

RESOLUTION NO. 2011- R13

**A RESOLUTION OF THE COLUMBIA COUNTY
FLORIDA BOARD OF COUNTY COMMISSIONERS
ISSUING A FINAL ORDER FOR RATE
ADJUSTMENTS FOR KIRBY D. MORGAN, INC. AS
PURSUANT TO A PROPOSED BOARD ACTION**

WHEREAS, On May 3, 2007, the Board of County Commissioners of Columbia County enacted Ordinance No. 2007-15, asserting jurisdiction within Columbia County over investor-owned water, wastewater, and effluent re-use systems, as authorized by Chapter 367, Florida Statutes; and

WHEREAS, Ordinance No. 2011-2 authorizes the Board of County Commissioners to conduct limited action proceedings to act upon any matter within its jurisdiction, including any matter the resolution of which requires a utility to adjust its rates; and

WHEREAS, on January 20, 2100 and by its own action, the Board of County Commissioners approved such a limited proceeding to consider rate adjustments for Kirby D. Morgan, Inc; and

WHEREAS, the County has held a customer meeting; the Columbia County Utility Committee has heard the issues and, after due consideration of the evidence and testimony, has issued a Recommended Order to the Board of County Commissioners, and the Board of County Commissioners has conducted a public hearing on March 17, 2011 for the purpose of considering the Recommended Order and all exhibits; and

WHEREAS, after full consideration, the Board has determined that the recommended rates are just, reasonable compensatory, not unfairly discriminatory, and in the public interest and further determined that the findings of fact contained therein are supported by competent, substantial evidence; and

WHEREAS, this order is contingent upon Kirby D. Morgan, Inc. entering into a Provisional Franchise Agreement as approved by the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY AS FOLLOWS:

Section 1. The Recommended Order, as amended or modified, including all attachments thereto submitted by the Columbia County Utilities Committee, attached as Exhibit A. and incorporated herein is adopted as the Final Order of this Board.

Section 2. The rates, fees and charges attached as exhibit B are hereby approved and authorized as the final rates, fees and charges of Kirby D. Morgan, Inc..

Section 3. The rates fees and charges approved herein shall become effective after 21 days, unless a valid written protest petition is filed with the Board, and upon Staff's acknowledgement to receipt of a fully executed Provisional Franchise Agreement. These rates, fees and charges shall remain in effect until such time as amended by the Board of County Commissioners.

Adopted this 17th day, March, 2011.

**COLUMBIA COUNTY BOARD
OF COUNTY COMMISSIONERS**


Jody DuPree, Chairman

ATTEST:

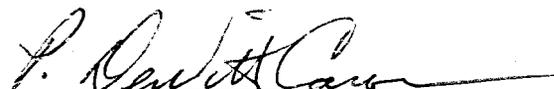

P. DeWitt Cason, Clerk

Exhibit A

To: Columbia County Board of County Commissioners
From: Columbia County Utility Committee
Date: February 9, 2011

RECOMMENDED ORDER OF THE COLUMBIA COUNTY UTILITY COMMITTEE

KIRBY D. MORGAN, INC. /EASTSIDE VILLAGE

SUMMARY

The Columbia County Utility Committee as part of a Proposed Board Action initiated by the Board of County Commissioners and after due consideration of the exhibits, evidence and testimony presented at the February 8, 2011 meeting recommends to the Columbia County Board of County Commissioners that they adopt a resolution approving a Provisional Franchise for Kirby D. Morgan, Inc. and adopt the rates, fees and charges as set forth:

\$44.09 per month base rate

\$0.91 per month refund

\$43.18 per month final rate

FINDINGS OF FACT

- 1) Kirby D. Morgan, Inc provides only wastewater services and provides these services to approximately 219 customers in Eastside Village. The City of Lake City provides water throughout the community and provides wastewater services to the remainder of the community. A few residents remain on septic systems.
- 2) Kirby D. Morgan. Inc cannot expand the utility. Eastside Village is essentially built out and the City of Lake City provides water and sewer services throughout the surrounding area. As such, the utility should be considered 100% "used and useful" in setting rates. Only 3 lots remain that can reasonably be built upon.

