

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer ) DOCKET NO. 941037-WS  
of facilities and control of ) ORDER NO. PSC-95-1505-FOF-WS  
Certificates Nos. 536-W and 423- ) ISSUED: December 5, 1995  
S issued to C & H Utilities, )  
Inc. in Highlands County from )  
Howard E. and Coleen C. Short to )  
Wendell L. and Mary Jane )  
Faircloth. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER APPROVING TRANSFER OF  
CERTIFICATES NOS. 536-W AND 423-S

BY THE COMMISSION:

BACKGROUND

C&H Utilities, Inc. (C&H or Utility), a Class C utility, was granted wastewater Certificate No. 423-S by Order No. 17538, issued May 11, 1987, and began serving approximately 45 wastewater customers within the Valencia Acres Subdivision in Highlands County. On May 16, 1991, C&H filed an application with this Commission for a certificate to provide water service to the Hickory Ridge subdivision in Highlands County. We issued Order No. 25201 on November 11, 1991, granting Certificate No. 536-W and allowing the utility to provide water service. According to its 1994 annual report, the utility's water and wastewater operations earned gross revenues of \$17,550, net operating revenues of \$1,252 and net income of \$245. The utility serves 45 residential water customers and 84 residential wastewater customers.

On October 3, 1994, Wendell L. and Mary Jane Faircloth (purchaser) submitted the application for transfer of the utility and certificates from the former owners, Howard E. and Colleen C. Short, to the Faircloths. A closing date for this transaction has not been declared at this time.

DOCUMENT NUMBER-DATE

12128 DEC-5 95

APPLICATION

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer of certificates and utility assets. The application contains a check in the amount of \$1,500, which is the correct filing fee pursuant to 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.

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 to be 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 appended to this Order as Attachment A. The Florida Department of Environmental Protection has verified that there are no existing violations on behalf of the utility.

In evaluating whether this transfer is in the public interest, we questioned the various options available to the owners of C&H Utilities. The Valencia Acres wastewater system is surrounded by the municipal system owned and operated by the City of Avon Park. Because the system is small, we questioned whether it might be more appropriate for the City of Avon Park to acquire it. Further investigation revealed that the City of Avon Park had shown interest in acquiring the Valencia Acres wastewater system. However, a representative for the City stated that the purchase price of the system was too high for the City.

In terms of technical and financial ability to operate the systems, the purchaser has several years experience as a utility maintenance manager and is currently operating over two dozen water systems in and around Highlands County. It appears that the purchaser has the knowledge and expertise necessary to operate and maintain C&H Utilities.

The application contains a copy of the contract for sale which includes the purchase price, terms of payment and a list of the assets purchased and the liabilities assumed. The purchaser has indicated that there are no developer agreements, leases, guaranteed revenue contracts, customer advances, customer deposits and/or refunds due. The purchaser has provided a statement in the

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application that he will fulfill the commitments, obligations and representations of C&H Utilities. Also, the purchaser will not assume any debt on behalf of the utility.

Based on the foregoing, we find that the transfer of Water Certificate No. 536-W and Wastewater Certificate No. 423-S from Howard E. and Colleen C. Short to Wendell L. and Mary Jane Faircloth is in the public interest and is hereby approved. Howard E. and Colleen C. Short shall return Certificates Nos. 536-W and 423-S to this Commission within 20 days of the date of this Order for entry reflecting the change in ownership.

#### RATE BASE

The net book value of the system being transferred cannot be determined at this time. The utility has been transferred twice previously, and due to lack of documentation and proper record keeping, we have been unable to set rate base. The utility was transferred to C&H from Highland Utilities in Docket No. 861567-SU. By Order No. 17538, issued May 11, 1987, we deferred the establishment of rate base until C&H files a rate case.

Normally, rate base is established in a transfer to evaluate whether an acquisition adjustment is an issue. In this case, the purchaser did not request an acquisition adjustment. We note that Chapter 367.071 (5), Florida Statutes, allows, but does not require, the Commission to establish the rate base for a utility or its facilities or property when the Commission approves a sale, assignment or transfer. Rate base was not established in previous transfers and we do not believe it is necessary to establish it in this proceeding in order to evaluate and conclude this transfer. The utility has not maintained its records in a manner to support the establishment of rate base. Accordingly, we find that rate base should be set in a subsequent rate case. Also, since we are not establishing rate base or net book value, we cannot establish whether an acquisition adjustment is necessary.

#### RATES AND CHARGES

The utility's approved rates and charges were effective November 15, 1991 pursuant to Order No. 25201, issued November 11, 1991. The rates have been most recently indexed in 1994.

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classifications and regulations of the former operating company unless authorized to change by this Commission. The purchaser has not requested a change in the rates, but will likely file for a staff assisted rate

case. C&H does not have initial deposits or miscellaneous service charges. The existing rates and charges that apply are listed as follows:

RESIDENTIAL SERVICE

WATER (min. charge)	\$10.36	0 - 4,500 gallons
	\$ 1.04 per 1,000 gallons	over 4,500 gallons
WASTEWATER	\$11.35	flat rate

SYSTEM CAPACITY CHARGE

\$500.00 per ERC

Accordingly, we find that the utility shall continue operations under the existing tariff and apply the approved rates and charges. The utility has filed a tariff reflecting the transfer of ownership. Our staff will approve the tariff filing effective for service provided or connections made on or after the stamped approval date on the tariff sheets. Since no further action is required, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificates Nos. 536-W and 423-S from Howard E. and Colleen C. Short, P.O. Box 1088, Sebring, Florida 33871, to Wendell L. and Mary Jane Faircloth, P.O. Box 1088, Sebring, Florida 33871, is hereby approved. Howard E. and Colleen C. Short shall return Certificates Nos. 536-W and 423-S to this Commission within 20 days of the date of this Order for entry reflecting the change in ownership. It is further


ORDERED that Wendell L. and Mary Jane Faircloth shall charge the rates and charges approved in C&H Utilities, Inc.'s tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the tariff filed in this docket reflecting the change in ownership shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that this docket is hereby closed.

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By ORDER of the Florida Public Service Commission, this 5th  
day of December, 1995.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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, 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 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.

ATTACHMENT A

C & H Utilities, Inc.

TERRITORY DESCRIPTION

The following described lands located in portions of Highlands County, Florida

**WATER**

Township 35 South, Range 29 East, Section 13;  
the Southwest 1/4 of the Southeast 1/4 of Section 13, and the  
Southeast 1/4 of the Southeast 1/4, less that part lying North and  
East of the Seaboard Coast Line Railroad Right-of-Way and the South  
1/2 of the Southwest 1/4 of the Southeast 1/4.

**WASTEWATER**

Township 35 South, Range 28 East, Section 21;  
the Northwest 1/4 of the Southeast 1/4 of Section 21 known as  
Valencia Acres.