

ORIGINAL

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



TIMOTHY DEVLIN, DIRECTOR
DIVISION OF ECONOMIC REGULATION
(850)413-6900

Public Service Commission

March 14, 2002

Mr. David Small
Silver City Utilities
355 Princes Street
Kincardine, Ontario
Canada N2Z 2T7

Ms. Jeannine Campbell
Silver City Oaks Inc.
Post Office Box 676
Fort McCoy, FL 32134-0676

Re: Docket No. 011402-WU, Notice of abandonment of water services in Marion County by Silver City Utilities.

Dear Mr. Small and Ms. Campbell:

It is my understanding that the homeowners have formed a non-profit association called Silver City Oaks Inc. for purposes of owning and controlling the utility facilities. Enclosed is an application for recognition of this transfer. We apologize for the slight delay in providing the application. However, the situation of this transfer is so unusual and unique that additional time was taken to consider what is appropriate under existing statutes and rules.

Pursuant to Section 367.022(7), Florida Statutes, non-profit corporations such as Silver City Oaks Inc. are not subject to regulation by the Commission as long as service is provided solely to members. However, pursuant to Section 367.071, Florida Statutes, no certificated utility such as Silver City Utilities can sell, assign, or transfer its certificates or facilities without approval by the Commission. Section 367.071(3), Florida Statutes, also requires that an application for sale, assignment, or transfer be accompanied by a filing fee. For your information, the enclosed application contains copies of Sections 367.022 and 367.071, Florida Statutes.

Since both a transfer application and a filing fee are required by statute, they cannot be waived. However, the Commission does have discretion in interpreting the rules it has established for transfer applications and filing fees. These are Rules 25-30.037(2) and 25-30.020, Florida Administrative Code, respectively. (Copies provided.) Meanwhile, the enclosed application along with the information described below represent what staff believes is appropriate for the Commission to require for this particular transfer.

US _____
AF _____
MP _____
OM _____
TR _____
CR _____
CL _____
PC _____
IMS _____
EC _____
ITH _____

DOCUMENT NUMBER: 03009 MAR 15 2002

FPSC-COMMISSION CLERK

Mr. David Small and Jeannine Campbell

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March 14, 2002

The enclosed application and following information should be filed with the Commission as soon as practicable after the contract for purchase and sale has been executed. The application is annotated with "N.A." for those items which do not pertain to a transfer to a non-profit association.

Since this is a transfer to an exempt entity, it will not be necessary to evaluate the buyer's technical and financial ability. However, staff will need to verify that the buyer is exempt from Commission regulation. For this purpose, please file a copy of Silver City Oaks Inc.'s corporate certificate as issued by the Florida Department of State along with a copy of its Articles of Incorporation and By-Laws.

Also, to verify the transfer, a copy of the contract for purchase and sale must be filed along with certain information on financing. However, much of the information described in the application for these items will not apply. Please mark any items that do not apply as "N.A." rather than leave blank.

Enclosed with the application is the notice of the transfer which must be given to a list of utilities in Marion County, also provided, and published once in a newspaper of general circulation in the area of the utility. Please note that the list of utilities is valid through 5/11/2002. Once the notices are given, affidavits of the noticing must be filed with the Commission. For more detailed information on noticing, the application contains a copy of Chapter 25-30.030, Florida Administrative Code.

Since the customers of the utility are members of the acquiring entity, it will not be necessary to provide formal notice to ensure all customers are aware of the transfer proceedings. However, please provide a copy of the notice that was given to the homeowners of the association meeting in which the issue of the acquisition of the water system was addressed.

For this unique transfer, and under these specific circumstances, staff believes the appropriate filing fee is \$0.00. Therefore, the application need not be accompanied by a filing fee in excess of \$0.00 at this time. However, please note that staff can only recommend what it considers to be an appropriate filing fees. The Commission will ultimately decide if \$0.00 is appropriate at the time it votes on the transfer, and may decide that a higher amount is appropriate.

Finally, if the transfer occurs prior to filing the application, then the application needs to contain a copy of the recorded warranty deed. If the transfer has not taken place at the time of filing, then the application should contain a copy of the proposed or draft warranty deed.

Once completed and notarized, an original and three copies of the application should be filed with the Director:

Mr. David Small and Jeannine Campbell
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March 14, 2002

Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

If you have any questions or need any assistance completing the application, please contact either Patricia Brady at (850) 413-6686, pbrady@psc.state.fl.us, or Commission legal counsel assigned to this docket, Larry Harris, Esq., at (850) 413-6076, lharris@psc.state.fl.us.

