

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

12 APR -6 PM 2:42

RECEIVED-FPSC

DATE: April 6, 2012

TO: Ann Cole, Commission Clerk, Office of Commission Clerk

FROM: Lisa C. Bennett, Senior Attorney, Office of the General Counsel *LCB*

RE: Docket No. 110254-WS - Initiation of show cause proceedings against Four Points Utility Corporation in Polk County for violation of Commission rules and regulations as outlined in the Florida Public Service Commission's management audit for Four Points Utility Corporation and Bimini Bay Utilities Corporation issued June 2011.
Docket No. 120030-WS - Notice of abandonment of water and wastewater systems in Polk County by Four Points Utility Corporation and Bimini Bay Utilities Corporation.

Please place a copy of the attached Circuit Court Order into the following docket files: 110254-WS and 120030-WS.

LCB/th
Attachment

DOCUMENT NUMBER DATE

02089 APR-6 12

FPSC-COMMISSION CLERK

**IN THE CIRCUIT COURT
OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

**In re the Petition of POLK COUNTY,
a political subdivision of the State of Florida
to Appoint a Receiver for the FOUR POINTS
UTILITY CORPORATION and the
BIMINI BAY UTILITIES CORPORATION
pursuant to Section 367.165, Florida Statutes.**

**Case No: 53-2012CA-001525
Section: 04**

**ORDER ON POLK COUNTY'S AMENDED PETITION FOR
APPOINTMENT OF RECEIVER FOR FOUR POINTS UTILITY
CORPORATION AND BIMINI BAY UTILITIES CORPORATION**

THIS MATTER having come before the Court upon the Amended Petition of Polk County and the Court being fully advised of the premises, hereby finds:

Four Points Utility Corporation and Bimini Bay Utilities Corporation (hereinafter collectively referred to as "Utilities") are water and wastewater systems located within the jurisdictional boundaries of Polk County, Florida. Both Utilities purchase water and wastewater service from Polk County and resell those services to their customers. On January 23, 2012, both Utilities formally filed Notices of Abandonment with the Public Service Commission and Polk County each stating its intention to abandon and cease operation of its utility system on March 23, 2012. Pursuant to Florida Statute 367.165(2), Polk County subsequently filed its Petition for Appointment of Receiver to take possession of and operate both Utilities.

Based upon belief and information received by the County concerning both Utilities from various sources, the Owner of the Utilities is unclear but is either David Meadows or the Corporation.

Based upon the foregoing and further evidence presented concerning the appropriateness of the Receiver, pursuant to Section 367.165(2), Florida Statutes, it hereby

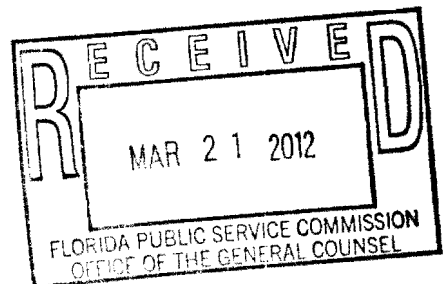
ORDERED AND ADJUDGED as follows:

- 1. APPOINTMENT OF RECEIVER AND TERM.**

1
DOCUMENT NUMBER-DATE

02089 APR -6 2012

FPSC-COMMISSION CLERK



Michael Smallridge is hereby appointed to act as Receiver for both the Four Points Utility Corporation and the Bimini Bay Utilities Corporation. Receivership shall begin on March 23, 2012 and shall continue until such time as the Receiver disposes of the Utilities as provided for in this Order or is relieved of any further duty by the Court.

2. SURRENDER OF PROPERTY, ASSETS, DOCUMENTS AND FACILITIES

In preparation for Receiver's duties commencing on March 23, 2012, the Owner shall immediately give full access to the Receiver and on March 23, 2012, surrender all property, assets, documents and facilities of both Utilities to the Receiver at the time of this Order, including but not limited to, all customer account records, contracts, agreements, correspondence, legal pleadings, business records, easements, and any other documents related to the Utilities including property, assets and liabilities associated therewith in order that the Receiver may then operate and maintain said Utilities. Owner shall turn over and produce all bank accounts, bank account records, customer deposits, cash and accounts receivable balances for both Utilities to the Receiver.

