



Public Service Commission

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DATE: OCTOBER 26, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF REGULATORY OVERSIGHT (REDEMANN)
DIVISION OF LEGAL SERVICES (VAN LEUVEN)

RE: DOCKET NO. 001138-WS - APPLICATION FOR AMENDMENT OF
CERTIFICATE NOS. 277-W AND 223-S TO ADD TERRITORY IN
SEMINOLE COUNTY BY CWS COMMUNITIES LP D/B/A PALM VALLEY.
COUNTY: SEMINOLE

AGENDA: NOVEMBER 7, 2000 - REGULAR AGENDA - PROPOSED AGENCY ACTION
FOR ISSUE 2 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\001138.RCM

CASE BACKGROUND

CWS Communities LP d/b/a Palm Valley (CWS, Palm Valley or utility) is a Class C utility which provides water and wastewater services in Seminole County to 55 individual metered customers and one general service customer. The annual report for 1999 shows that the operating revenue was \$45,097 and \$21,738, with net operating losses of \$11,940 and \$117,757, for the water and wastewater systems, respectively. The utility's facilities consist of four systems: one water treatment plant, one water transmission and distribution system, one wastewater collection system, and one wastewater treatment plant.

On December 21, 1999, CWS filed an application for approval of the transfer of Certificates Nos. 277-W and 223-S currently held by Alafaya Palm Valley Associates, Ltd to CWS. By Order No. PSC-00-1675-PAA-WS, issued on September 19, 2000, in Docket No. 991984-WS,

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the transfer was approved. On October 5, 2000, this docket title was changed to reflect the new name of the utility.

On August 14, 2000, the utility applied for an amendment to Water Certificate No. 277-W and Wastewater Certificate No. 223-S in Seminole County, Florida, pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036(3), Florida Administrative Code. The utility's service area and requested service area is in the St. Johns Water Management District. All utilities in the St. Johns Water Management District are in a Water Use Caution Area.

On August 18, 2000, a copy of the amendment application was sent to the Department of Community Affairs (DCA) for comment pursuant to the Memorandum of Understanding between the Commission and the DCA. On September 18, 2000, the DCA responded by stating that it has not identified any growth management concerns related to consistency with the Seminole County Comprehensive Plan.

The Commission has jurisdiction to rule upon this application pursuant to Section 367.045, Florida Statutes. In addition, according to the application, the utility plans to provide reuse service in the future, but does not have a current reuse charge. The need for a tariff for reuse is addressed in Issue 2. The Commission has authority pursuant to Sections 367.045 and 367.091, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should Palm Valley's application for amendment of Water Certificate No. 277-W and Wastewater Certificate No. 223-S be approved?

RECOMMENDATION: Yes, Palm Valley's application for amendment of Water Certificate No. 277-W and Wastewater Certificate No. 223-S to include the additional territory described in Attachment A should be approved. Palm Valley should be required to charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (REDEMANN)

STAFF ANALYSIS: As stated earlier, on August 14, 2000, the utility applied for an amendment to Water Certificate No. 227-W and Wastewater Certificate No. 277-S in Seminole County, Florida pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code. 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 application contains a check in the amount of \$400 (\$200 for water and \$200 for wastewater) which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that CWS has continuous use of the land, as required by Rule 25-30.036(3)(d), Florida Administrative Code. As evidence of the continued use, the utility filed a special warranty deed which lists its parent company CWS Communities LP as the owner of the land and a recorded affidavit stating that CWS operates a water and wastewater utility on real property that is dedicated to utility use.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. A description of the territory requested by the utility is appended to this memorandum as Attachment A.

The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, stating 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, Florida Administrative Code. No objection to the application has been received and the time for filing such has expired. The local planning agency and the cities in Seminole County were provided notice of the application and did not file a protest to the amendment. As stated earlier, on August 18, 2000, a copy of the application was sent to the DCA for comment, pursuant to the Memorandum of Understanding. A response was received on September 18, 2000. The DCA states that it has not identified any growth management concerns related to consistency with the Seminole County Comprehensive Plan.

The application states that the proposed addition to the utility's service area will be developed into 148 mobile home sites. The existing water system has a capacity of 675,000 gallons per day (gpd). The peak water use occurred in April, 1999 and the average for the month was 312,000 gpd. The water system is in the process of being expanded and upgraded and will be able to supply a maximum of 2,952,000 gpd. With the expansion, the utility will

have ample water well into the future. The estimated water demand for the proposed development is 47,360 gpd (320 gpd/unit x 148 units). The current water lines are adjacent to the proposed service area. The Department of Environmental Protection (DEP) has no outstanding notices of violation issued for this system.

