

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: September 4, 2014
TO: Carlotta Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Sonica C. Bruce, Economic Analyst, Division of Economics *[Signature]*
RE: Docket No. 130265 - WU - Application for staff-assisted rate case in Charlotte County, by Little Gasparilla Water Utility, Inc.

The attached correspondence was sent to the Division of Economics via email by Marty Burton regarding Little Gasparilla. Please incorporate the documents into the docket file.

RECEIVED FPSC
14 SEP - 4 AM 10: 35
COMMISSION
CLERK

Sonica Bruce

From: Patti Daniel
Sent: Friday, August 29, 2014 3:49 PM
To: Sonica Bruce
Cc: Adam Teitzman; Charles Murphy; Jim Dean; Shannon Hudson; Tom Ballinger; Paul Vickery; Laura King; Penny Buys; Andrew Maurey; Cheryl Bulecza-Banks; Mark Cicchetti; Curt Mouring; Martha Golden; Matthew Vogel; Vandiver, Denise (VANDIVER.DENISE@leg.state.fl.us)
Subject: FW: Docket 130265 -- Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.
Attachments: RE LGWU; Phone conversation on mandatory connection issues

Sonica, please put this correspondence, including a copy of the attachments, in the docket file. Thanks.

From: Burton, Marty [<mailto:Marty.Burton@charlottefl.com>]
Sent: Friday, August 29, 2014 12:43 PM
To: Patti Daniel
Cc: Knowlton, Janette; mfriedman@ffllegal.com; MFriedman@sflaw.com; lgwu7777@yahoo.com
Subject: RE: Docket 130265 -- Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.

Patti,

Attached FYI are two emails that might help to explain the present situation in the County concerning mandatory connection to central public utilities. I can tell you that the County's intent in entering into the sale of water agreement with LGWU was to assist the utility in providing a reliable source of good quality water to the utility and to the residents on the island.

I am retiring from the County today, and my replacement for utility matters, Marilyn Miller, will be starting the week of September 8. Please feel free to contact me if I can be of further assistance:

11015 Bullrush Terrace
Lakewood Ranch, FL 34202
941-587-1727
martyb1@tampabay.rr.com

Thanks and I have enjoyed working with you over the years.

Marty

Martha Young Burton, Assistant County Attorney
Charlotte County Attorney's Office
18500 Murdock Circle
Port Charlotte, FL 33948-1094
Tel: 941.743.1330 Direct Line: 941.743.1328 Fax: 941.743.1550
Marty.burton@charlottefl.com www.charlottecountyfl.com
"To exceed Expectations in the Delivery of Public Services"

From: Patti Daniel [<mailto:PDaniel@PSC.STATE.FL.US>]
Sent: Friday, August 22, 2014 9:33 AM
To: Burton, Marty

Subject: FW: Docket 130265 -- Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.

Marty, we are preparing to file a recommendation on Little Gasparilla in a few weeks and the issue of whether the County will require mandatory connections is still very much in question. Is there anyone at the County that I could talk to to help resolve this?

Patti
850 413-6808

From: Vandiver, Denise [mailto:VANDIVER.DENISE@leg.state.fl.us]

Sent: Thursday, August 21, 2014 11:42 AM

To: Sonica Bruce; Penny Buys

Cc: Curt Mouring; Martha Golden; Matthew Vogel; Shannon Hudson; Patti Daniel; Laura King; Paul Vickery; Clayton Lewis; Charles Murphy; Lynn Deamer; Martin Friedman Esquire (mfriedman@ffllegal.com); Jack Boyer (lwjd777@yahoo.com); Reilly, Steve

Subject: Docket 130265 -- Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.

Please see the attached news report regarding Little Gasparilla Water Utility, Inc. (LGU). I believe that the issue of whether the utility needs to interconnect LGU's water system with Charlotte County's water system should be fully investigated. It is critical to determine whether the utility's service territory is in Charlotte County's "urban service area". If LGU is not, it would appear that the utility does not have authority, under Charlotte County's ordinance, to force mandatory connections to the system. It would also appear that there is no current need or public support for people who have their own water systems that are currently working fine to abandon their systems and pay a significant connection charge to become a customer of LGU. I believe that the commission needs to determine if the entire proposal to interconnect the LGU water system with the Charlotte County water system is in the public interest. As a Charlotte County Commissioner stated in the attached news report, "if it's not broke, don't fix it".

