

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment
of Certificates Nos. 223-W and
167-S to include additional
territory in Duval County by
Ortega Utility Company.

DOCKET NO. 970523-WS
ORDER NO. PSC-97-1509-FOF-WS
ISSUED: November 26, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER ACKNOWLEDGING WITHDRAWAL OF MOTION AND
OBJECTION, AMENDING CERTIFICATE TO INCLUDE
ADDITIONAL TERRITORY AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

Ortega Utility Company (Ortega or utility) provides water and
wastewater service to approximately 1418 water and 1269 wastewater
customers in Duval County. The utility's 1996 annual report shows
an annual operating revenue of \$1,396,616 and a net operating
income of \$53,002. The utility is a Class B utility company under
FPSC jurisdiction.

On May 2, 1997, Ortega filed an application for amendment of
Certificates Nos. 223-W and 167-S to add territory in Duval County.
The proposed territory will serve single family dwellings.

While processing the utility's application, we noticed that
there appears to be some typographical errors in some previous
orders issued for the utility. Commission staff will open a new
docket to correct these errors at a later date.

DOCUMENT NUMBER-DATE

12153 NOV 26 97

FPSC-REGULATORY REPORTING

WITHDRAWAL OF MOTION FOR LEAVE TO FILE
RESPONSE OUT OF TIME AND OBJECTION

This docket was opened when Ortega filed an application for amendment of its service territory. Pursuant to Rule 25-30.030, Florida Administrative Code, Ortega mailed a copy of its Notice of Application for an Extension of Service Area to the City of Jacksonville (City) on April 28, 1997. Pursuant to the same Rule, notice of the application was published in the Florida Times-Union on May 1, 1997. In order to be timely filed, a written objection to the application should therefore have been received by the Division of Records and Reporting by June 2, 1997.

On June 6, 1997, the City filed a Motion for Leave to File Response Out of Time. Attached to the motion was a letter dated June 5, 1997, in which the City stated its objection to Ortega's application and requested a hearing pursuant to Section 120.57, Florida Statutes. In its motion, the City requested leave to file its response and request for hearing on the grounds of excusable neglect. On June 11, 1997, the City filed a Notice of Withdrawal of its motion and the June 5, 1997 objection letter.

Upon consideration, we hereby acknowledge the City of Jacksonville's Notice of Withdrawal of its Motion for Leave to File Response Out of Time and objection. No other protest has been filed in this docket, and the withdrawal of the City's protest obviates the need for any further Commission action except as discussed in this Order.

APPLICATION FOR AMENDMENT OF CERTIFICATES

The utility's amendment application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and provision of the Florida Administrative Code. In particular, Ortega's application contains a check in the amount of \$200, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided two copies of warranty deeds for the water treatment and wastewater treatment plant sites, which provides for the continued use of the land as required by Rule 25-30.036(3)(d), Florida Administrative Code.

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 water and wastewater territory is appended to this

recommendation as Attachment A. The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, 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. One objection to the application was filed by the City of Jacksonville. As discussed above, on June 11, 1997, the City filed a notice of withdrawal of its objection, which the Commission has acknowledged in this Order. The local planning agency was provided notice of the application and did not file a protest to the amendment. We have contacted the Department of Environmental Protection (DEP) and learned that there are no outstanding notices of violation regarding this utility.

The utility has been in operation under our jurisdiction since 1965, and has been providing satisfactory service to its customers. The utility is not under any consent order, nor subject to any notices of violation from any regulatory agencies. According to the application, both the president and vice-president are professional engineers with considerable experience in the area of water and wastewater. The utility recently completed a rate case (Docket No. 940847-WS). As a result, by Order No. PSC-95-1376-FOF-WS, issued November 6, 1995, the utility received an increase in its water and wastewater rates. Also, the utility has maintained a continuous banking relationship with the American National Bank and has a \$200,000 line of credit for the purpose of meeting capital improvements or operating enhancements. Water and wastewater service is needed by the Ortega Bluff Project which is expanding an existing residential community served by Ortega and the Ortega Project which is a new residential community.