Sincerely,


Patti Daniel
Supervisor of Certification

PD:PB

Enclosure

cc: Division of Economic Regulation (Kummer, Brady, Redemann, Iwenjiora)
Office of the General Counsel (Helton, Harris)
Division of Commission Clerk and Administrative Services (2 copies)

APPLICATION FOR SALE, ASSIGNMENT OR TRANSFER
OF CERTIFICATE OR FACILITIES

(Pursuant to Section 367.071, Florida Statutes)

TO: Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

The undersigned hereby makes application for the sale,
assignment or transfer of (all or part) of Water Certificate No.
_____ and/or Wastewater Certificate No. _____ or facilities in
_____ County, Florida, and submits
the following information:

PART I APPLICANT INFORMATION

A) The full name (as it appears on the certificate), address
and telephone number of the applicant:

Name of utility

() _____

Phone No.

() _____

Fax No.

Office street address

City

State

Zip Code

Mailing address if different from street address

Internet address if applicable

B) The name, address and telephone number of the person to contact concerning this application:

Name () Phone No.

Street address

City State Zip Code

C) The full name (~~as it will appear on the certificate~~), address and telephone number of the buyer:

Name of utility

() ()
Phone No. Fax No.

Office street address

City State Zip Code

Mailing address if different from street address

Internet address if applicable

D) Indicate the organizational character of the buyer: (circle one)

Corporation Partnership Sole Proprietorship

Other: _____
(specify)

E) The date and state of incorporation or organization of the buyer:

F) If the buyer is a corporation, list the names, titles, and addresses of corporate officers and directors. (Use additional sheet if necessary).

G) If the buyer is not a corporation, list the names, titles, and addresses of all persons owning an interest in the organization. (Use additional sheet if necessary.)

PART II FINANCIAL AND TECHNICAL INFORMATION

N.A. A) Exhibit _____ - A statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water and/or wastewater utility operations, a showing of the buyer's financial ability to provide service and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters.

N.A. B) List the names and locations of other water and/or wastewater utilities owned by the buyer and PSC certificate numbers, if any.

C) Exhibit _____ - A copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:

- (1) Purchase price and terms of payment.
- (2) A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those

of nonregulated operations or entities.

- (3) A description of all consideration between the parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.

The contract for sale shall also provide for the disposition, where applicable, of the following:

- (a) Customer deposits and interest thereon;
- (b) Any guaranteed revenue contracts;
- (c) Developer agreements;
- (d) Customer advances;
- (e) Debt of the utility; and
- (f) Leases.

D) Exhibit _____ - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.

E) Exhibit _____ - A statement describing the financing the purchase.

F) Exhibit _____ - A list of all entities upon which the applicant is relying to provide funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility.

N.A.

G) Exhibit _____ - The proposed net book value of the system as of the date of the proposed transfer. If rate base (or net book value) has been established previously by this Commission, state the Order No. and date issued. _____ Identify all adjustments made to update this rate base (or net book value) to the date of the proposed transfer.

N.A.

H) Exhibit _____ - A statement setting forth the reasons for the inclusion of an acquisition adjustment, if one is requested. (An acquisition adjustment results when the purchase price of the utility differs from the original cost calculation.)

N.A.

I) The full name, address and telephone number of the person who has possession of the books and records of the seller:

()
Name _____ Phone No. _____

Street address _____

City _____ State _____ Zip Code _____

N.A.
J)

Exhibit _____ - If the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records.

N.A.
K)

Exhibit _____ - A statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns.

L)

Exhibit _____ - A statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection (DEP)

If the system is in need of repair or improvement, has any outstanding Notice of Violation of any standard set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violation, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost to make them.

PART III NOTICE OF ACTUAL APPLICATION

A)

Exhibit _____ - An affidavit that the notice of actual application was given in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, by regular mail to the following:

- (1) the governing body of the municipality, county, or

counties in which the system or the territory proposed to be served is located;

- (2) the privately owned water and wastewater utilities that hold a certificate granted by the Public Service Commission and that are located within the county in which the utility or the territory proposed to be served is located;
- (3) if any portion of the proposed territory is within one mile of a county boundary, the utility shall notice the privately owned utilities located in the bordering counties and holding a certificate granted by the Commission;
- (4) the regional planning council;
- (5) the Office of Public Counsel;
- (6) the Public Service Commission's Director of Records and Reporting;
- (7) the appropriate regional office of the Department of Environmental Protection; and
- (8) the appropriate water management district.

