

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of) DOCKET NO. 891121-WU
ownership of BRENDENWOOD WATER SYSTEM)
in Lake County from Robert S. Hanks,) ORDER NO. 22425
Jerry L. Rogers and Daniel H. Judy to)
Paul E. Day) ISSUED: 1-17-90
_____)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER

ORDER APPROVING TRANSFER OF
MAJORITY ORGANIZATIONAL CONTROL

BY THE COMMISSION:

BACKGROUND

Brendenwood Water System (Brendenwood or utility) is a Class C utility which provides water service to approximately forty-seven residences in the Brendenwood Subdivision, in Lake County, Florida. According to its income statement, during 1988, Brendenwood realized gross revenues of \$10,275 and an operating loss of \$277.

Originally, Brendenwood was a division of Brentwood Development, a partnership composed of Paul Day, Bob Hanks, Jerry Rogers, and Daniel Judy. On July 6, 1988, Paul Day acquired all of the other partners' interests in the utility for \$11,000. On September 7, 1989, this Commission received Mr. Day's application for approval of the transfer of majority organizational control.

By letter dated September 18, 1989, the Staff of this Commission (Staff) informed Mr. Day that there were numerous deficiencies in his application. In addition, Staff informed Mr. Day that he was in violation of Section 367.071(1), Florida Statutes, and Rule 25-30.040, Florida Administrative Code, both of which require prior Commission approval for transfers of majority organizational control. Mr. Day promptly corrected the deficiencies in his application and submitted a written explanation for his failure to obtain prior Commission approval of the transfer. According to Mr. Day, he thought that he only

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needed the approval of the Department of Environmental Regulation (DER). In support of his lack of familiarity with our requirements, Mr. Day also filed the transfer application that he had submitted to DER.

Since it appears that he was genuinely unaware of the requirement to obtain prior Commission approval, and due to the size of this utility, we do not believe that it would be appropriate to require Mr. Day to show cause why he should not be fined for his failure.

APPLICATION FOR TRANSFER

The application is in compliance with Section 367.071, Florida Statutes, and Rules 25-30.030 through 25-30.040, Florida Administrative Code. In particular, the notarized application contains:

- a) A check in the amount of \$150 which, under Section 367.141, Florida Statutes, equates to the correct filing fee;
- b) A legal description of the service territory, as required by Rule 25-30.035(i), Florida Administrative Code. The legal description is appended to this Order as Attachment A;
- c) Proof of notice to all customers of record pursuant to Rule 25-30.030(g), Florida Administrative Code;
- d) Proof of notice to all interested governmental and regulatory agencies, all utilities within a four-mile radius of the territory to be served, and proof of advertisement in a newspaper of general circulation in Lake county, as prescribed by Rule 25-30.030, Florida Administrative Code; and,
- e) Evidence that the utility owns the land upon which the treatment facilities are located, as required by Rule 25-30.035(3)(f), Florida Administrative Code.

No objections to the transfer have been received and the time for filing such has expired.

According to the application, Mr. Day has been operating Brendenwood since 1981 and, as such, has gained the technical

experience necessary to operate the utility. Since Mr. Day is now the sole proprietor of this utility, and because this utility serves the subdivision where Mr. Day lives, we believe that he has a vested interest in seeing that the utility provides quality service.

In addition to the above, along with his application, Mr. Day filed a personal financial statement of himself and his wife. According to this document, Paul and Marian Day have a combined net worth of \$332,149.

Since it appears that Mr. Day has the technical and financial ability to continue to provide quality service, we believe that the transfer is in the public interest. It is, therefore, approved.

RATE BASE

Brendenwood's water system is totally contributed. There is, therefore, no rate base. However, even if Brendenwood had a rate base, the fact that it is now owned by one person instead of four would not have any affect on the utility's rate base. We, therefore, decline to establish a rate base for this system as of the date of the transfer.

RATES AND CHARGES

Under Rule 25-9.044(1), Florida Administrative Code, the utility must continue to charge the existing rates, charges, and apply the existing regulations and classifications, absent a finding by this Commission to the contrary. The utility does not have any approved service availability charges, miscellaneous service charges or customer deposits. The current rates for water service are as follows:

WATER

Residential Service

Base Facility Charge

All meter sizes \$5.09

Gallonge Charge

per 1,000 gallons \$1.00

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Finally, Brendenwood shall file tariff pages, revised to reflect the change in ownership, no later than thirty days from the date of this Order.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of majority organizational control of Brendenwood Water System in Lake County from Robert S. Hanks, Jerry L. Rogers and Daniel H. Judy to Paul E. Day is hereby approved. It is further

ORDERED that the existing rates approved by this Commission for Brendenwood Water System shall remain in effect. It is further

ORDERED that Brendenwood Water System shall file tariff pages which have been revised to reflect the change in ownership no later than thirty (30) days from the date of this Order. It is further

ORDERED that Docket No. 891121-WU be and is hereby closed.

By ORDER of the Florida Public Service Commission this 17th day of JANUARY, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

by: Kay Hymn
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.