According to the application, the existing Ortega Blanding System water treatment facility is permitted for 1.2 million gallons per day (mgd). Average demand of the water system is .782 mgd. The wastewater treatment and disposal facilities of the Ortega Blanding wastewater system is designed and permitted for an average daily flow of 1.1 mgd. The current average flow of the treatment system is .688 mgd.

Based upon the above information and from the information filed with the application, we find that the utility has the capacity, financial ability and technical expertise to serve these customers now and in the future. Accordingly, we find that it is in the public interest to grant the application of Ortega for

ORDER NO. PSC-97-1509-FOF-WS
DOCKET NO. 970523-WS
PAGE 4

amendment of Water Certificate No. 223-W and Wastewater Certificate No. 167-S to add the additional territory described in Attachment A. The utility has returned its certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

RATES AND CHARGES

As stated earlier, Ortega's approved rates and charges were approved on November 6, 1995 in Docket No. 940847-WS by Order No. PSC-95-1376-FOF-WS, a rate case proceeding. The utility shall 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. The utility has returned its certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the City of Jacksonville's Notice of Withdrawal of its Motion for Leave to File Response Out of Time and Objection is hereby acknowledged. It is further

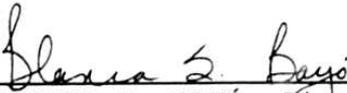
ORDERED that Water Certificate No. 223-W and Wastewater Certificate 167-S, held by Ortega Utility Company, are hereby amended to include the territory described in Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that Ortega Utility Company shall charge the customers in the territory added herein the rates and charges approved in its tariff until authorized to change by this Commission. It is further

ORDERED that Docket No. 970523-WS is hereby closed.

ORDER NO. PSC-97-1509-FOF-WS
DOCKET NO. 970523-WS
PAGE 5

By ORDER of the Florida Public Service Commission this 26th
day of November, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JSB

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 Director, Division of Records and Reporting, 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 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. PSC-97-1509-FOF-WS
DOCKET NO. 970523-WS
PAGE 6

ATTACHMENT A
PAGE 1 OF 3

ORTEGA UTILITY COMPANY, INC.

DUVAL COUNTY - THE BLANDING SYSTEM

WATER AND WASTEWATER SERVICE AREA

PROPERTY 1: ORTEGA PARK SUBDIVISION

PARCEL 1: A PORTION OF THE SOUTHEAST 1/4 OF SECTION 19 TOGETHER WITH A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 03 SOUTH, RANGE 26 EAST (A PART OF JACKSONVILLE HEIGHTS) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER COMMON TO SECTIONS 19, 20, 29 AND 30, SAID TOWNSHIP AND RANGE; THENCE NORTH $03^{\circ}51'35''$ EAST, ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 19, A DISTANCE OF 1337.11 FEET TO A POINT SITUATE IN THE SOUTHERLY TERMINUS OF SEABOARD AVENUE (A 60 FOOT FIGHT OF WAY AS NOW ESTABLISHED); THENCE SOUTH $89^{\circ}39'12''$ WEST A DISTANCE 1320 FEET MORE OR LESS, TO THE CENTERLINE OF AN EXISTING CREEK; THENCE SOUTHEASTERLY AND SOUTHERLY ALONG SAID CENTERLINE AND FOLLOWING THE MEANDERINGS THEREOF, 3000 FEET, MORE OR LESS, THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 30; THENCE ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30; SOUTH $89^{\circ}25'14''$ EAST A DISTANCE OF 100 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE NORTH ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30 A DISTANCE OF 1,330 FEET TO THE POINT OF BEGINNING, CONTAINING 29.32 ACRES, MORE OR LESS.

ORDER NO. PSC-97-1509-FOF-WS
DOCKET NO. 970523-WS
PAGE 7

ATTACHMENT A
PAGE 2 OF 3

ORTEGA UTILITY COMPANY, INC.