Copies of the Notice and a list of entities noticed shall accompany the affidavit. THIS MAY BE A LATE-FILED EXHIBIT.

N.A.

B) Exhibit _____ - An affidavit that the notice of actual application was given in accordance with Rule 25-30.030, Florida Administrative Code, by regular mail or personal delivery to each customer of the system being transferred. A copy of the Notice shall accompany the affidavit. THIS MAY BE A LATE-FILED EXHIBIT.

C) Exhibit _____ - Immediately upon completion of publication, an affidavit that the notice of actual application was published once in a newspaper of general circulation in the territory in accordance with Rule 25-30.030, Florida Administrative Code. A copy of the proof of publication shall accompany the affidavit. THIS MAY BE A LATE-FILED EXHIBIT.

PART IV FILING FEE

Indicate the filing fee enclosed with the application:

_____ (for water) and _____ (for wastewater).

Note: Pursuant to Rule 25-30.020, Florida Administrative Code, the amount of the filing fee as follows:

- (1) For applications in which the utility to be transferred has the capacity to serve up to 500 ERC's, the filing fee shall be \$750.
- (2) For applications in which the utility to be transferred has the capacity to serve from 501 to 2,000 ERC's the filing fee shall be \$1,500.
- (3) For applications in which the utility to be transferred has the capacity to serve from 2,001 ERC's to 4,000 ERC's the filing fee shall be \$2,250.
- (4) For applications in which the utility to be transferred has the capacity to serve more than 4,000 ERC's the filing fee shall be \$3,000.

PART V OTHER

A) Exhibit _____ - Evidence that the utility owns the land where the utility treatment facilities are located. Or, where the utility does not own the land, a copy of the agreement which provides for the long term, continuous use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative.

N.A.

B) Exhibit _____ - The original and two copies of sample tariff sheets reflecting the new name of the utility, the existing rates and charges and territorial description of the water and/or wastewater systems. **Sample tariff(s) are attached.**

C) Exhibit _____ - The utility's current certificate(s) or, if not available, an explanation of the steps the applicant took to obtain the certificate(s).

PART VI AFFIDAVIT

I _____ (applicant) do solemnly swear or affirm that the facts stated in the forgoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitutes a complete statement of the matter to which it relates.

BY: _____
Applicant's Signature

Applicant's Name (Typed)

Applicant's Title *

Subscribed and sworn to before me this _____ day in the month of _____ in the year of _____ by _____ who is personally known to me _____ or produced identification _____
Type of Identification Produced _____

Notary Public's Signature

Print, Type or Stamp Commissioned
Name of Notary Public

* If applicant is a corporation, the affidavit must be made by the president or other officer authorized by the by-laws of the corporation to act for it. If applicant is a partnership or association, a member of the organization authorized to make such affidavit shall execute same.

PUBLICATION / LEGAL NOTICE FOR
APPLICATION FOR TRANSFER OF CERTIFICATE
(Section 367.071, Florida Statutes)

LEGAL NOTICE

Notice is hereby given on _____, pursuant to Section 367.071, Florida Statutes, of the application for the transfer of water facilities from Silver City Utilities to Silver City Oaks Inc., a non-profit homeowners association, and for cancellation of Certificate No. 490-W, providing service to the following described territory in Marion County, Florida.

Township 13 South, Range 23 East, Section 10

The SW 1/4 of the SE 1/4

and

The South 1/2 of the NW 1/4 of the SE 1/4

Any objection to the said application must be made in writing and filed with the Director, Division of Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within thirty (30) days from the date of this notice. At the same time, a copy of said objection should be mailed to the applicants whose addresses are set forth below. The objection must state the grounds for the objection with particularity.

