

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of abandonment of wastewater system in Polk County, by Crooked Lake Park Sewerage Company, effective March 25, 2021. | DOCKET NO. 20200210-SU
ORDER NO. PSC-2021-0311-FOF-SU
ISSUED: August 20, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
ANDREW GILES FAY
MIKE LA ROSA
GABRIELLA PASSIDOMO

ORDER ACKNOWLEDGING ABANDONMENT
AND CANCELLING CERTIFICATE NO. 517-S

BY THE COMMISSION:

Background

Crooked Lake Park Sewerage Company (Crooked Lake or Utility) is a Class C wastewater utility providing service in Polk County. The Utility was issued grandfather Certificate No. 517-S on September 21, 1998,¹ and currently serves approximately 324 wastewater customers. Crooked Lake's 2019 Annual Report indicates that the Utility had gross operating revenues of \$227,281 and a net operating loss of \$149,659.

On July 2, 2020, Crooked Lake filed an application for an amendment to delete territory.² In its application for amendment, the Utility stated that the reason it wished to delete territory was to delete the College Park Mobile Home Park (CPMHP), a bulk customer, from its territory to reduce flow to its wastewater treatment plant (WWTP). Crooked Lake's WWTP had been having compliance issues with the Department of Environmental Protection (DEP), and Crooked Lake stated that it believed eliminating the CPMHP as a customer would allow it to correct its compliance issues with the DEP.

On July 10, 2020, the Office of Public Counsel (OPC) filed a notice of intervention in the docket. On July 14, 2020, OPC issued its first set of interrogatories and first request for production of documents to Crooked Lake.

¹Order No. PSC-98-1247-FOF-SU, issued September 21, 1998, in Docket No. 961478-SU, *In re: Application for grandfather certificate to operate a wastewater utility in Polk County by Crooked Lake Park Sewerage Company.*

²Docket No. 20200177-SU, *In re: Application for amendment of Cert 517-S to delete territory in Polk County, by Crooked Lake Park Sewerage Company.*

On September 3, 2020, we notified the Utility that its application was deficient, with corrections to be submitted to us no later than October 5, 2020. On September 4, 2020, Crooked Lake's attorney notified this Commission that Crooked Lake wished to withdraw its application for amendment and advised that the Utility intended to file for an abandonment of the Utility.

On September 4, 2020, Crooked Lake filed its notice of abandonment with this Commission and with the Polk County manager, with an effective date of November 8, 2020. On October 27, 2020, the Utility filed a notice of its intent to delay the abandonment proceedings for 90 days pending its attempts to sell the Utility. At a January 21, 2021 status hearing before the Circuit Court for the Tenth Judicial Circuit, the Utility advised that the sale would not proceed, and asked that the court restart the abandonment proceedings. By order dated March 25, 2021, the court appointed Polk County as receiver for the abandoned Utility.

The purpose of this order is to acknowledge the abandonment of the utility system by Crooked Lake and the appointment of Polk County (County) as the receiver, and to cancel Certificate No. 517-S. We have jurisdiction pursuant to Sections 367.022 and 367.165, Florida Statutes (F.S.).

Decision

When a utility is abandoned, Section 367.165(2), F.S., requires the county to petition the circuit court for the appointment of a receiver. Such receiver can be the county or any other person or entity approved by the court, such as a homeowners association. The responsibility of the receiver is to operate the utility efficiently and effectively from the date of abandonment until disposition of the property. As discussed in the case background, Crooked Lake attempted to sell the Utility rather than abandon it. However, its efforts were unsuccessful, so it proceeded with the abandonment proceedings. By Order dated March 25, 2021, the Circuit Court acknowledged Polk County's petition to appoint a receiver, and appointed the County as receiver of the Utility in Case No. 2020CA-003194-0000-00.³ Pursuant to Rule 25-30.090(3), Florida Administrative Code (F.A.C.), within 10 days of the appointment of the receiver by the Circuit Court, the receiver shall request from this Commission a copy of the Utility's tariff and most recent annual report. Copies of the Utility's tariff and most recent annual report have been sent to Polk County.

Rule 25-30.110(3), F.A.C., requires that a water or wastewater utility which is subject to this Commission's jurisdiction as of December 31 of that year file an annual report. Crooked Lake is current on its annual reports through 2019; however, the Utility has not filed its annual report for 2020. We calculate the assessed penalty to be \$282 as of July 2, 2021. The penalty will continue to accrue at \$3 per day until the annual report is filed.

Crooked Lake has paid its Regulatory Assessment Fees (RAFs) through 2018. However, the Utility has not paid its RAFs owed for 2019, 2020, and 2021 (through March 25, 2021, the date when a receiver was appointed). We note that the proposed cancellation of the Utility's certificate, if approved, shall not relieve the Utility's obligation regarding outstanding RAFs.

³Order Appointing Receiver, Case No. 2020CA-003194-0000-00, *In re: Polk County, Florida a political subdivision of the State of Florida vs. Crooked Lake Park Sewerage Company* (Fla 10th Cir. Ct. March 25, 2021).

Based on the Utility's 2019 operating revenues in the amount of \$227,281, as reported in Crooked Lake's 2019 Annual Report, the Utility owes 2019 RAFs in the amount of \$10,227.65, plus a late penalty in the amount \$2,556.91 (5 percent x 5 months x \$10,227.65), and accrued interest in the amount of \$1,636.42 as of July 22, 2021, resulting in a total amount due of \$14,420.98.

Since the Utility's 2020 Annual Report has not been filed with us to date, we have calculated an estimated 2020 RAF amount based on the Utility's most recent annual report. We estimate that Crooked Lake owes \$10,227.65 in RAFs for 2020, based on the revenues of \$227,281 reported in the Utility's 2019 Annual Report. Further, Crooked Lake is also responsible for the RAFs for the January 1, 2021 through March 25, 2021 period, which will be due next year, by March 31, 2022. Commission staff will continue to work with the Utility to obtain the outstanding annual report and RAFs, and will bring the matter to us in a separate docket in the future if necessary.

Based on all the above, we acknowledge the abandonment of Crooked Lake pursuant to Section 367.165, F.S., and appointment of Polk County as the receiver for the Utility. Certificate No. 517-S shall be cancelled effective March 25, 2021.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we acknowledge the abandonment of Crooked Lake Park Sewerage Company pursuant to Section 367.165, F.S., and appointment of Polk County as the receiver for the Utility. It is further

ORDERED that Certificate No. 517-S shall be cancelled effective March 25, 2021. It is further

ORDERED that this docket shall closed.

By ORDER of the Florida Public Service Commission this 20th day of August, 2021.



ADAM J. TEITZMAN

Commission Clerk

Florida Public Service Commission

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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

WLT

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.