

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: May 23, 2018

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (M. Watts) *MW*
Division of Accounting and Finance (Fletcher, Johnson, Norris) *BJ*
Division of Economics (Bruce) *BR*
Office of the General Counsel (Trierweiler) *WJ* *JSC*

RE: Docket No. 20170178-WS – Application for original certificates of authorization for existing utility currently charging for water and wastewater service in Polk County, by Coastal Income Properties - The Harbor, LLC d/b/a The Harbor. *ALM*

AGENDA: 06/05/18 – Regular Agenda – Proposed Agency Action for Issue 2 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: 06/05/18 (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes, waived by applicant until this date.)

SPECIAL INSTRUCTIONS: None

Case Background

Coastal Income Properties - The Harbor, LLC (Coastal Income or Utility) is located in Polk County. Based on its application, the Utility provides water service to 175 individual mobile home/recreational vehicle (RV) customers, and 1 general service customer. The general service customer (Hidden Harbor Resort) has 14 lots. Coastal Income also provides wastewater service to 156 of the residential water service customers.

The water and wastewater systems were built in 1967 to service the original RV resort (Harbor Waterfront Resort or Resort), owned and developed by Harry and Lucille Monroe, consisting of 119 lots for RVs and mobile homes. In subsequent years, the Monroes developed the surrounding area into what is now known as Mark Lane, Opal Drive, and Harbor Pointe Drive. These areas are outside of the Resort and the mobile homes are individually owned. The Monroes extended water service to these areas, and wastewater service to all but the residents of Opal Drive and two of the residents on Mark Lane. The Monroes also extended water service to a mobile home park adjacent to Opal Drive, the Hidden Harbor Resort (Hidden Harbor). In 1994, the Monroes sold the resort and all of its facilities to Mr. Rob Smith.

Until 1996, regulation of water and wastewater utilities in Polk County (County) fell under the jurisdiction of the County. On May 14, 1996, the Board of County Commissioners of Polk County adopted a resolution¹ which made the privately-owned, for-profit water and wastewater utilities in the County subject to the jurisdiction of the Florida Public Service Commission (Commission). The owner of the subject water and wastewater systems, Mr. Smith, was informed at that time that his water and wastewater systems would be exempt from Commission regulation and he would not have to file a grandfather application.

On June 28, 2016, the Office of Public Counsel (OPC) contacted staff regarding the regulatory status of the Resort because it received a complaint from a water and wastewater customer of the Resort. The complaint was handled by the Polk County Health Department, and Commission staff began investigating whether the Resort was exempt from Commission regulation or needed a certificate. On July 27, 2016, staff sent the Resort a letter instructing it to file an application for water and wastewater certificates by August 31, 2016.

On August 23, 2016, the Resort requested an extension to November 30, 2016, which was granted. Staff worked with an engineering firm retained by the Resort to prepare maps and territory descriptions that met the requirements of the Commission's rules. On June 12, 2017, staff was informed that the Resort had been sold, including the water and wastewater systems, to Coastal Income, managed by Mr. Brian Keller. The closing took place on June 15, 2017.

Following the sale, staff worked with Coastal Income to complete its application for water and wastewater certificates. The Utility filed its application on August 21, 2017. Staff found its application to be deficient, and issued a deficiency letter on September 20, 2017. The Utility cured the deficiencies on February 20, 2018.

Pursuant to Section 367.031, Florida Statutes (F.S.), the Commission shall grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application. The application was deemed complete on February 20, 2018, which is considered the official filing date. Coastal Income has waived the 90-day statutory deadline through June 5, 2018.

¹Order No. PSC-96-0896-FOF-WS, issued July 11, 1996, in Docket No. 960674-WS, *In re: Resolution of Board of Commissioners of Polk County declaring Polk County subject to provisions of Chapter 367, F.S.*

Docket No. 20170178-WS

Date: May 23, 2018

This recommendation addresses the application for original water and wastewater certificates and the appropriate rates and charges for the Utility. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, F.S.

Discussion of Issues

Issue 1: Should the application for water and wastewater certificates by Coastal Income be approved?