Silver City Utilities
355 Princes Street
Kincardine, Ontario
Canada N2Z 2T7

Silver City Oaks Inc.
Post Office Box 676
Fort McCoy, FL 32134-0676

LIST OF WATER AND WASTEWATER UTILITIES IN MARION COUNTY

(VALID FOR 60 DAYS)
03/13/2002-05/11/2002

UTILITY NAME

MANAGER

MARION COUNTY

A P. UTILITIES, INC. (WU592)
3925 S E. 45TH COURT, SUITE E
OCALA, FL 34480-7431

PHILIP D. WOODS
(352) 694-7474

BFF CORP (SU595)
P O. BOX 5220
OCALA, FL 34478-5220

CHARLES DE MENZES
(352) 622-4949

C F A T H2O, INC (WS719)
P O. BOX 5220
OCALA, FL 34478-5220

CHARLES DE MENZES
(352) 622-4949

COUNTYWIDE UTILITY COMPANY (WU008)
P. O. BOX 1476
OCALA, FL 34478-1476

DIRK J. LEEWARD
(352) 245-7007

EAGLE SPRINGS UTILITIES, INC (WU470)
P O. BOX 1975
SILVER SPRINGS, FL 34489-1975

LEONARD (LEN) B. TABOR
(352) 351-8800

EAST MARION SANITARY SYSTEMS, INC (SU535)
P O BOX 245
SILVER SPRINGS, FL 34489-0245

HERBERT HEIN
(352) 351-1338

EAST MARION SANITARY SYSTEMS, INC (WU536)
P. O. BOX 245
SILVER SPRINGS, FL 34489-0245

HERBERT HEIN
(352) 351-1338

FLORIDA WATER SERVICES CORPORATION (WS487)
P O. BOX 609520
ORLANDO, FL 32860-9520

FREDERICK W. LEONHARDT
(407) 598-4152

LINADALE WATER COMPANY (WU148)
P O. BOX 1593
UMATILLA, FL 32784-1593

FANNIE J. SHIELDS
(352) 669-3589

LITTLE SUMTER UTILITY COMPANY (WS762)
1100 MAIN STREET
THE VILLAGES, FL 32159-7719

H. GARY MORSE

LOCH HARBOUR UTILITIES, INC. (WS151)
P O BOX 2100
OCALA, FL 34478-2100

JOSEPH C. MCCOUN
(352) 732-2100

LIST OF WATER AND WASTEWATER UTILITIES IN MARION COUNTY

(VALID FOR 60 DAYS)
03/13/2002-05/11/2002

UTILITY NAME

MANAGER

MARION COUNTY (continued)

MARION UTILITIES, INC. (WS160) 710 N E. 30TH AVENUE OCALA, FL 34470-6460	TIM E. THOMPSON (352) 622-1171
OCALA OAKS UTILITIES, INC (WU174) % DQE, INC 400 FAIRWAY DRIVE, SUITE 400 CORAOPLIS, PA 15108-3190	RICHARD S. HERSKOVITZ (412) 393-3662
OCALA SPRINGS UTILITIES INC (WS808) 4837 SWIFT ROAD, SUITE 100 SARASOTA, FL 34231-5157	MICHAEL ACOSTA (941) 925-3088
PALM CAY UTILITIES, INC. (WU803) 10641 S.W. 80TH AVENUE OCALA, FL 34481-9146	JON M. KURTZ (352) 854-0408
QUAIL MEADOW UTILITIES, INC. (WU532) 5850 S W. STATE ROAD 200 OCALA, FL 34474	JAMES T. AHERRON (352) 237-3604
RAINBOW SPRINGS UTILITIES, L.C (WS199) P. O. BOX 1850 DUNNELLON, FL 34430-1850	LEE NOVY (352) 489-9153
RESIDENTIAL WATER SYSTEMS INC (WU370) P O BOX 5220 OCALA, FL 34478-5220	CHARLES DEMENZES (352) 622-4949
S & L UTILITIES, INC (SU327) P O BOX 4186 OCALA FL 34478-4186	CHARLES FLETCHER, JR (352) 694-2166
SILVER CITY UTILITIES (WU362) 355 PRINCES STREET KINCARDINE ONTARIO CANADA N2Z 2T7.	DAVID SMALL (519) 396-2658
STEEPLECHASE UTILITY COMPANY, INC (WS598) % FLORIDA WATER SERVICES P O BOX 609520 ORLANDO, FL 32860-9520	BRIAN BILINSKI (407) 598-4129

LIST OF WATER AND WASTEWATER UTILITIES IN MARION COUNTY

(VALID FOR 60 DAYS)
03/13/2002-05/11/2002

UTILITY NAME

MANAGER

MARION COUNTY (continued)

