) Proof of notice of application to all governmental/regulatory agencies and all utilities within a four-mile radius of the territory and proof of advertisement in a

ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 3

newspaper of general circulation in the county as prescribed by Rule 25-30.030, Florida Administrative Code.

Sunray is in the initial stage of establishing regional utilities in both Nassau County and St. Johns County. Sunray is a subsidiary corporation of ITT Rayonier. ITT Rayonier, through its affiliated entities, collectively known as the "Rayonier Group," is beginning to sell tracts of timberland to non-affiliated developers. It is the intention of ITT Rayonier to provide regional water and wastewater service throughout the now Rayonier properties. Sunray has satisfactorily operated ITT Rayonier's Nassau County division since 1988. Sunray has contracted with Jax Utilities Management, Inc., (JUM) for operation of its utility facilities. JUM is an experienced company which operates several utilities under this Commission's jurisdiction.

Based upon the Nassau County comprehensive plan, the county population is anticipated to grow by approximately 28,000 by the year 2005. Based upon the area's proximity to Jacksonville and the King's Bay Naval Base in St. Mary's, Georgia, and based upon the interest expressed by developers in Rayonier land, development in the area is imminent.

Sunray has prepared a conceptual master plan for extending utility service into the requested area. Sunray owns the land upon which its present facilities are located and has identified future plant sites in its master plan. Sunray has executed a purchase option with its parent, ITT Rayonier, for these sites, which will be purchased when needed. Additionally, Sunray presently has a financing agreement with ITT Rayonier which provides Sunray with long term credit in the amount of seven million dollars.

Rule 25-30.035 (3)(f), Florida Administrative Code, requires a utility to provide evidence that it either owns the land upon which its facilities are located or has an agreement which provides for continuous use of the land. While an agreement for continuous use of the land has normally been in the

ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 4

form of a lease, we believe, based upon the circumstances of this docket, that the purchase options filed in this case are sufficient. As previously noted, Sunray's parent company, ITT Rayonier, is the party which will be selling land within the amended territory. It, therefore, has a vested interest in the availability of water and wastewater service. Through the purchase options, both parties are assured that future plant sites are available; these sites are reserved for the utility to purchase as needed, dependent upon development. Accordingly, we find that the purchase options provide for continuous use of the future plant sites within the meaning of Rule 25-30.035(3)(f), Florida Administrative Code.

While the additional territory is large, we believe that granting this territory will accommodate master planning and an orderly phasing of a sound regional utility. Based on the above information, we find that it is in the public interest to grant the application of Sunray Utilities, Inc., for amendment of Certificate Nos. 502-W and 436-S. The utility should return the certificates for entry reflecting the additional territory within thirty days of the date of this Order. Also, revised tariff sheets should be filed reflecting the additional territory within thirty days of the date of this Order.

Since the cost and timing of future plant construction is uncertain, we find it appropriate at this time for Sunray to apply its presently approved rates and charges for its Nassau County division to the amended territory.

It is, therefore,

ORDERED by the Florida Public Service Commission that Sunray Utilities, Inc., be granted the additional territory described in Attachment A, which is attached to this Order and by reference is incorporated herein. It is further

ORDERED that Sunray Utilities, Inc., return Certificates Nos. 502-W and 436-S to the Commission for entry reflecting the amendment within 30 days of the date of this Order. It is further

ORDERED that Sunray Utilities, Inc., file revised tariff

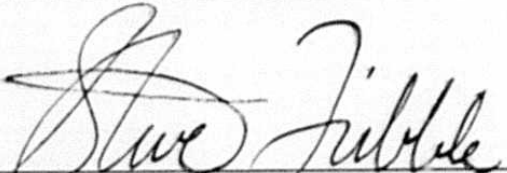
ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 5

sheets reflecting the additional territory granted in this Order within 30 days of the date of this Order. It is further

ORDERED that Sunray Utilities, Inc.'s currently approved rates and charges be applied to the additional territory granted in this Order. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this
27th day of August, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15)

ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 6

days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 7

ATTACHMENT A

All lands contained in Section 1 lying west of the CSX railroad right-of-way.

All lands contained in Section 2 lying east of I-95 west of the CSX railroad right-of-way.

All lands contained in Section 11 lying east of I-95, less and except that parcel of land described in Official Records Book 546, Page 1286 of the Public Records of Nassau County, Florida.

All lands contained in Section 14 east of I-95.