Recommendation: Yes. Coastal Income should be granted Certificate Nos. 671-W and 573-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Coastal Income's water and wastewater certificates and it should be retained by the Utility. (M. Watts, Johnson)

Staff Analysis: On August 21, 2017, Coastal Income filed its application for original water and wastewater certificates in Polk County. Upon review, staff determined the original filing was deficient and sent several data requests to the Utility seeking additional information. Coastal Income corrected the deficiencies on February 20, 2018, which is considered the official filing date for the application. The Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S.

Notice

On February 20, 2018, Coastal Income filed proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). No entity filed a protest during the protest period and the time for filing objections has expired.

Land Ownership and Service Territory

Coastal Income provided adequate service territory and system maps and a territory description as required by Rule 25-30.034, F.A.C. The legal description of the service territory is appended to this recommendation as Attachment A. The application contains a copy of a special warranty deed that was executed on June 15, 2017, as evidence that the Utility owns the land upon which the wastewater treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C.

Financial and Technical Ability

Pursuant to Rule 25-30.034(1)(i), F.A.C., the Utility provided statements describing its financial and technical ability to provide service. Staff has reviewed the financial statements of Coastal Income and believes the current owner has documented adequate resources to support the Utility's water and wastewater operations.

Regarding technical ability, the Utility stated in its application that, during the mid-1980's and early 1990's, Mr. Keller owned and operated 36 mobile home and RV communities throughout the State of Florida. Approximately half of the communities had their own wells and wastewater treatment facilities. He has sufficient experience administratively and operationally to operate Coastal Income facilities. In addition, the technical expertise and daily operating procedures will be handled by a contractor licensed by the Florida Department of Environmental Protection (DEP). As of May 9, 2018, Coastal Income has no compliance issues on file with DEP and is current with its monitoring requirements.

Conclusion

Coastal Income should be granted Certificate Nos. 671-W and 573-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Coastal Income's water and wastewater certificates and it should be retained by the Utility.

Issue 2: What are the appropriate rates and charges for Coastal Income?

Recommendation: Staff recommends that the Utility be authorized to charge residential and general service flat rates of \$42 per month for water and \$42 per month for wastewater for all customers, with the exception of Hidden Harbor, which should be charged \$315 per month as shown on Schedule No. 1. The Utility's proposed late payment charge of \$5 should also be approved. The Utility should be authorized to bill all customers on a quarterly basis. The Utility should be required to notice all customers of the approved rates and charges and the change to quarterly billing. The notice should be approved by staff prior to publication and the Utility should provide proof of the date notice was given within 10 days of the date of the notice. The approved rates and charges should be effective for service rendered on or after the effective date of the tariffs pursuant to Rule 25-30.475, F.A.C. (Bruce)

Staff Analysis: The Utility provides water service to approximately 175 residential customers and Hidden Harbor; wastewater service is provided to approximately 156 of the residential customers. Because the Utility's customers are not metered, they are billed flat rates for water and wastewater service. For customers in a portion of the service area, the cost of water and wastewater service is included in the lot rent. In addition, the flat rate for some customers has included non-jurisdictional services, such as garbage and street lights and some customers were billed an additional amount if the customers had a washing machine.

The Utility proposes billing all residential and general service customers, with the exception of Hidden Harbor, flat rates of \$42 per month for water and \$42 per month for wastewater based on the amounts currently billed to water and wastewater customers who are not billed for the non-jurisdictional services. Hidden Harbor will continue to be charged \$315 per month for water service.

The Utility has also previously billed a late payment charge of \$10 per month; however, the Utility proposed a \$5 late payment charge and provided cost justification which reflects the Utility's administrative cost for processing late payment notices. The proposed late payment charge is consistent with prior Commission decisions.² The Utility's cost justification for its requested late payment charge is shown below on Table 2-1. The Utility does not have any other miscellaneous service charges or service availability charges.

Prior to Commission regulation, the Utility increased monthly water and wastewater rates annually, effective January 1. However, due to the Utility's pending application, the Utility was not allowed to increase its rates for January 1, 2018, without Commission approval.

