

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution No. 2007-143 by Charlotte County Board of Commissioners, in accordance with Section 367.171, F.S., rescinding Florida Public Service Commission jurisdiction over private water and wastewater systems in Charlotte County.

DOCKET NO. 070643-WS
ORDER NO. PSC-07-0984-FOF-WS
ISSUED: December 10, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER ACKNOWLEDGING RESCISSION OF COMMISSION JURISDICTION OVER
PRIVATE WATER AND WASTEWATER SYSTEMS IN CHARLOTTE COUNTY

BY THE COMMISSION:

Background

On September 27, 1994, the Board of County Commissioners of Charlotte County (Charlotte County) adopted a resolution declaring Charlotte County subject to the provisions of Chapter 367, Florida Statutes (F.S.). This resolution invoked Commission jurisdiction over private water and wastewater utilities in Charlotte County. We acknowledged the resolution by Order No. PSC-94-1451-FOF-WS, issued November 28, 1994, in Docket No. 941044-WS, In Re: Resolution of Board of Commissioners of Charlotte County declaring Charlotte County subject to provisions of Chapter 367, Florida Statute.

On September 25, 2007, Charlotte County adopted Resolution No. 2007-143 (Resolution), rescinding Commission jurisdiction over private water and wastewater utilities in Charlotte County effective immediately. Therefore, our jurisdiction over private water and wastewater facilities in Charlotte County was rescinded effective September 25, 2007.

We have jurisdiction pursuant to Sections 367.145, and 367.171, F.S.

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

Rescission of Commission Jurisdiction and Cancellation of Certificates

Section 367.171, F.S., provides that a County, after ten continuous years under Commission jurisdiction, may by resolution or ordinance rescind said jurisdiction thereby excluding itself from the provisions of Chapter 367, F.S., with the exception of Section 367.171, F.S. On September 25, 2007, Charlotte County adopted Resolution No. 2007-143, rescinding Commission jurisdiction over private water and wastewater systems in Charlotte County in accordance with the requirements of Section 367.171(1). Therefore, we hereby acknowledge County Resolution No. 2007-143, which rescinds our jurisdiction in Charlotte County effective September 25, 2007.

The following seven utilities currently hold certificates of authorization from this Commission to provide water and/or wastewater service in Charlotte County:

Utility	Certificate Number	
Bocilla Utilities, Inc.	574-W	
Lake Suzy Utilities, Inc. d/b/a Aqua Utilities Florida	599-W	514-S
Little Gasparilla Water Utility, Inc.	615-W	
NHC Utilities, Inc.	573-W	
Sun River Utilities, Inc.	611-W	527-S
Town and Country Utilities Company	613-W	543-S
Utilities, Inc. of Sandalhaven		495-S

Certificate No. 574-W held by Bocilla Utilities, Inc., Certificate No. 615-W held by Little Gasparilla Water Utility, Inc., and Certificate No. 573-W held by NHC Utilities, Inc. shall be cancelled effective September 25, 2007.

Pursuant to Section 367.171(5), F.S., when a utility becomes subject to regulation by a County, all cases in which the utility is a party then pending before the Commission will remain within our jurisdiction until disposed of in accordance with the law in effect on the day such case was filed. At the time of the enactment of Charlotte County's Resolution, both Sun River Utilities, Inc. and Utilities, Inc. of Sandalhaven were parties to active cases pending before the Commission.¹ The Sun River Utilities, Inc. amendment case, Docket No. 070109-WS, is scheduled for hearing in January 2008. We granted Utilities, Inc. of Sandalhaven a rate increase in Order No. PSC-07-0865-PAA-SU, issued October 29, 2007, in Docket No. 060285-SU. On November 19, 2007, Placida HG, LLC, requested a hearing in response to the Order. Therefore, the matters in these dockets remain within our jurisdiction and the certificates will remain active until the dockets are closed.

¹ Sun River Utilities, Inc. and Utilities Inc. of Sandalhaven both have pending cases before the Commission. We granted Utilities Inc. of Sandalhaven a rate increase in Docket No. 060285-SU, In Re: Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven. Sun River Utilities, Inc. requested an extension of service area in Docket No. 070109-WS, In Re: Application for amendment of certificates 611-W and 527-S to extend water and wastewater service areas to include certain land in Charlotte County by Sun River Utilities, Inc. (f/k/a MSM Utilities, LLC).