All lands contained in Section 23 east of I-95.

All lands contained in Section 41 east of I-95 and west of the CSX railroad right-of-way, less and except a parcel described as follows:

Commence at the intersection of the centerline of the CSX railroad right-of-way and CR-108; proceed in a northwesterly direction 3,900 feet to a point; thence north 10 degrees east for a distance of approximately 3,400 feet until said bearing intersects the centerline of the CSX railroad right-of-way; thence southeasterly directly along the centerline of the CSX railroad right-of-way back to the point of beginning.

All lying in Township 3 North, Range 26 East.

All parcels of land contained in Section 44 east of the ITT Rayonier private forest road #21, less and except the lands described as follows:

Commence at the intersection of the northeast corner of said Section 44 and proceed in a westerly direction along the northerly section line of said Section 44 for a distance of approximately 2,800 feet to a point; thence in a southerly direction along a line perpendicular to the northerly section line of said Section 44 for a distance of approximately 1,300 feet to a point; thence easterly along a line parallel to the northerly section line of said Section 44 for a distance of approximately 1,600 feet to a point at the intersection of the southeast section line of said Section 44; thence northeast along the southeast section line of said Section 44 to the point of beginning.

ORDER NO. 23411
 DOCKET NO. 891249-WS
 PAGE 8

Also, less and except, those parcels of land described in the Official Records Book 235, Page 514 of the Public Records of Nassau County, Florida.

Also, less and except, those parcels of land described in the Official Records Book 513, Page 91 and Deed Book 81, Page 359 of the Public Records of Nassau County, Florida.

All lying in Township 2 North, Range 27 East.

All lands contained in Sections 50 and 56 west of U.S. 17, less and except that parcel which is described as follows:

Commence at the intersection of the centerline of U.S. 17 and the southeast section line of said Section 50; proceed northwest along the centerline of U.S. 17 approximately 5,600 feet to a point; thence southwest perpendicular to the centerline of U.S. 17 approximately 1,100 feet to a point; thence southeast parallel to the centerline of the CSX railroad right-of-way to a point of intersection with ITT Rayonier private forest road #55; thence southerly along the centerline of said forest road #55 to the intersection of the south section line of said Section 50; thence east along the south section line of said Section 50 to the southeast corner of Section 50; thence northeast along the southeast section line of said Section 50 to the point of beginning.

All lands contained in Sections 50, 53, 54, 55 and 56 east of the centerline of the U.S. 17 right-of-way south of Crandall Road, ITT Rayonier private forest road #9 and Rose Bluff Road, less and except that parcel of land described by exception 33 of Deed Book 99, Page 413 of the Public Records of Nassau County, Florida; and less and except that parcel contained in Sections 50, 53, 54, 55 and 56 described as follows:

Commence at the intersection of the centerline of U.S. 17 and the southeasterly section line of said Section 50; proceed northeast along the southeast section line of said Section 50 approximately 3,300 feet to a point; thence northwest perpendicular to the southeast section line of said Section 50 for a distance of approximately 14,000 feet to a point; thence southwesterly and parallel to the southeast section line of said Section 50 for a distance of approximately 2,400 feet to a point at the intersection of the centerline of U.S. 17; thence southeast along the centerline of U.S. 17 to the point of beginning.

ORDER NO. 23411
DOCKET NO. 891249-WS
PAGE 9

All lands contained in Section 51 north of ER-200A east of the west line of the parcel described in the Official Records Book 351, Page 757 of the Public Records of Nassau County, Florida, south of the ITT Rayonier private forest road #35, less and except the Priest lots 5 and 6 as described in Deed Book 95, Page 448 of the Public Records of Nassau County, Florida; and those parcels described in the Official Records Book 389, Page 124, the Official Records Book 546, Page 1286, and the Official Records Book 576, Page 431 of the Public Records of Nassau County, Florida.

All lying in Township 3 North, Range 27 East.

Less and except all parcels of land contained in section 44, township 2 north, range 27 east, Nassau County, Florida, south of the centerline of the right-of-way of State Road 200.

Less and except all parcels of land contained in section 50, township 3 north, range 27 east, Nassau County, Florida, lying south of Lofton Creek and southeast of a tributary of Lofton Creek which crosses U.S. 17 approximately 7,600 feet northwest of the intersection of U.S. 17 and the southwest boundary of section 50, township 3 north, range 27 east, Nassau County, Florida.