

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: April 22, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts) *TB*
Division of Accounting and Finance (Blocker, Norris) *ALM*
Division of Economics (Sibley, Hudson) *JGH*
Office of the General Counsel (Stiller) *GSC*

RE: Docket No. 20200238-WU – Application for certificate to operate water utility in Marion County, and application for pass through increase of regulatory assessment fees, by Citra Highlands Water System, LLC.

AGENDA: 05/04/21 – Regular Agenda – Proposed Agency Action for Issue 3 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: 5/5/21 (Statutory deadline)

SPECIAL INSTRUCTIONS: None

Case Background

Citra Highlands Water System, LLC (Citra or Utility) is located in Marion County, Florida. Based on its application, the Utility's proposed service territory consists of 217 lots in the Citra Highlands subdivision (Citra Highlands) in Marion County (County). The Utility provides water service to approximately 56 residential customers, consisting of single family homes and mobile homes. There are 15 mobile homes in the proposed service territory currently on private wells. The water system was put into service in the 1980s.

The owner of Citra, Mr. Marshall Hash, first became involved with the Citra Highlands water system in 2007. To the best of Mr. Hash's knowledge, the following is the history of the system

prior to his involvement. The original developer installed the water system to serve the developed lots (mobile homes) that wished to connect to the system. Only some of the lots were connected to the system; the other developed lots were served by private wells. A homeowners association (HOA) was established to maintain the streets (only one of which was paved) and covenants. Water service was included in the HOA fees.

Around 2002, a new developer purchased lots at the other end of the subdivision and began building homes, paving the streets, and installing utility connections. Again, only some of the houses connected to the water system. By 2007, the original HOA was in the process of dissolving amid various disagreements among the residents. Of particular concern was that some residents who were connected to the water system were not paying HOA fees, but were still receiving water service. The new developer assumed control of the HOA, but did not want to remain in control of the water system. In April 2008, Mr. Hash purchased the water plant, the property on which the plant is located, and the water system assets from the builder. He agreed to bill the water customers separately at rates set by the HOA. Operation and maintenance (O&M) of the system was provided by a third-party O&M company.

In 2011, the O&M provider went out of business, and Mr. Hash took over that function as well. Throughout his involvement with the water system, new homes were built and connections were added to the water system.

On July 30, 2020, the Commission received a billing complaint from a Citra Highlands resident who is a Citra customer. During its investigation of the complaint, staff determined that Citra did not have a certificate of authorization to provide water service and did not appear to be exempt from the Commission's jurisdiction pursuant to Section 367.022, Florida Statutes (F.S.). Therefore, on October 30, 2020, Citra filed its application for an original water certificate and for approval of initial rates and charges. In its application, the Utility also requested approval for a pass-through increase for regulatory assessment fees (RAFs).¹ Staff found the application to be deficient and issued a deficiency letter on November 30, 2020. The Utility cured the deficiencies on February 4, 2021.

Pursuant to Section 367.031, 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 4, 2021, which is considered the official filing date. Therefore, consistent with Section 367.031, F.S., the Commission should vote on the instant application by May 5, 2021.

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

¹The Utility's request for a pass-through increase will be processed administratively subsequent to the Commission's approval of the Utility's pending certificate and approval of rates and charges.

Discussion of Issues

Issue 1: Should the application for a water certificate by Citra be approved?

Recommendation: Yes. Citra should be granted Certificate No. 679-W to serve the territory described in Attachment A, which is appended to this recommendation, effective the date of the Commission's vote. The resultant order should serve as Citra's water certificate and it should be retained by the Utility. (M. Watts, Blocker)

Staff Analysis: On October 30, 2020, Citra filed its application for an original water certificate in Marion County. Upon review, staff determined the original filing was deficient and issued a deficiency letter on November 30, 2020. The Utility cured the deficiencies on February 4, 2021, 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 4, 2021, Citra filed proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). Rule 25-30.030(4)(h), F.A.C., requires that the notice must contain a statement that objections must be filed with the Commission no later than 30 days after the last date that the notice was mailed or published. On January 7, 2021, the Utility mailed the notice to its customers and landowners in the proposed service territory, as well as to the governmental entities and utilities required by Rule 25-30.030(2), F.A.C. The notice was also published as required by Rule 25-30.030(5)(c), F.A.C. Therefore, the protest period expired on February 10, 2021. The Commission received two responses to the notice, one from Marion County and one from a customer of the Utility.

On February 5, 2021, Marion County filed its response to the notice. In its response, the County states that from its review of the statements made in the Utility's application, it believes that, as of 2008, the public water system was subject to the Marion County Code of Ordinances (Code). The County explains that the Code requires that a permit be obtained from the County for a public water system. According to the County's records, Citra never applied for or obtained the required permit.

The County acknowledges that upon issuance of a certificate by the Commission, Citra will be exempt from the County's regulation. However, the County requests that the Commission require the Utility to obtain a permit from the County as a pre-condition to granting Citra's application for an original certificate. Of particular interest to the County is obtaining and reviewing the system information, including engineering drawings that would be required in a permit application. With this information, the County would be in a better position to serve should the system be abandoned at some point in the future and the County appointed as receiver.

On March 3, 2021, staff met with Marion County Utilities staff via teleconference. The County affirmed that it does not object to the issuance of a water certificate to Citra, but merely wants the Commission to make obtaining a permit from the County a pre-condition of granting a certificate of authorization. After discussion with Commission staff regarding its rules, statutes,

authority, procedures and precedents, the County agreed that it should pursue enforcement of its Code separately from the proceedings in the instant docket.

