

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 921027-WS
Transfer of Majority) ORDER NO. PSC-93-0016-FOF-WS
Organizational Control of) ISSUED: 01/05/93
Parent, Sandy Creek)
Properties, Inc., From Capital)
Bank to Warehouse Associates)
of Texas)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER APPROVING TRANSFER OF
MAJORITY ORGANIZATIONAL CONTROL

BY THE COMMISSION:

BACKGROUND

On October 6, 1992, an application was filed with the Commission requesting approval of the transfer of majority organizational control of Sandy Creek Utilities, Inc. (Sandy Creek or utility) from Sandy Creek Properties, Inc., to Warehouse Associates of Texas. Sandy Creek Properties, Inc., is a Florida corporation responsible for the development of the territory served by Sandy Creek. On or about August 29, 1991, Capital Bank, the parent/shareholder of Sandy Creek Properties, Inc., assigned all shares held to Warehouse Associates of Texas. Since the transfer has already occurred, the utility is in violation of Section 367.071(1), Florida Statutes. However, we do not find it appropriate to initiate a show cause proceeding.

The sale/assignment of the stock of Sandy Creek's parent, Sandy Creek Properties, Inc., from Capital Bank to Warehouse Associates of Texas will not alter the utility's asset and liability accounts. Accordingly, this transfer of stock ownership will not change the rate base balance. Therefore, we are not establishing rate base for this utility in this Docket.

APPLICATION

Except as previously discussed in the background, the application is in compliance with Section 367.071, Florida

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FPSC-RECORDS/REPORTING

Statutes, and other pertinent statutes and administrative rules. The application contains a filing fee in the amount of \$300, in accordance with Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.037(1)(o), Florida Administrative Code. Ownership of the land, in terms of the utility, did not change with this transfer of majority organizational control.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system for which majority organizational control is being transferred. No objections to the notice of application have been received and the time for filing such has expired.

A description of the territory served by the utility is contained in the approved tariffs and in Order No. PSC-92-0241-FOF-WS, issued April 23, 1992.

The transfer of ownership of the parent organization does not create any significant change in the technical or financial ability of the utility to continue to provide adequate service to its service area. Neither Capital Bank nor Warehouse Associates of Texas would be expected to possess or furnish any technical assistance to the utility. The utility's technical ability that existed prior to the transfer of majority organizational control remains unaffected by this transfer. Necessary plant improvements are being carried out and we have been given assurances that such improvements will continue without interruption. An inquiry with the Department of Environmental Regulation representatives has confirmed this.

Sandy Creek has provided a copy of the exchange of securities agreement and a statement that it will fulfill the commitments, obligations and representations of the transferor. In addition, all of the books and records of the utility remain with Sandy Creek and are unaffected by the transfer.

Based on the above information, we find that the transfer of majority organizational control of Sandy Creek Properties, Inc., the parent of Sandy Creek Utilities, Inc., from Capital Bank to Warehouse Associates of Texas is in the public interest and it is approved.

RATES AND CHARGES

The utility's approved rates and charges became effective on April 1, 1991, and December 6, 1991, pursuant to Order No. 24170 issued February 27, 1991, and Order No. 25373 issued November 21, 1991, respectively.

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission in a subsequent proceeding.

Sandy Creek has not requested a change in the rates and charges of the utility and we see no reason to change them at this time. Accordingly, the utility shall continue operations under the existing tariff and apply the approved rates and charges. The utility has filed a revised tariff reflecting the changes as a result of the transfer of majority organizational control. The tariff filing shall be effective for service provided or connections made on or after the stamped approval date.

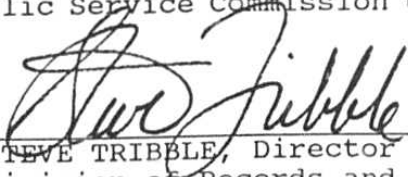
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of majority organizational control of Sandy Creek Properties, Inc., the parent of Sandy Creek Utilities, Inc., from Capital Bank to Warehouse Associates of Texas is hereby approved. It is further

ORDERED that Sandy Creek Utilities, Inc., 1732 Highway 2297, Panama City, Florida, shall continue to charge the rates and charges approved in its tariff until the Commission authorizes a change. The tariff sheets shall be effective for service provided or connections made on or after the approval date on the tariff sheets. It is further

ORDERED that Docket No. 921027-WS is hereby closed.

By ORDER of the Florida Public Service Commission this 5th day of January, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
LAJ

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.