According to the utility, the current permitted wastewater treatment capacity is 126,000 gpd and an expansion to 150,000 gpd will be completed in the middle of 2001. The peak wastewater use occurred in March, 1999 and the average for the month was 110,000 gpd. The estimated wastewater demand for the proposed development is 29,600 gpd (200 gpd/unit x 148 units). With the wastewater plant expansion the utility will have sufficient capacity for the future.

The effluent disposal capacity is limited. After expansion, the effluent disposal will consist of several methods of disposal which will include a percolation pond (existing and proposed), reuse (proposed), a dripper system (existing), and an exfiltration trench (proposed). Reuse will be provided to 140 existing home sites, in the new phase 8/8A (148 units), and common areas. The need for a tariff for reuse is addressed in Issue 2. As with the water system, the existing wastewater lines are adjacent to the proposed service area.

There is one revised consent order with DEP for the wastewater system. The utility is expanding the disposal system and adding additional wastewater capacity to comply with the consent order. According to the DEP, the construction should be completed by July 30, 2001, and the utility is meeting the time frames outlined in the consent order. The DEP is satisfied with the utility's progress.

The utility has filed revised tariff sheets incorporating the additional territory into its tariff. The utility last changed its rates by an index on February 16, 1999 by the authority of WS 98-0249. The utility's approved service availability charges were effective April 16, 1991, by Order No. 24181, issued March 1, 1991, in Docket No. 900402-WS. The utility's original rates were approved pursuant to Order No. 7518, issued November 22, 1976, in Docket No. 750660-WS, an original certificate case. The utility has never had a rate case. CWS should be required to charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by the Commission in a subsequent proceeding.

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Based on the above information, staff recommends that Palm Valley's application is in the public interest and that the Commission should therefore approve Palm Valley for the amendment of Water Certificate No. 277-W and Wastewater Certificate No. 223-S to include the additional territory described in Attachment A.

ATTACHMENT A

CWS COMMUNITIES LP D/B/A PALM VALLEY

WATER AND WASTEWATER TERRITORY

SEMINOLE COUNTY

Addition 8

That part of the Northwest 1/4 of Section 35, Township 21 South, Range 31 East, Seminole County, Florida, being further described as follows:

Commence at the Northwest corner of Section 35, Township 21 South, Range 31 East, Seminole County, Florida and run thence N89 degrees 52'09"E 332.91 feet (N89 degrees 45'42"E 332.85 feet record) along the North boundary of Section 35 to the point of beginning; thence continue N89 degrees 47'40"E 662.10 feet (N89 degrees 45'42"E 665.73 record) along the North boundary of said Section 35; thence S00 degrees 15'18"E 1332.93 feet; thence N89 degrees 49'23"E 333.79 feet (N89 degrees 42'41"E record) to the Northwest corner of SE 1/4 of NW 1/4 of said Section 35; thence continue along the boundary of Brighton Park at Carillon according to the map or plat thereof as recorded in plat book 42, pages 86-89 of the Public Records of Seminole County, Florida, N89 degrees 49'23"E 283.75 feet to the appropriate centerline of a creek; thence continue along the boundary of said subdivision S09 degrees 24'12"E 271.06 feet (S09 degrees 24'12"E 273.12 feet record); thence continue along the said subdivision S06 degrees 51'54"W 400.91 feet (S06 degrees 51'54"W 389.91 feet record); thence S89 degrees 47'41" W 278.55 feet to the 40 acre line; thence continue S89 degrees 47'41"W 1003.11 feet along the Northerly boundary of Palm Valley Manufactured Housing; thence N00 degrees 00'32"W 1998.66 feet (N00 degrees 14'22"E deed) along the Easterly boundary of Palm Valley Manufactured Housing to the point of beginning.

Containing 1,755,983.6218 square feet of 40.3118 acres M.O.L.

Addition 8A

The East quarter of the Northwest quarter of the Northwest quarter of Section 35, Township 21 South, Range 31 East, Seminole County, Florida.

Containing 443,725.39 square feet or 10.1865 acres M.O.L.