On February 17, 2021, seven days after the expiration of the protest period, the Commission received a response to the notice from a customer of the Utility. The customer did not express an objection to the application for a certificate of authorization, but rather an objection to a rate increase, which is not the subject of the instant application. In early March, the Utility clarified this distinction with the customer.

Land Ownership and Service Territory

Citra provided adequate service territory and system maps and a territory description as required by Rule 25-30.034(1)(k), F.A.C. The legal description of the service territory is appended to this recommendation as Attachment A. The application contains warranty deeds for the land where the water treatment facilities are located pursuant to Rule 25-30.034(1)(m), F.A.C.

Financial and Technical Ability

Pursuant to Rule 25-30.034(1)(i) and (j), F.A.C., the application contains statements describing the technical and financial ability of the Utility to provide service to the proposed service area. Citra's application states that its parent company, Hash Utilities, Inc. (Hash), acquired its first water system in 2004 and currently owns ten public water systems in Citrus, Levy, and Marion Counties. The water system in Levy County is regulated by the Commission.² Hash provides all meter reading, billing, collection, operation and maintenance, sampling, and reporting to all regulatory agencies for all of its systems. Chemical testing is done by Flowers Laboratory, and any engineering services required are provided by a licensed professional engineer. Hash is a member of the Florida Rural Water Association and the Sunshine 811 ("call before you dig") system. Also, the owners of Hash hold a Class "C" and "D" water operator's license, and a Class "D" wastewater operator license. Pursuant to Rule 25-30.034(1)(i), F.A.C., the Utility provided statements describing its financial and technical ability to provide service.³ Staff has reviewed the financial ability of the current owner and believes the owner has documented adequate resources to support the Utility's water operations. Based on the above, Citra has demonstrated the technical and financial ability to provide service to the existing service territory.

Conclusion

Staff recommends that it is in the public interest to grant Citra Certificate No. 679-W to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Citra's water certificate and it should be retained by the Utility.

²Order No. PSC-11-0584-PAA-WU, issued December 21, 2011, in Docket No. 20110098-WU: *In re: Application for authority to transfer assets and water Certificate No. 428-W in Levy County, from Par Utilities, Inc., to Hash Utilities, LLC.*

³Document No. 13149-2020

Issue 2: What rates and charges should be approved for Citra?

Recommendation: With the exception of the non-sufficient funds (NSF) charge addressed in Issue 3, the Utility's rates and charges that were in effect at the time of its application for an original certificate, shown on Schedule No. 1, should be approved. The rates and charges should be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. Citra should be required to bill the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding. (Sibley)

Staff Analysis: Staff recommends that, with the exception of the NSF charge addressed in Issue 3, the Utility's rates and charges that were in effect at the time of its application for an original certificate, shown on Schedule No. 1, should be approved. The rates in the schedule are monthly. However, the Utility bills on a bi-monthly basis. The rates and charges should be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. Citra should be required to bill the approved rates and charges until authorized to change them by this Commission in a subsequent proceeding.

Issue 3: Should Citra's NSF charge be revised?

Recommendation: Yes. The Utility's NSF charge should be revised to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date the notice was given within 10 days of the date of the notice. (Sibley)

Staff Analysis: According to the Utility's application, its existing NSF charge is \$30. Section 367.091, F.S., requires rates, charges, and customer service policies to be approved by the Commission. The Commission has authority to establish, increase, or change a rate or charge. Staff believes that Citra should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

1. \$25, if the face value does not exceed \$50,
2. \$30, if the face value exceeds \$50 but does not exceed \$300,
3. \$40, if the face value exceeds \$300, or
4. five percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with prior Commission decisions.⁴ Furthermore, NSF charges place the cost on the cost causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. Staff recommends the Utility's NSF charge should be revised to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date the notice was given within 10 days of the date of the notice.

⁴Order Nos. PSC-2020-0086-PAA-WU, issued March 24, 2020, in Docket No. 20190114-WU, *In re: Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.*; PSC-2018-0334-PAA-WU, issued June 28, 2018, in Docket No. 20170155-WU, *In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory fees, by Seminole Waterworks, Inc.*; PSC-14-0198-TRF-SU, issued May 2, 2014, in Docket No. 20140030-SU, *In re: Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.*; and PSC-13-0646-PAA-WU, issued December 5, 2013, in Docket No. 20130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*

Issue 4: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action on Issue 3 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. (Stiller)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action on Issue 3 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.

Water Service Territory
Marion County, Florida

The South 1/2 of the Southwest 1/4 of Section 4, Township 13 South, Range 22 East, Marion County, Florida

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

Citra Highlands Water System, LLC

pursuant to

Certificate Number 679-W

to provide water service in Marion 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>
*	*	20200238-WU	Original Certificate

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

**Citra Highlands Water System, LLC
Monthly Water Rates**

Residential & General Service

Base Facility Charge		
5/8" x 3/4"		\$18.95
Gallage Charge per 1,000		
gallons		\$4.30

Miscellaneous Service Charges

Initial Connection Charge	\$45.00
Normal Reconnection Charge	\$45.00
Violation Reconnection Charge	\$45.00
Premises Visit Charge (For Disconnection)	\$45.00
Premises Visit Charge	\$30.00
Late Payment Charge	\$5.00
Meter Tampering Charge	\$150.00

Service Availability Charges

Customer Service Line Installation (Tap In) Charge	
5/8" x 3/4"	\$450.00
Meter Installation Charge	
5/8" x 3/4"	\$450.00
1"	\$560.00
System Capacity Charge	
Residential-per ERC	\$795.00