The Utility has previously allowed customers to choose whether they wanted to pay monthly, quarterly, semi-annually, or annually. However, the Utility proposes billing all customers on a quarterly basis. The Utility is responsible for contacting the Department of Business and Professional Regulation to amend their prospectus to remove the cost of water and wastewater service from lot rent.

²Order No. PSC-15-0535-PAA-WU, issued November 19, 2015, in Docket No. 20140217-WU, *In re: Application for staff assisted rate case in Sumter County by Cedar Acres, Inc.*

**Table 2-1
Late Payment Charge**

Labor	\$4.28
Supplies	\$0.23
Postage	\$0.49
Total	\$5.00

Source: Utility's Cost Justification

Staff recommends that the Utility be authorized to charge residential and general service flat rates of \$42 per month for water and \$42 per month for wastewater for all customers, with the exception of Hidden Harbor, which should be charged \$315 per month as shown on Schedule No. 1. The Utility's proposed late payment charge of \$5 should also be approved. The Utility should be authorized to bill all customers on a quarterly basis. The Utility should be required to notice all customers of the approved rates and charges and the change to quarterly billing. The notice should be approved by staff prior to publication and the Utility should provide proof of the date notice was given within 10 days of the date of the notice. The approved rates and charges should be effective for service rendered on or after the effective date of the tariffs pursuant to Rule 25-30.475, F.A.C.

Issue 3: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. Once these actions are complete, this docket should be closed administratively. (Trierweiler)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. Once these actions are complete, this docket should be closed administratively.

**Coastal Income Properties - The Harbor, LLC
Description of Water and Wastewater Service Territory**

Polk County

Commence at the Southwest corner of Section 21, also being the Northwest corner of Section 28, Township 29 South, Range 29 East, Polk County, Florida. Thence run N90°00'00"E along the Common line between said Sections 21 and 28 a distance of 2,543.93 ' to the SE Corner of Lot 1 Block G of Tiotie Beach Estates, Unit Number Two as recorded in Plat Book 41, Page 17, Public Records of Polk County, Florida, and the Point of Beginning. Thence run along the Easterly Boundary of said Block G the following three courses N00°08'15"E 24.46'; N55°11'25"E 245.00'; S89°51'45"E 42.00'; thence continue along the Easterly Boundary of Block G, N00°08'15"E 131.99' to the NE corner Lot 6 of said Block G and the South Right of Way of North Marina Parkway and Kissimmee Boulevard, thence S89°51'45"E, along said South Right of Way, 547.25'; thence N00°08'15"E, 200.00' to the NE corner of Lot 18, Block C, of said Tiotie Beach Estates, Unit Number Two; thence S89°51'45"E, along the South Right of Way of a 50.00' Canal, 485.00' to Lake Rosalie; thence S05°12'45"W, along Lake Rosalie, 1,050.20'; thence N89°51'45"W, 1,385.90' to the East line of Tiotie Beach Estates, Unit Number Three, as Recorded in Plat Book 41, Page 20, Public Records of Polk County, Florida; thence along said East line N00°00'00"E, 124.00'; thence N04°52'17"W, 118.25'; thence N35°00'00"E, 375.00' to the NE corner of said Tiotie Beach Estates, Unit Number Three, returning to the Point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

**Coastal Income Properties - The Harbor, LLC
pursuant to
Certificate Number 671-W**

to provide water service in Polk County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	20170178-WS	Original Certificate

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

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

**Coastal Income Properties - The Harbor, LLC
pursuant to
Certificate Number 573-S**

to provide wastewater service in Polk County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	20170178-WS	Original Certificate

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

**The Harbor Waterfront Resort
Monthly Water Rates**

Residential and General Service

Flat Rate \$42.00

General Service

Flat Rate - Hidden Harbor Resort \$315.00
(7.5 ERCs)

Monthly Wastewater Rates

Residential and General Service

Flat Rate \$42.00

Miscellaneous Service Charges

Late Payment Charge \$5.00