- 3) The Florida Public Service Commission last approved a rate on July 18, 2007. This increase to \$24.15 per month resulted from a 2007 Price Index Rate Adjustment and became effective August 1, 2007.
- 4) On May 3, 2007, the Columbia County Board of County Commissioners adopted Ordinance 2007-15, the Columbia County Utilities Regulatory Ordinance, which became effective on May 8, 2007.
- 5) On August 20, 2007, the Florida Public Service Commission issued an order acknowledging the rescission of jurisdiction over Kirby D. Morgan, Inc. (Docket Number 070345-WS, Order Number PSC -07-0667-F0E-WS).
- 6) Kirby D. Morgan, Inc has operated since 2007 without a Franchise and in violation of the Columbia County Utilities Regulatory Ordinance.
- 7) On July 1, 2008, Kirby D. Morgan, Inc increased their rates to \$35.00 per month. The Utility did not seek County approval.
- 8) On January 1, 2010, Kirby D. Morgan, Inc increased their rates to \$45.00 per month. The Utility did not seek County approval.
- 9) On March 11, 2010, County Attorney Marlin Feagle notified Kirby D. Morgan Inc. that that they would need to bring their utility into compliance with 2007-15.
- 10) On April 26, 2010, Kirby D. Morgan, Inc. formally requested approval of the rate increase stating that management was not previously aware of any requirement to seek County approval for rate increases.
- 11) On June 18, 2010, the Public Service Commission issued an order establishing the authorized range of returns on common equity for water and wastewater utilities (Order Number PSC-10-0401-PAA-WS).
- 12) On July 1, 2010, the Columbia County Board of County Commissioners appointed a hearing officer. Between July and September the Utility and the Hearing Officer exchanged information. The Hearing Officer found the Minimum Filing Requirements deficient and no Official Filing Date was set.
- 13) On October 26, 2011, the Utility Committee begins consideration of Provisional Franchise Agreements and Proposed Board Actions as alternatives to the formal hearing process. The intent is to control rate case expenses and speed the process to resolution.

- 14) On November 23, 2010, Kirby D. Morgan acknowledged that the current rate of \$45.00 exceeds the allowable maximum return of equity. Under the Public Service Commission's leverage formula, Kirby D. Morgan, Inc. would be eligible for a rate of \$44.09 in 2010. Kirby D Morgan, Inc. acknowledged that the difference between what was billed in 2010 and the allowable rate for 2010 would need to be refunded to the customers.
- 15) On December 16, 2010, The Columbia County Board of County Commissioners approved for Provisional Franchise Agreements to be offered to the regulated private utilities.
- 16) On January 6, 2011, the Board of County Commissioners adopted an amendment to Ordinance 2007-15 authorizing Proposed Board Actions.
- 17) On January 20, 2011, the Board of County Commissioners, by its own motion, authorized a Proposed Board Action to resolve the Kirby D. Morgan, Inc. rate adjustment case.
- 18) On January 25, 2011, County staff conducted a Customer Meeting of the Eastside Village/Kirby D. Morgan, Inc customers at the Eastside Village Clubhouse. Four customers signed in and ten customers spoke..
- 19) The quality of service is satisfactory. The County has not received any service quality complaints and several customers complemented the service at the Customer Meeting held January 25, 2011.
- 20) County staff has reviewed all of the exhibits provided by Kirby D. Morgan as part of the rate adjustment process and found them to contain sufficient evidence to support the stipulated rates, fees and charges as set forth in this recommendation.
- 21) The Provisional Franchise Agreement and the stipulation of rates as the settlement of all issues related to the determination of rates, fees and charges for services rendered by Kirby D. Morgan, Inc within its service area is supported by competent, substantial evidence.

RECOMMENDATION

On February 8, 2011, The Columbia County Utility Committee, in a noticed meeting at the Eastside Village Clubhouse, met to consider this issue. Public comment was accepted, 23 Customers signed in and only one customer spoke.

Based upon the testimony and documentary evidence presented at the Customer Meeting, the Utility Committee meeting, and in the exhibits, the Columbia County Utility Committee finds the recommended rates are supported by competent, substantial evidence and are just, reasonable, compensatory and not unfairly discriminatory.

On a motion by Commissioner DePratter and seconded by Commissioner Bailey, the Utility Committee unanimously voted to recommend that the Columbia County Board of County Commissioners adopt a resolution approving a Provisional Franchise for Kirby D. Morgan, Inc. and adopt the rates, fees and charges as set forth:

Rates Currently Charged by Kirby D. Morgan, Inc. \$45.00 per month

Rate Recommended by Utility Committee \$44.09 per month

Kirby D. Morgan, Inc. would owe their customers in Eastside Village a refund from date they began charging \$45.00 per month, January 1, 2010, until the new rates become effective.

Recommended Refund to Customers \$0.91 per month

Recommended Final Rate \$43.18 per month

Respectfully submitted this ____ day of February, 2011

By _____
Scarlet P. Frisina, Chair

Exhibit B

Kirby D. Morgan, Inc. Wastewater Rates, Fees and Miscellaneous Charges

Wastewater Rates: **\$ 43.18 per month.**
Based on a \$44.09 per month with a \$0.91 per month refund

Connection Fee: **\$ 0.00**

Miscellaneous Fees and Charges:

Deposit	\$ 0.00
Reconnection Charge	\$ 0.00
Late Fees	\$ 0.00
Return Check Charge	5.0%
Other Charges	\$ 0.00