#### BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of Certificate | DOCKET NO. 041461-WU No. 153-W in Pasco County from Floralino Properties, Inc. to Colonial Manor Utility Company.

ORDER NO. PSC-05-0422-PAA-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 CERTIFICATE NO.153-W IN PASCO COUNTY **AND** NOTICE OF PROPOSED AGENCY ACTION ORDER ESTABLISHING RATE BASE, SETTING NO ACQUISITION ADJUSTMENT, AND ELIMINATING SERVICE AVAILABILITY CHARGES

#### BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein establishing rate base, setting no acquisition adjustment, and eliminating service availability charges is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

#### Introduction

On December 30, 2004, we received an application requesting the transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. (Floralino or seller) to Colonial Manor Utility Company (Colonial or buyer). Floralino is a Class C water utility located in the Northern Tampa Bay Water-Use Caution Area of the Southwest Florida Water Management District (SWFWMD). Wastewater service is provided by septic service. The Commission granted the utility Certificate No. 153-W in 1973. The only other certification action the Commission has taken regarding this utility is an investigation that resulted in the deletion of the

COCUMENT NUMBER-DATE

<sup>&</sup>lt;sup>1</sup> Order No. 5846, issued September 11, 1973, in Docket No. 73135-W, In Re: Application of Floralino Properties, Inc., for a certificate to operate an existing water system in Pasco County, Florida.

service area for Ellis & Company, Ltd. (Holiday Mall) in 2001.<sup>2</sup> Floralino currently serves approximately 701 residential and 8 general service customers. Floralino's 2003 annual report indicated annual revenues of \$127,707, with a net operating loss of \$34,778. On October 1, 2003, Floralino entered into an Asset Purchase Agreement with Colonial which closed on November 1, 2003, subject to our approval of the transfer. We have jurisdiction to address the transfer of certificate, rate base for transfer purposes, acquisition adjustment, and rates and charges, pursuant to Section 367.071, Florida Statutes.

#### The transfer of Certificate No. 153-W

We find that the transfer of Certificate No. 153-W is in the public interest and should be approved effective April 5, 2005. The territory to be transferred is described in Attachment A, which is incorporated by reference herein. The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment, or transfer of certificates of authorization.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of notice to customers. One customer filed an objection to the application, but our staff determined that the customer had a billing complaint and did not wish to contest the transfer. The utility has now resolved the customer's complaint. We have not received any other objections to the transfer, and the time for filing objections has now expired.

The application indicates that Colonial is a Florida corporation, established September 16, 2003. Gary A. Deremer, president of the corporation, owns 51% of the corporation. Cecil R. Delcher, vice president of the corporation, owns 49%. The Asset Purchase Agreement, a copy of which was included in the application, was executed on October 3, 2003. The total purchase price of the assets was \$303,000. Financing was accomplished partly by cash and partly by a Mortgage and Security Agreement effective January 1, 2004. The mortgage is held by Floralino in the amount of \$180,000 for a term of five years at a rate of 7.00% per annum. The application included a statement from the buyer that all existing customer deposits held by Floralino Properties, Inc. were transferred to the buyer's control on January 1, 2004.

Rule 25-30.037(2)(q), Florida Administrative Code, requires 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 application included recorded warranty deeds, title insurance, and an assignment of the utility easement from Floralino to Colonial.

Pursuant to Rule 25-30.110, Florida Administrative Code, annual reports for the utility have been filed for 2003 and all prior years. In accordance with Rule 25-30.120, Florida Administrative Code, Regulatory Assessment Fees (RAFs) have been paid for 2003 and prior years. There are no penalties or interest due for noncompliance with annual report or RAF filing requirements. In addition, Colonial provided written confirmation that it will be responsible for

<sup>&</sup>lt;sup>2</sup> Order No. PSC-01-1302-FOF-WU, issued June 15, 2001, in Docket No. 991486-WU, <u>In Re: Investigation into</u> retention of certificated area of Ellis & Company, Ltd. (Holiday Mall) by Floralino Properties, Inc. in Pasco County.

filing the 2004 annual report and paying the 2004 RAFs. Its written confirmation states that it will request extensions for filing the annual report and paying the RAFs and that both requirements will be finalized by April 30, 2005.

In accordance with Rule 25-30.037(2)(p), Florida Administrative Code, the application contained a statement from the buyer that the utility facilities appear to be in satisfactory condition, and to the best of its knowledge are in compliance with all applicable standards set by the Florida Department of Environmental Protection (FDEP). Our staff confirmed with the FDEP that there are no outstanding notices of violation issued for the utility systems. In addition, our staff confirmed with the SWFWMD that the utility's peak monthly average flows are well within permit levels.

In accordance with Rule 25-30.037(2)(j), Florida Administrative Code, the application contained a statement indicating how the transfer is in the public interest, including a summary of the buyer's experience and financial ability. The buyer also provided a statement of the willingness to fulfill the obligations, commitments, and representations of the seller with regard to utility matters. The application states that the buyers are persons with over 20 years of water and wastewater utility experience in operations, management, and maintenance. Mr. Deremer is currently the owner of three other Commission-regulated utilities also located in Pasco County.<sup>3</sup> In addition, Mr. Deremer is currently the President of U.S. Water Services Corporation and holds the appointed position of Consulting Director for the City of Port Richey, Florida. In his position as President of U.S. Water Services Corporation, Mr. Deremer previously operated Floralino's facilities for the seller. Mr. Deremer is licensed by the FDEP as a Class "A" drinking water and Class "B" wastewater treatment plant operator. He is also licensed by the Florida Board of Business and Professional Regulation (DBPR) as an Underground Utility Contractor. Mr. Delcher has been licensed by the DBPR as a General Contractor for over 30 years with the last 10 years focused on utility construction. The application also contained personal financial statements for both Mr. Deremer and Mr. Delcher. The statements reflect significant financial resources.

Based upon the evidence recited above, we find that the transfer of the assets and Certificate No. 153-W from Floralino Properties, