

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of water and wastewater facilities to Florida Governmental Utility Authority, and cancellation of Certificate Nos. 353-W and 247-S, by North Fort Myers Utility, Inc. in Lee County.

DOCKET NO. 100388-WS  
ORDER NO. PSC-10-0673-FOF-WS  
ISSUED: November 9, 2010

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
NATHAN A. SKOP  
RONALD A. BRISÉ

FINAL ORDER APPROVING TRANSFER TO FLORIDA GOVERNMENTAL  
UTILITY AUTHORITY AND CANCELLING CERTIFICATE NOS. 353-W AND 247-S

BY THE COMMISSION:

Background

North Fort Myers Utility, Inc. (NFMU or Utility) is a Class A Utility providing water service to approximately 1,846 residential customers and wastewater service to approximately 11,771 residential customers in Charlotte and Lee Counties. The Utility is within the South Florida Water Management District in the Southern Water Use Caution Area. NFMU's 2009 annual report indicates that the Utility had combined gross operating revenues of \$4,969,152 and a net operating loss of (\$228,530).

NFMU was issued wastewater Certificate No. 247-S in 1977 under the name of Old Bridge Corporation.<sup>1</sup> Its name was changed to North Fort Myers Utility, Inc. in 1986.<sup>2</sup> The Utility was granted water Certificate No. 353-W in the acquisition of MHC Systems, Inc. d/b/a FFEC-Six water and wastewater systems in 2001.<sup>3</sup> NFMU has had numerous amendments over the years as it has taken over a few water systems and numerous wastewater systems along U.S. 41 in northern Lee and southern Charlotte Counties. On August 27, 2010, NFMU filed an

<sup>1</sup> Order No. 8025, issued October 25, 1977, in Docket No. 770709-S, In re: Application of OLD BRIDGE CORPORATION for a certificate to operate a sewer utility in Lee County, Florida, pursuant to Section 367.171, Florida Statutes.

<sup>2</sup> Order No. 15696, issued February 12, 1986, in Docket No. 830362-S, In re: Application of North Fort Myers Utility, Inc. (formerly known as Old Bridge Utilities, Inc.) for Amendment of Sewer certificate to include additional territory in Lee County, Florida.

<sup>3</sup> Order No. PSC-01-0995-AS-WS, issued April 23, 2001, in Docket No. 000277-WS, In re: Application for transfer of facilities and Certificates Nos. 353-W and 309-S in Lee County from MHC Systems, Inc. d/b/a/ FFEC-Six to North Fort Myers Utility, Inc. holder of Certificate No. 247-S; amendment of Certificate No. 247-S; and cancellation of Certificate No. 309-S.

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application for transfer of its water and wastewater facilities to the Florida Governmental Utility Authority (FGUA) and cancellation of its Certificate Nos. 353-W and 247-S.

This order acknowledges the transfer of NFMU's water and wastewater systems to FGUA as a matter of right and to cancel Certificate Nos. 353-W and 247-S. We have jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

#### Transfer to FGUA

NFMU applied for a transfer of its water and wastewater facilities and territory to FGUA on August 27, 2010, pursuant to Section 367.071, F.S., and Rule 25-30.037(4), Florida Administrative Code (F.A.C.). However, the application was deficient. Responses to the deficiencies were filed on October 1, 2010. The closing on the sale of the Utility's facilities took place on July 29, 2010. The application includes a copy of the Agreement for Purchase and Sale of Water and Wastewater Assets, as well as a statement that the closing date of July 29, 2010 is also the effective date of the transfer.

FGUA has been determined to be a governmental authority in previous Commission dockets.<sup>4</sup> Pursuant to Section 367.071(4)(a), F.S., the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply. The application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C.

The application contains a statement that FGUA has obtained NFMU's most recent available income and expense statements, balance sheet, statement of the existing rate base for regulatory purposes, and the amount of contributions-in-aid-of-construction, pursuant to Rule 25-30.037(4)(e), F.A.C. A statement was provided that the Utility has submitted a final bill to its customers and has credited or refunded excess deposits to them as appropriate. Additionally, in accordance with Rule 25-30.037(4)(d), F.A.C., the application states that, subsequent to closing, NFMU will retain no assets that would constitute a system providing or proposing to provide water or wastewater services to the public for compensation.

NFMU has filed its annual reports through 2009, including all previous years. Pursuant to Rule 25-30.120, F.A.C., regulatory assessment fees (RAFs) have been paid through the transfer date of July 29, 2010. Since NFMU will not be jurisdictional as of December 31, 2010,

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<sup>4</sup> Order No. PSC-00-2351-FOF-WS, issued December 7, 2000, in Docket No. 990489-WS, In re: Application by Florida Cities Water Company, holder of Certificate Nos. 027-W and 024-S in Lee County and 0007-W and 0003-S in Brevard County, and Poinciana Utilities, Inc., holder of Certificate Nos. 146-W and 103-S in Polk and Osceola Counties, for transfer of facilities to Florida Governmental Utility Authority and Cancellation of Certificate Nos. 027-W, 024-S, 007-W, 003-S, 146-W, and 103-S; Order No. PSC-03-1284-FOF-WS, issued November 10, 2003, in Docket No. 030932-WS, In re: Joint application for acknowledgement of sale of land and facilities of Florida Water Services Corporation in Lee County to Florida Governmental Utility Authority, and for cancellation of Certificate Nos. 306-W and 255-S; and Order No. PSC-09-0334-PAA-WS, issued May 14, 2009, in Docket No. 090120-WS, In re: Joint notice by Aloha Utilities, Inc. and the Florida Governmental Utility Authority of transfer of water and wastewater assets to the Florida Governmental Utility Authority, in Pasco County, and cancellation of Certificate Nos. 136-W and 97-S.

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it is not required to file a 2010 annual report, pursuant to Rule 25-30.110(3), F.A.C. Therefore, no further annual reports or RAFs will be due.

We find that the transfer of NFMU's water and wastewater facilities and territory to FGUA is hereby acknowledged, as a matter of right, pursuant to Section 367.071(4)(a), F.S., and Certificate Nos. 353-W and 247-S be cancelled effective July 29, 2010, the closing date of the sale.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of the water and wastewater facilities from North Fort Myers Utility to the Florida Governmental Utility Authority is hereby acknowledged as a matter of right as set forth herein. It is further

ORDERED that Certificate Nos. 353-W and 247-S shall be cancelled effective July 29, 2010. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 9th day of November, 2010.

ANN COLE  
Commission Clerk

By: Dorothy E. Menasco  
Dorothy E. Menasco  
Chief Deputy Commission Clerk

( S E A L )

KEF

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.