Our office plans to file a more comprehensive letter regarding the issues in this case early next week.

<http://www.nbc-2.com/story/26086110/big-water-debate-on-little-gasparilla-island>

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Sonica Bruce

From: Burton, Marty <Marty.Burton@charlottefl.com>
Sent: Tuesday, August 26, 2014 12:53 PM
To: Jack Boyer
Cc: Knowlton, Janette; Harris, Ty; Martin S. Friedman; Sandrock, Raymond
Subject: RE: LGWU/

Jack,

As we discussed by phone this morning, on July 22 the Board tabled the proposed ordinance that was meant to clarify that most of Chapter 3-8 Article II is only in effect when the County is the regulator, and not the PSC. The only portion that remains in effect is mandatory connection to central potable water and wastewater public utilities.

We don't know when or if the ordinance will be brought back to the BCC, as the proposed revisions were only housekeeping and not required. Therefore, as things are now and have been for over 25 years or more, mandatory connection is still required by the County Code. I understand that a recent Comp Plan revision eliminated a reference to mandatory connection on the bridgeless barrier islands even though they are outside of the Urban Service Area, and I agree that the 1999 Comp Plan case upheld mandatory connection on the bridgeless barrier islands for public health and safety reasons. I can tell you that I do not recall any instances of enforcement by the County over the years, except for CCU, which enforces by applying the Base Facility Charge after the mandatory one-year notice and a follow-up 21 day letter. Eventually most property owners hook up.

I hope this helps to clarify the present situation, and good luck to you.

Marty

Martha Young Burton, Assistant County Attorney

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"To exceed Expectations in the Delivery of Public Services"

From: Jack Boyer [<mailto:lwjd777@yahoo.com>]

Sent: Monday, August 25, 2014 3:12 PM

To: Knowlton, Janette; Harris, Ty; Burton, Marty; Martin S. Friedman; Sandrock, Raymond

Subject: LGWU/

Hi everyone! Hope all is well!

Marty, Diane and I stopped by today to let you know that you will be missed! But that's not till Friday so I thought we would include you in this discussion.

Diane and I have met with three of the commissioners and will meet with the remaining as well. Their question went back to Ty's comment on the comp plan in reference to mandatory water. I am the only one not an attorney in this conversation but Case # 98-0449GM with Final Order # DC A00-GM-037B seem to address this issue and talk directly about Little Gasparilla Water Utility and its responsibility.

I was told by a Commissioner, this is an administration issue and LGWU should contact the county attorney and or administrator.

LGWU is preparing to send legal notices to island residences within 100' of existing lines, within its service area. LGWU would like to save its existing customers the costly legal expense if possible by having this conversation now.

Can we schedule a meeting to further clarify? I think that was the work that started this conversation?

Thanks jack

Sonica Bruce

From: Burton, Marty <Marty.Burton@charlottefl.com>
Sent: Friday, August 22, 2014 6:53 PM
To: stlaporte@embarqmail.com
Cc: Knowlton, Janette
Subject: Phone conversation on mandatory connection issues

Steve,

Just to confirm our phone conversation earlier today concerning the issue of mandatory connection to central public utilities. As you know, the present County Code requires mandatory connection for all central water and wastewater utilities in the County, whether or not the County is the regulating entity; currently the PSC is regulating the four privately-owned for-profit utilities in the County.

I hope you understand that we can't provide you with documents which we don't have, such as any adopted rules or regulations of Little Gasparilla Water Utility. You made some excellent points about parts of the County Code not being as clear as they might be, which is why our office had suggested amending Chapter 3-8 Article II to clarify that most of the Article only applies when the County is doing the regulating, and not the PSC. It probably would be better if the mandatory connection requirements were not located within the Article that mainly applies to regulation, but I think it was more common for the County to be the regulating entity when Article II was first created many years ago.

As we discussed, Florida Statutes Section 125 is the basis for the County's general powers and duties, including the responsibility of county governments pertaining to the public health, safety and welfare of its citizens. Section 1-1-2 of the County Code also references this concept:

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

As I mentioned, I will be retiring from the County at the end of next week, and County Attorney Janette Knowlton is in the process of hiring a replacement attorney who will handle utilities issues. Best wishes, and I enjoyed talking with you.

Marty

Martha Young Burton, Assistant County Attorney

Charlotte County Attorney's Office

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