SUN COMMUNITIES OPERATING LIMITED PARTNERSHIP (WS746) ATTN SADDLE OAK CLUB 31700 MIDDLEBELT ROAD, SUITE 14E FARMINGTON HILLS, MI 48334-2321	LORI RUMER (941) 466-7062
SUNSHINE UTILITIES OF CENTRAL FLORIDA INC (WU239) 10230 E HIGHWAY 25 BELLEVIEW FL 34420-5531	JAMES H HODGES (352) 347-8228
TRADEWINDS UTILITIES, INC (WS350) P O BOX 5220 OCALA, FL 34478-5220	CHARLES DE MENZES (352) 622-4949
UTILITIES, INC OF FLORIDA (SU661) 200 WEATHERSFIELD AVENUE ALTAMONTE SPRINGS, FL 32714-4099	DONALD RASMUSSEN (407) 869-1919
UTILITIES, INC OF FLORIDA (WU443) 200 WEATHERSFIELD AVENUE ALTAMONTE SPRINGS FL 32714-4099	DONALD RASMUSSEN (407) 869-1919
VENTURE ASSOCIATES UTILITIES CORP (WU512) 2661 N W 60TH AVENUE OCALA, FL 34482-3933	ARTHUR F TAIT (352) 732-8662
WINDSTREAM UTILITIES COMPANY (WU385) P O BOX 4201 OCALA, FL 34478-4201	SHARON (SHARI) DLOUHY (352) 620-8290

LIST OF WATER AND WASTEWATER UTILITIES IN MARION COUNTY

(VALID FOR 60 DAYS)
03/13/2002-05/11/2002

UTILITY NAME

MANAGER

GOVERNMENTAL AGENCIES

CLERK, BOARD OF COUNTY COMMISSIONERS, MARION COUNTY
P. O BOX 1030
OCALA, FL 32678-1030

DEP CENTRAL DISTRICT
3319 MAGUIRE BLVD , SUITE 232
ORLANDO, FL 32803-3767

DEP SOUTHWEST DISTRICT
3804 COCONUT PALM DRIVE
TAMPA, FL 33618-8318

MAYOR, CITY OF BELLEVIEW
5343 S.E. ABSHIER BLVD.
BELLEVIEW, FL 34420-3904

MAYOR, CITY OF DUNNELLON
20750 RIVER DRIVE
DUNNELLON, FL 34431-6744

MAYOR, CITY OF OCALA
P O. BOX 1270
OCALA FL 32678-1270

MAYOR, TOWN OF REDDICK
P O BOX 203
REDDICK FL 32686-0203

ROBERT TITTERINGTON, MARION COUNTY
601 S.E 25TH AVENUE
OCALA FL 34471

S W FLORIDA WATER MANAGEMENT DISTRICT
2379 BROAD STREET
BROOKSVILLE, FL 34609-6899

LIST OF WATER AND WASTEWATER UTILITIES IN MARION COUNTY

(VALID FOR 60 DAYS)
03/13/2002-05/11/2002

UTILITY NAME

MANAGER

ST JOHNS RIVER WTR MANAGEMENT DISTRICT
P.O. BOX 1429
PALATKA, FL 32178-1429

TOWN CLERK/MANAGER, TOWN OF MCINTOSH
P. O BOX 165
MCINTOSH, FL 32664-0165

WITHLACOOCHEE REG PLANNING COUNCIL
1241 S.W. 10TH STREET
OCALA, FL 34474-2798

STATE OFFICIALS

STATE OF FLORIDA PUBLIC COUNSEL
C/O THE HOUSE OF REPRESENTATIVES
THE CAPITOL
TALLAHASSEE, FL 32399-1300

DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES
FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

(13) "Wastewater" means the combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution, together with any groundwater, surface runoff, or leachate that may be present.

History.--s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 2, 26, 27, ch. 89-353; s. 4, ch. 91-429; s. 3, ch. 99-319.

► 367.022 Exemptions.--The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

- (1) The sale, distribution, or furnishing of bottled water.
- (2) Systems owned, operated, managed, or controlled by governmental authorities, including water or wastewater facilities operated by private firms under water or wastewater facility privatization contracts as defined in s. 153.91, and nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.
- (3) Manufacturers providing service solely in connection with their operations.
- (4) Public lodging establishments providing service solely in connection with service to their guests.
- (5) Landlords providing service to their tenants without specific compensation for the service.
- (6) Systems with the capacity or proposed capacity to serve 100 or fewer persons.
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.
- (8) 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.
- (9) Wastewater treatment plants operated exclusively for disposing of industrial wastewater.
- (10) The sale of bulk supplies of desalinated water to a governmental authority.
- (11) Any person providing only nonpotable water for irrigation purposes in a geographic area where potable water service is available from a governmentally or privately owned utility or a private well.
- (12) The sale for resale of bulk supplies of water or the sale or resale of wastewater services to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.