DUVAL COUNTY - THE BLANDING SYSTEM

WATER AND WASTEWATER SERVICE AREA

PROPERTY 2

PARCEL 1: A PORTION OF SECTION 29, TOWNSHIP 03 SOUTH, RANGE 26 EAST (PART OF JACKSONVILLE HEIGHTS) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER COMMON TO SECTIONS 19, 20, 29 AND 30, SAID TOWNSHIP AND RANGE; THENCE SOUTH $89^{\circ}26'42''$ EAST, ALONG THE NORTH LINE OF SAID SECTION 29, A DISTANCE OF 2642.33 FEET TO THE NORTHEAST CORNER OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29; THENCE SOUTH $00^{\circ}23'18''$ WEST, ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4, A DISTANCE OF 1321.59 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH $89^{\circ}34'10''$ WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4, A DISTANCE OF 2643.72 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, BEING THE WEST LINE OF SAID SECTION; THENCE NORTH ALONG THE WEST LINE OF SECTION 29 A DISTANCE OF 1,330 FEET TO THE POINT OF BEGINNING, CONTAINING 78.68 ACRES, MORE OR LESS.

PARCEL 2: SECTION 20, TOWNSHIP 03 SOUTH, RANGE 26 EAST (PART OF JACKSONVILLE HEIGHTS) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 20; THENCE NORTH $3^{\circ}51'35''$ WEST, ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 769.04 FEET; THENCE SOUTHEASTERLY ALONG THE WESTERLY RIGHT OF WAY LINE A DISTANCE OF 861.43 FEET TO A POINT SITUATE IN THE SOUTH LINE OF SAID SECTION 20; THENCE NORTH $89^{\circ}26'42''$ WEST, ALONG SAID SOUTH LINE OF SECTION 20, A DISTANCE OF 398.17 FEET TO THE POINT OF BEGINNING, CONTAINING 3.5 ACRES, MORE OR LESS.

ORDER NO. PSC-97-1509-FOF-WS
DOCKET NO. 970523-WS
PAGE 8

ATTACHMENT A
PAGE 3 OF 3

ORTEGA UTILITY COMPANY, INC.
DUVAL COUNTY - THE BLANDING SYSTEM
WATER AND WASTEWATER SERVICE AREA

PROPERTY 3 ORTEGA BLUFF SUBDIVISION

PARCEL 1: A PORTION OF SECTION 29, TOWNSHIP 03 SOUTH, RANGE 26 EAST LYING SOUTHEASTERLY OF THE ORTEGA RIVER, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE CORNER OF SECTIONS 28, 29, 32 AND 33 OF SAID TOWNSHIP AND RANGE, THENCE NORTH 89°42'30" WEST ALONG THE SOUTH LINE OF SAID SECTION 29, 661.70 FEET TO THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH LINE OF SECTION 29, NORTH 89°42'30" WEST TO THE HIGH WATER LINE OF THE ORTEGA RIVER (MCGIRTS CREEK) A DISTANCE OF 4,594, MORE OR LESS, TO REFERENCE POINT "A"; RETURNING TO THE POINT OF BEGINNING. THENCE NORTH 00°10'00" EAST 1332.15 FEET; THENCE SOUTH 89°42'30" EAST 661.70 FEET; TO THE EAST LINE OF SECTION 29; THENCE NORTH 00°18'00" EAST 444.05 FEET; THENCE NORTH 89°42'30" WEST 661.70 FEET; THENCE NORTH 00°18'00" EAST 222.02 FEET; THENCE SOUTH 89°42'30" EAST 661.70 FEET TO THE EAST LINE OF SECTION 29; THENCE ALONG SAID EAST LINE OF SECTION 29, NORTH 00°18'00" EAST, 3350 FEET, MORE OR LESS, TO THE HIGH WATER LINE OF THE ORTEGA RIVER (MCGIRTS CREEK); THENCE MEANDER TO THE SOUTHWEST ALONG THE HIGH WATER LINE OF THE ORTEGA RIVER (MCGIRTS CREEK) 6,600 FEET, MORE OR LESS, TO REFERENCE POINT "A" AND TO CLOSE, CONTAINING 333 ACRES, MORE OR LESS.