

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of facilities of Spring Creek Village, Ltd. in Lee County to Bonita Springs Utilities, Inc., and for cancellation of Certificate No. 271-W. | DOCKET NO. 050013-WU  
ORDER NO. PSC-05-0429-FOF-WU  
ISSUED: April 20, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON  
LISA POLAK EDGAR

ORDER APPROVING TRANSFER OF WATER FACILITIES  
AND CANCELLATION OF CERTIFICATE

BY THE COMMISSION:

Spring Creek Village, Ltd. (Spring Creek or utility) is a Class C utility providing service to approximately 309 water customers in Lee County. The utility was organized in October 1970. The South Florida Water Management District does not consider this area a water resource caution area. Spring Creek was granted Certificate Nos. 271-W and 213-S in 1976.<sup>1</sup> In 1994, Spring Creek discontinued operation of its wastewater treatment facilities and interconnected with Bonita Springs Utilities, Inc. (BSU). BSU provides bulk wastewater service to Spring Creek, which resells the wastewater service at a rate that does not exceed the purchase price of that service. In Order No. PSC-94-1003-FOF-SU, the Commission granted Spring Creek an exemption for the wastewater system pursuant to Section 367.022(8), Florida Statutes, and cancelled the wastewater certificate.<sup>2</sup> The utility has had one staff assisted rate case.<sup>3</sup> Spring Creek's 2004 annual report indicates gross revenue of \$58,292 and a net loss of \$6,749.

On January 5, 2005, Spring Creek filed an application for transfer of the utility's water facilities to BSU and cancellation of Certificate No. 271-W. On December 8, 2004, Spring Creek and BSU entered into an agreement to transfer the utility to BSU. The closing is scheduled to take place on or before November 1, 2005, and is contingent upon our approval.

<sup>1</sup> In Order No. 7436, issued September 20, 1976, in Docket No. 760388-W, In Re: Application of Spring Creek Village, Ltd. for certificates to operate an existing water and sewer system in Lee County, Florida, pursuant to section 367.171, Florida Statutes.

<sup>2</sup> Issued August 18, 1994, in Docket No. 940192-SU, In Re: Request for exemption from Florida Public Service Commission regulation for provision of sewer service and cancellation of Certificate No. 213-S in Lee County by Spring Creek Village Utilities, Ltd.

<sup>3</sup> Order No. PSC-97-0931-FOF-WU, issued August 5, 1997, Docket No. 961447-WU, In Re: Application for Staff-Assisted Rate case in Lee county by Spring Creek Village, Ltd.

DOCUMENT NUMBER DATE

03835 APR 20 05

FPSC-COMMISSION CLERK

We have jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes, and Rule 25-30.037, Florida Administrative Code.

The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and rules concerning an application for transfer. Pursuant to Rule 25-30.030, Florida Administrative Code, the application contains proof of compliance with the noticing provisions. No objections to the notice of application have been received and the time for filing such has expired.

A copy of the purchase agreement is included in the application. There are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, or leases that must be disposed of in relation to the transfer. A copy of an unrecorded warranty deed was provided in the application, transferring the land and facilities from Spring Creek to BSU. There is no financing associated with the conveyance of Spring Creek's facilities to BSU. BSU agreed to pay for renovating the utility system; in exchange, Spring Creek will transfer the facilities and land to BSU.

On September 2, 2004, Spring Creek and the Florida Department of Health, on behalf of the Florida Department of Environmental Protection (DEP), entered into consent order No. 04-0057-SFO. Spring Creek agreed to comply with the consent order and implement corrective actions. However, due to the costs of complying with the consent order, Spring Creek decided it is in the best interest of Spring Creek and its customers to secure an alternative water source. The utility determined that the agreement with BSU is the most efficient and cost effective method to address the consent order.

BSU is a member owned, nonprofit water and wastewater utility providing service to approximately 27,000 water and 22,000 wastewater equivalent residential connections (ERCs). It is exempt from Commission regulation pursuant to Section 367.022(7), Florida Statutes.<sup>4</sup> The Spring Creek customers will become members of the BSU association. Based upon BSU's experience, it appears to be qualified to successfully provide the Spring Creek residents safe and reliable water service.

The application states that all regulatory assessment fees (RAFs) have been paid by Spring Creek and no refunds or fines are outstanding except for fines that may have been assessed pursuant to the Consent Order. Spring Creek filed its 2004 annual report and paid its 2004 RAFs. Spring Creek will be responsible for filing a regulatory assessment fee form with the corresponding amount of RAFs for January 1, 2005, through the date of closing.

Based on the above, we find that the transfer of Spring Creek's water facilities to BSU is in the public interest and shall be approved. Certificate No. 271-W shall be cancelled administratively upon receipt of the executed agreement confirming the actual date of closing, which is anticipated to be November 1, 2005. Spring Creek will be responsible for filing a

---

<sup>4</sup> Docket No. 70337-W (Order No. 5223, issued September 21, 1971), In Re: Cancellation of certificates issued to certain non-profit corporations, associations, and cooperatives.

ORDER NO. PSC-05-0429-FOF-WU

DOCKET NO. 050013-WU

PAGE 3

regulatory assessment fee (RAF) form with the corresponding amount of RAFs due for January 1, 2005, through the date of closing.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Spring Creek Village, Ltd.'s water facilities to Bonita Springs Utilities, Inc. is approved. It is further


ORDERED that Certificate No. 271-W be cancelled administratively upon receipt of the executed agreement confirming the actual date of closing. It is further

ORDERED that this docket shall be closed administratively upon receipt of the executed purchase agreement confirming the actual date of closing.

By ORDER of the Florida Public Service Commission this 20th day of April, 2005.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By:

  
\_\_\_\_\_  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

JAR

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 Director, Division of the Commission Clerk and Administrative Services, 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 Director, Division of the Commission Clerk and Administrative Services 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.