3. POWERS OF THE RECEIVER

Once the property, assets, documents and facilities outlined above have been turned over to the Receiver, the Receiver shall send written notice of the receipt thereof to this Court. Such notice shall indicate his acceptance as Receiver for both Utilities, shall cause the operation of the Utilities until such time as provided for in Section 1, and shall continue the lawful operation and maintenance of the water and wastewater services to customers of the Utilities. In order to effectively carry out the duties and responsibilities under this Order, the Receiver shall have the following powers and authority:

- a. to provide and maintain water and wastewater services within the designated service areas, in compliance with all applicable permits, regulations and statutes;
- b. to make extensions, expansions, repairs, replacements and improvements to the Utilities as appropriate and necessary;
- c. to collect rates, fees, charges and deposits for all services provided by the Utilities in accordance with all applicable state laws;
- d. to apply for an increase in rates charged to customers served by the Utilities or to obtain a special assessment which may be necessary to pay for costs incurred by the Receiver in the operation, maintenance and improvement of the Utilities and for complying with the terms of this Receivership;

- e. to borrow funds and to pledge and encumber the facilities, assets and revenues of the utilities for repayment thereof;
- f. to enter into contracts or agreements with any public agency or private entity providing for or relating to the operation and maintenance of the Utilities or the connection of customers to any other public or private utility;
- g. to accept gifts, grants or contributions in kind in connection with the management, operation and maintenance of the Utilities;
- h. to retain and pay the fees, costs and salaries of accounts, architects, engineers, attorneys, employees, or other professional consultants as necessary or desirable in the management, operation or maintenance of the Utilities and to ensure compliance with all the provisions of this Order for the rates, fees and charges authorized under Section 3;
- i. to pay from revenues collected from the customers of the Utilities, all necessary and reasonable operating expenses contemplated in this Section 3, in a manner designed to continue the efficient, effective and environmentally sound operation of said Utilities;
- j. to connect customers of the Utilities to any other public or private water system or wastewater system with adequate capacity; to accept said customers in accordance with and subject to applicable requirements and payment of fees to said public or private system;
- k. upon completion thereto, the Receiver, with written approval from this Court, may discontinue the operation of the Utilities and dispose of all land, facilities, assets and revenues to satisfy all outstanding obligations of the Utilities. The Receiver shall give due notice to the owner and all creditors of the Utilities of his receivership prior to any disposal of the facilities;
- l. to sue or be sued, to implead or be impleaded, to complain and defend in any court and to seek all legal or equitable relief in accordance with applicable state law;
- m. to apply for and obtain any applicable federal, state and local governmental permits, certificates, licenses, or other approvals in order to operate and maintain the Utilities;
- n. to perform generally any other lawful acts necessary or desirable to carry out the express powers and authority granted and imposed herein.

4. RECEIVER'S OBLIGATION TO OPERATE THE UTILITIES

The Receiver is hereby directed to operate the Utilities until said Utilities are disposed of pursuant to the provisions in this Order. The Utilities shall be operated by the Receiver in such a manner so as to provide efficient, effective and environmentally sound continuous service to the customers of the Utilities during the term of the Receivership, and as can be provided from the revenues of the Utilities.

5. SEPARATION OF FUNDS

Michael Smallridge, as Receiver, is hereby directed by this Court to maintain separate accounts and records for the management of the Utilities. Additionally, this Court hereby directs that the revenues from the Utilities are not to be considered as the revenues of the Receiver, nor are the revenues from any of Receiver's departments, divisions, businesses, or employment considered to be revenues of the Utilities.

6. RECEIVER'S IMMUNITY FROM LIABILITY AND VIOLATIONS

As consideration for the Receiver assuming the responsibility for the continued operation and maintenance of the Utilities, the Receiver and his agents and employees are hereby declared to be held harmless and not legally responsible for any and all claims, liability, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including attorneys' fees, that have risen or may arise out of the past design, construction, operation and maintenance of the Utilities. This immunity shall include but not be limited to: immunity from injury to persons, damage to property or property rights, or violation of any governmental law, rule, regulation or requirement that may arise from the design, construction, operation, or maintenance of the Utilities to the date of the appointment of the Receiver.

7. LIABILITY OF OWNER

Owner shall remain liable under all applicable laws for any claims, violations, penalties, suits, proceedings, actions or fees occurring prior to the appointment of the Receiver.

8. RECEIVER'S ACCOUNTING TO THE COURT

The Receiver shall submit to the Court quarterly financial and operational reports for both the Four Points Utility Corporation and for the Bimini Bay Utilities Corporation for the duration of his Receivership.

9. CONTINUED JURISDICTION

This Court shall retain jurisdiction in this cause to enter such further orders or take any action as it deems appropriate. Nothing in this Order is intended to determine what entity may be ultimately and/or permanently responsible for the operation and maintenance of the Utilities in the event of a sale or other method of disposal and transfer to any person, firm or entity. On the date of closing of such sale or transfer, this Order shall terminate and expire and this matter shall be closed with regards to the affected utility, but shall remain in effect until the other Utility is sold or disposed of pursuant to this Order. The Receiver shall file a notification of such sale or disposal of the affected Utility with this Court, no later than ten (10) business days following the date of such sale or disposal.

DONE AND ORDERED in Bartow, Polk County, Florida, this 19th day of March, 2012.

/s/ MICHAEL E. RAIDEN
MICHAEL E. RAIDEN
CIRCUIT JUDGE

cc: Michael Smallridge
David Meadows
Ladd H. Fassett , Esq
Philip Sherwin, Assistant County Attorney
Lisa Bennett, Office of General Counsel, Public Service Commission