

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Doehling, Johnson) *KAD JD TB*
Office of the General Counsel (Simmons) *KS JSC*

RE: Docket No. 20200010-WS – Request for cancellation of Certificate No. 388-S by Sun Communities Finance, LLC. d/b/a Water Oak Utility.

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Sun Communities Finance, LLC, d/b/a Water Oak Utility (Water Oak or Utility) is a Class B water and wastewater utility located in Lake County. The Utility provides service to approximately 1,145 residential customers and 11 commercial customers. The Utility was granted Water Certificate No. 454-W and Wastewater Certificate No. 388-S in October 1986.¹

On December 3, 2019, staff was notified of Water Oak's intent to cease operation of its own wastewater treatment plant and begin reselling wastewater service from the Town of Lady Lake (Lady Lake) at a rate which does not exceed the actual purchase price. As such, the Utility is requesting that its wastewater system be exempt from the Commission's jurisdiction pursuant to

¹Order No. 16150, issued May 23, 1986, in Docket No. 19850517-WS, *In re: Application of Water Oak Utilities Co., Inc., for certificates to provide water and sewer service in Lake County, pursuant to the provisions of section 367.041, F.S.*

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Section 367.022(8), Florida Statutes (F.S.), and cancellation of its wastewater certificate. The Utility's water system will continue to be operated as a regulated utility.

The Commission has jurisdiction pursuant to Section 367.022, F.S.

Discussion of Issues

Issue 1: Should the Commission cancel Water Oak Utility's Certificate No. 388-S?

Recommendation: Yes. Water Oak Utility is operating its wastewater system as a reseller exempt from the Commission's jurisdiction pursuant to Section 367.022(8), F.S. Therefore, the Commission should cancel Certificate No. 388-S effective the date the consummating order is issued. Regulatory assessment fees (RAFs) for 2020, the 2019 Annual Report, and billing data are due to the Commission within 30 days of the Commission vote. The water system will continue to be operated as a regulated utility. (Doehling, Johnson)

Staff Analysis: On December 3, 2019, staff was notified that the Utility was seeking exemption pursuant to Section 367.022(8), F.S. This exemption applies to any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater.

On April 15, 2019, Water Oak entered into an agreement with Lady Lake which will receive and treat all wastewater from the Utility. Water Oak will resell wastewater service at a rate or charge which does not exceed the actual purchase price of the bulk wastewater service. The Utility will be splitting each bulk wastewater service bill among the customers based upon their water usage, with no "add on" charges being assessed. On December 23, 2019, the connection to Lady Lake was made and as of January 20, 2020, the Utility has ceased operation of its wastewater treatment plant.²

Water Oak has paid its 2019 RAFs and has notified its customers that it is seeking exemption from the Commission's jurisdiction.³ Water Oak has agreed to pay RAFs for 2020 and file its 2019 Annual Report. In addition, the Utility has agreed to provide billing data which demonstrates that customers are not being charged at a rate that exceeds the actual purchase price of the wastewater service.

Based on the above, staff recommends that the Commission cancel Certificate No. 388-S effective the date the consummating order is issued. RAFs for 2020, the 2019 Annual Report, and billing data are due to the Commission within 30 days of the Commission vote.⁴ The water system will continue to be operated as a regulated utility.

²Document No. 00590-2020, filed January 27, 2020.

³Document No. 00869-2020, filed February 11, 2020.

⁴2020 RAFs are for the period from January 1, 2020, to January 20, 2020, the date the wastewater plant ceased operation.

Issue 2: 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 this order, a consummating order should be issued. The docket should remain open until Water Oak has paid its 2020 RAFs, submitted its 2019 Annual Report, and provided staff billing data demonstrating customers are not being charged at a rate that exceeds the actual purchase price of the wastewater service. Once these actions are complete, this docket should be closed administratively. (Simmons)

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 this order, a consummating order should be issued. The docket should remain open until Water Oak has paid its 2020 RAFs, submitted its 2019 Annual Report, and provided staff billing data demonstrating customers are not being charged at a rate that exceeds the actual purchase price of the wastewater service. Once these actions are complete, this docket should be closed administratively.