Pursuant to Section 367.171(7), F.S., when a utility transverses county boundaries the system will remain subject to our jurisdiction. Lake Suzy Utilities transverses the DeSoto and Charlotte County boundary. Town and Country Utilities Company transverses the Lee and Charlotte County boundary. Therefore, both of these systems shall remain subject to our jurisdiction.

Pursuant to Section 367.145(1)(a), F.S., and Rule 25-30.120(2), Florida Administrative Code (F.A.C.), cancellation of the utility certificates does not affect the authority of the Commission to collect, nor the obligation of the utilities to pay, regulatory assessment fees, penalties, and interest accrued prior to September 25, 2007. However, pursuant to Rule 25-30.110(3), F.A.C., these utilities will not be responsible for an annual report for 2007 because they would not be subject to our jurisdiction as of December 31, 2007.

Little Gasparilla Water Utility, Inc., NHC Utilities, Inc. and Sun River Utilities, Inc. have paid their 2006 regulatory assessment fees for the period of January 1 through December 31, 2006, and have paid their regulatory assessment fees for all previous years. Bocilla Utilities, Inc. and Utilities, Inc. of Sandalhaven have paid their regulatory assessment fees through June 30, 2007, and have paid their regulatory assessment fees for all previous years. Little Gasparilla Water Utility, Inc., NHC Utilities, Inc. and Sun River Utilities, Inc. shall be responsible for final payment of regulatory assessment fees for the period of January 1 through September 25, 2007, on or before the prescribed due date of March 31, 2008. Bocilla Utilities, Inc. and Utilities, Inc. of Sandalhaven shall be responsible for final payment of regulatory assessment fees for the period of July 1, 2007, through September 25, 2007, on or before the prescribed due date of January 30, 2008.

Bocilla Utilities, Inc., Little Gasparilla Water Utility, Inc., NHC Utilities, Inc., Sun River Utilities, Inc. and Utilities Inc. of Sandalhaven have filed their 2006 annual reports and have filed their annual reports for all previous years. These utilities will not be responsible for filing an annual report for 2007.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the Charlotte County Board of Commissioner's Resolution No. 2007-143 rescinding Commission jurisdiction over private water and wastewater facilities effective September 25, 2007, is acknowledged. It is further

ORDERED that Certificate No. 574-W held by Bocilla Utilities, Inc., Certificate No. 615-W held by Little Gasparilla Water Utility, Inc., and Certificate No. 573-W held by NHC Utilities, Inc. shall be cancelled effective September 25, 2007. It is further


ORDERED that Certificate Nos. 611-W and 527-S held by Sun River Utilities, Inc. and Certificate No. 495-S held by Utilities, Inc. of Sandalhaven shall remain active. Commission Staff shall be given administrative authority to cancel Certificate Nos. 611-W and 527-S held by Sun River Utilities, Inc. when Docket No. 070109-WS is closed and to cancel Certificate No. 495-S held by Utilities, Inc. of Sandalhaven when Docket No. 060285-SU is closed. It is further

ORDERED that Little Gasparilla Water Utility, Inc., NHC Utilities, Inc. and Sun River Utilities, Inc. shall be responsible for final payment of regulatory assessment fees for the period of January 1 through September 25, 2007, on or before the prescribed due date of March 31, 2008. Bocilla Utilities, Inc. and Utilities, Inc. of Sandalhaven shall be responsible for the final payment of regulatory assessment fees for the period of July 1, through September 25, 2007, on or before the prescribed due date of January 30, 2008. These utilities will not be responsible for filing an annual report for 2007. It is further

ORDERED that pursuant to Section 367.171(7), Florida Statutes, the Commission shall retain jurisdiction over Certificate Nos. 599-W and 514-S held by Lake Suzy Utilities, Inc. and Certificate Nos. 613-W and 543-S held by Town and Country Utilities Company because these utilities transverse county boundaries. It is further

ORDERED that this docket shall remain open until Docket Nos. 060285-SU and 070109-WS are closed, after which time this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 10th day of December, 2007.



ANN COLE
Commission Clerk

(S E A L)

CMK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 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.