History.--s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 3, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 3, 26, 27, ch. 89-353; s. 1, ch. 90-166; s. 4, ch. 91-429; s. 1, ch. 96-107; s. 10, ch. 96-202; s. 24, ch. 97-236; s. 4, ch. 99-319.

367.031 Original certificate.--Each utility subject to the jurisdiction of the commission must obtain from the commission a certificate of authorization to provide water or wastewater service. A utility must obtain a certificate of authorization from the commission prior to being issued a permit by the Department of Environmental Protection for the construction of a new water or wastewater facility or prior to being issued a consumptive use or drilling permit by a water management district. The commission shall grant or deny an application for a certificate of authorization within 90 days after the

SECTION 367.071, FLORIDA STATUTES
SALE, ASSIGNMENT, OR TRANSFER OF CERTIFICATE OF
AUTHORIZATION, FACILITIES, OR CONTROL

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility.

(2) The commission may impose a penalty pursuant to s. 367.161 when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. 367.145. No fee is required to be paid by a governmental authority that is the buyer, assignee, or transferee.

(4) An application shall be disposed of as provided in s. 367.045, except that:

(a) The sale of facilities, in whole or part, to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission with respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the system previously dedicated to public use which would impair the ability to provide service, without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction.

History.— s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 9, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 7, 15, ch. 82-25; ss. 6, 26, 27, ch. 89-353; s. 2, ch. 90-166; s. 4, ch. 91-429.

CHAPTER 25-30.037, F.A.C.
APPLICATION FOR AUTHORITY TO TRANSFER

(1) This rule applies to any application for the transfer of an existing water or wastewater system, regardless of whether service is currently being provided. This rule does not apply where the transfer is of an exempt or non-jurisdictional system and will result in the system continuing to be exempt from or not subject to Commission jurisdiction. The application for transfer may result in the transfer of the seller's existing certificate, amendment of the buyer's certificate or granting an initial certificate to the buyer.

(2) Each application for transfer of certificate of authorization, facilities or any portion thereof, to a non-governmental entity shall include the following information:

- (a) the complete name and address of the seller;
- (b) the complete name and address of the buyer;
- (c) the nature of the buyer's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, or association;
- (d) the name(s) and address(es) of all of the buyer's corporate officers, directors, partners or any other person(s) who will own an interest in the utility;
- (e) the date and state of incorporation or organization of the buyer;
- (f) the names and locations of any other water or wastewater utilities owned by the buyer;
- (g) a copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:
 - 1. purchase price and terms of payment;
 - 2. a list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of non-regulated operations or entities; and
 - 3. a description of all consideration between the

parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.

- (h) the contract for sale shall also provide for the disposition, where applicable, of the following:
 - 1. customer deposits and interest thereon;
 - 2. any guaranteed revenue contracts;
 - 3. developer agreements;
 - 4. customer advances;
 - 5. debt of the utility;
 - 6. leases;
- (i) a statement describing the financing of the purchase;
- (j) a statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters;
- (k) a list of all entities upon which the applicant is relying to provide funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility;
- (l) the proposed net book value of the system as of the date of the proposed transfer. If rate base has been established by this Commission, state the order number and date issued and identify all adjustments made to update this rate base to the date of transfer;
- (m) a statement setting out the reasons for the inclusion of an acquisition adjustment, if one is requested;
- (n) if the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records;

- (o) a statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns;
- (p) a statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection (DEP) or, if the system is in need of repair or improvement, has any outstanding Notice of Violation of any standard set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violation, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost to make them;
- (q) evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative;
- (r) a statement regarding the disposition of any outstanding regulatory assessment fees, fines, or refunds owed;
- (s) the original and two copies of sample tariff sheets reflecting the change in ownership; and
- (t) the utility's current certificate(s), or if not available, provide an explanation of the steps the applicant took to obtain the certificate(s).

Specific Authority: 367.121, F.S.

Law Implemented: 367.071 F.S.

History: New 1/27/91, Amended 11/30/93.

CHAPTER 25-30.020, F.A.C.