ISSUE 2: Should the utility be ordered to file a wastewater tariff reflecting the reclaimed water class of service for 140 existing home sites, the 148 planned home sites in the new phase, and common areas?

RECOMMENDATION: Yes. The utility should be ordered to file a wastewater tariff reflecting the reclaimed water class of service at a \$0 rate for 140 existing home sites, 148 planned home sites in the new phase, and common areas. The lot numbers for the existing home sites that will receive reuse service include 375-384, 358-374, 392-399, 400-411, 626-654, 701-705, 708-759, and 761-767. The lot numbers for the new phase that will receive reuse service are 801-948. Staff should be given the authority to administratively approve the tariff provided it is consistent with the Commissions' decision. Staff recommends that the tariff should be effective for services rendered on or after the stamped approval date of the tariff. The utility should be required to return to the Commission for a determination regarding the rates for reclaimed water service prior to providing reclaimed water service to any other customers. (REDEMANN, VAN LEUVEN)

STAFF ANALYSIS: According to the utility's application, the proposed development of 148 residents will be connected to the utility's new reuse system. In addition, an existing 140 homes will also be receiving reuse along with the common area. The existing lots that will receive reuse service include 375-384, 358-374, 392-399, 400-411, 626-654, 701-705, 708-759, and 761-767. The lot numbers for the new phase that will receive reuse service are 801-948. According to the utility's engineer, the wastewater treatment expansion contract has been permitted, and the contract to build has been bid and awarded. The utility believes that reuse service will not be available until late in the second quarter 2001.

Due to growing concerns over water conservation, reclaimed water is increasingly being viewed as an alternative source of water for irrigation of golf courses and, in some cases, residential communities. Along with the increased use of reclaimed water comes a recognition that there are costs associated with the provision of reclaimed water. Consequently, it has become Commission practice to recognize reclaimed water service (sometimes referred to as effluent service) as a class of service which should be included in the utility's tariff, even if the utility is not currently assessing a charge for the service.

Although there are costs associated with the provision of reclaimed water service, there are cases in which the "avoided costs" outweigh the actual cost of the service, and thus not charging for the reclaimed water is justified. For example, disposing of effluent on non-utility property may delay or even eliminate the need for the utility to purchase additional land for spray fields or percolation ponds, thereby resulting in lower rates for the utility's existing wastewater customers.

In this case, according to the utility's engineer, the current effluent disposal capacity is limited and land is selling for a premium in the area. Therefore, numerous methods were needed to dispose of the effluent. After the wastewater treatment plant expansion, the effluent disposal will consist of several methods which will include a percolation pond (existing and proposed), reuse (proposed), a dripper system (existing), and an exfiltration trench (proposed).

The developer will be installing the reuse lines for some of the existing homes and all of the new homes. The wastewater treatment capacity will be 150,000 gpd after the expansion is complete. The upgrade at the wastewater facility will allow the utility to reuse the effluent. The utility proposes a reuse rate of \$0 at this time, but CWS plans to apply for a staff assisted rate case in the future that will include establishing a rate for reuse. Staff agrees that a zero charge is appropriate at this time in order to encourage customers to take the reclaimed water. This recommendation is consistent with past Commission practice. See Order No. PSC-98-0475-FOF-WS, issued on April 1, 1998, in Docket No. 971157-WS; Order No. PSC-00-0804-PAA-WS, issued on April 24, 2000, in Docket No. 000041-WS; and Order No. PSC-00-1657-PAA-WS, issued on September 18, 2000, in Docket No. 000430-WS.

For the foregoing reasons, staff recommends that the utility should be ordered to file a wastewater tariff reflecting the reclaimed water class of service at a \$0 rate for 140 existing home sites, 148 planned home sites in the new phase, and common areas. The lot numbers for the existing home sites that will receive reuse service include 375-384, 358-374, 392-399, 400-411, 626-654, 701-705, 708-759, and 761-767. The lot numbers for the new phase that will receive reuse service are 801-948. Staff should be given the authority to administratively approve the tariff provided it is consistent with the Commission's decision. The tariff should be effective for services rendered on or after the stamped approval date of the tariff. The utility should return to the Commission for a determination regarding rates for reclaimed water service prior to providing that service to any other customers.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no timely protest is received to the Proposed Agency Action issue, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed. (VAN LEUVEN)

STAFF ANALYSIS: If no timely protest is received to the Proposed Agency Action issue, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.