FEEES REQUIRED TO BE PAID BY WATER AND WASTEWATER UTILITIES

(1) When a utility files any application for a certificate of authorization pursuant to sections 367.045, 367.071 and 367.171, Florida Statutes, or files any request for a rate change pursuant to sections 367.081, 367.0814 and 367.0822, Florida Statutes (except an index or pass-through), or files for authorization to collect or change service availability charges pursuant to section 367.101, Florida Statutes, the utility shall remit a fee to the Commission's Director of Records and Reporting. A separate fee shall apply for water service and wastewater service. A separate fee shall also apply for each section listed above. For purposes of this rule, capacity is determined by combining the capacities of all systems included in the application. For purposes of this rule, an equivalent residential connection (ERC) is 350 gallons per day (gpd) for water service and 280 gallons per day (gpd) for wastewater service.

(2) The amount of the fee to be filed pursuant to subsection (1) of this rule shall be as follows:

(a) For an original certificate application filed pursuant to Section 367.045, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing or proposed capacity to serve up to 500 ERCs, \$750;
2. For utilities with the existing or proposed capacity to serve from 501 to 2,000 ERCs, \$1,500;
3. For utilities with the existing or proposed capacity to serve from 2,001 to 4,000 ERCs, \$2,250;
4. For utilities with the existing or proposed capacity to serve more than 4,000 ERCs, \$3,000.

(b) For an application for extension or deletion of territory filed pursuant to Section 367.045, Florida Statutes, the amount of the fee shall be as follows:

1. For applications in which the area to be extended or deleted has the proposed capacity to serve up to 100 ERCs, \$100;
2. For applications in which the area to be extended or deleted has the proposed capacity to serve from 101 to 200 ERCs, \$200;
3. For applications in which the area to be extended or deleted has the proposed capacity to serve from 201 to 500 ERCs, \$500;
4. For applications in which the area to be extended or deleted has the proposed capacity to serve from 501 to

- 2,000 ERCs, \$1,000;
5. For applications in which the area to be extended or deleted has the proposed capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
 6. For applications in which the area to be extended or deleted has the proposed capacity to serve more than 4,000 ERCs, \$2,250.

(c) For an application for transfer or change in majority organizational control filed pursuant to Section 367.071, Florida Statutes, the amount of the fee shall be as follows:

1. For applications in which the utility to be transferred has the capacity to serve up to 500 ERCs, \$750;
2. For applications in which the utility to be transferred has the capacity to serve from 501 to 2,000 ERCs, \$1,500;
3. For applications in which the utility to be transferred has the capacity to serve from 2,001 to 4,000 ERCs, \$2,250;
4. For applications in which the utility to be transferred has the capacity to serve more than 4,000 ERCs, \$3,000.

(d) For an application for a grandfather certificate filed pursuant to Section 367.171, Florida Statutes, the amount of the fee shall be as follows:

1. For applications in which the utility has the capacity to serve up to 100 ERCs, \$100;
2. For applications in which the utility has the capacity to serve from 101 to 200 ERCs, \$200;
3. For applications in which the utility has the capacity to serve from 201 to 500 ERCs, \$500;
4. For applications in which the utility has the capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For applications in which the utility has the capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For applications in which the utility has the capacity to serve more than 4,000 ERCs, \$2,250.

(e) For file and suspend rate cases filed pursuant to Section 367.081, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 500 ERCs, \$1,000;
2. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, \$2,000;
3. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, \$3,500;
4. For utilities with the existing capacity to serve more than 4,000 ERCs, \$4,500.

(f) For staff-assisted rate cases filed pursuant to Section

367.0814, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, \$200;
2. For utilities with the existing capacity to serve from 101 to 200 ERCs, \$500;
3. For utilities with the existing capacity to serve more than 200 ERCs, \$1,000.

(g) For an application for a limited proceeding pursuant to Section 367.0822, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, \$100;
2. For utilities with the existing capacity to serve from 101 to 200 ERCs, \$200;
3. For utilities with the existing capacity to serve from 201 to 500 ERCs, \$500;
4. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For utilities with the existing capacity to serve more than 4,000 ERCs, \$2,250.

(h) For an application for approval of charges or conditions for service availability filed pursuant to section 367.101, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with existing and proposed capacity to serve up to 100 ERCs, \$100;
2. For utilities with existing and proposed capacity to serve from 101 to 200 ERCs, \$200;
3. For utilities with existing and proposed capacity to serve from 201 to 500 ERCs, \$500;
4. For utilities with existing and proposed capacity to serve from 501 to 2,000 ERCs, \$1,000;
5. For utilities with existing and proposed capacity to serve from 2,001 to 4,000 ERCs, \$1,750;
6. For utilities with existing and proposed capacity to serve more than 4,000 ERCs, \$2,250.

Specific Authority: 350.127(2) and 367.121(1), F.S.
Law Implemented: 367.045(1)(d), (2)(e), 367.071(3), 367.081(5), 367.0822(2), 367.101(2), 367.145 and 367.171(2)(b), F.S. History: New 10/29/80, Formerly 25-10.11, Transferred from 25-10.011 and Amended 11/9/86, 11/30/93.

CHAPTER 25-30.030, F.A.C.
NOTICE OF APPLICATION

(1) When a utility applies for a certificate of authorization, an extension or deletion of its service area, or a sale, assignment or transfer of its certificate of authorization, facilities or any portion thereof or majority organizational control, it shall provide notice of its application in the manner and to the entities described in this section.

(2) Before providing notice in accordance with this section, a utility shall obtain from the Commission a list of the names and addresses of the municipalities, the county or counties, the regional planning council, the Office of Public Counsel, the Commission's Director of Records and Reporting, the appropriate regional office of the Department of Environmental Protection, the appropriate water management district, and privately-owned water and wastewater utilities that hold a certificate granted by the Public Service Commission and that are located within the county in which the utility or the territory proposed to be served is located. In addition, if any portion of the proposed territory is within one mile of a county boundary, the utility shall obtain from the Commission a list of the names and addresses of the privately-owned utilities located in the bordering counties and holding a certificate granted by the Commission. The utility's request for the list shall include a complete legal description of the territory to be requested in the application that includes:

(a) a reference to township(s), range(s), land section(s) and county; and

(b) a complete and accurate description of the territory served or proposed to be served in one of the following formats. The description may reference interstates, state roads, and major bodies of water. The description shall not rely on references to government lots, local streets, recorded plats or lots, tracts, or other recorded instruments.

1. Sections: If the territory includes complete sections, the description shall only include the township, range, and section reference. If the territory includes partial sections, the description shall either identify the subsections included or excluded.
2. Metes and bounds: A point of beginning which is referenced from either a section corner or a subsection corner, such as a quarter corner. The perimeter shall be described by traversing the proposed territory and

closing at the point of beginning. The description shall include all bearings and distances necessary to provide a continuous description.

(3) The notice shall be appropriately styled:

(a) Notice of Application for an Initial Certificate of Authorization for Water, Wastewater, or Water and Wastewater Certificate;

(b) Notice of Application for an Extension of Service Area;

(c) Notice of Application for Deletion of Service Area;

(d) Notice of Application for a Transfer of Water, Wastewater, or Water and Wastewater Certificate(s); or

(e) Notice of Application for a Transfer of Majority Organizational Control.

(4) The notice shall include the following:

(a) the date the notice is given;

(b) the name and address of the applicant;

(c) a description, using township, range and section references, of the territory proposed to be either served, added, deleted, or transferred; and

(d) a statement that any objections to the application must be filed with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, no later than 30 days after the last date that the notice was mailed or published, whichever is later.

(5) Within 7 days of filing its application, the utility shall provide a copy of the notice by regular mail to:

(a) the governing body of the county in which the utility system or the territory proposed to be served is located;

(b) the governing body of any municipality contained on the list obtained pursuant to (2) above;

(c) the regional planning council designated by the Clean Water Act, 33 U.S.C. 1288(2);

(d) all water or wastewater utilities contained on the list(s) obtained pursuant to (2) above;

(e) the office of Public Counsel;

(f) the Commission's Director of Records and Reporting;

(g) the appropriate regional office of the Department of Environmental Protection; and

(h) the appropriate Water Management District.

(6) No sooner than 21 days before the application is filed and no later than 7 days after the application is filed, the utility shall also provide a copy of the Notice, by regular mail or personal service, to each customer, of the system to be certificated, transferred, acquired, or deleted.

(7) The Notice shall be published once in a newspaper of general circulation in the territory proposed to be served, added, deleted, or transferred. The publication shall be within 7 days of filing the application.

(8) A copy of the notice(s) and list of the entities receiving notice pursuant to this rule shall accompany the affidavit required by sections 367.045(1) (e) and (2) (f), Florida Statutes. The affidavit shall be filed no later than 15 days after filing the application.

(9) This rule does not apply to applications for grandfather certificates filed under section 367.171, Florida Statutes, or to applications for transfers to governmental authorities filed under Section 367.071, Florida Statutes, or to name changes.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.031, 367.045, 367.071, F.S.

History: New 4/5/81, formerly 25-10.061, Transferred from 25-10.0061 and Amended 11/9/86, Amended 1/27/91, Amended 11/30/93.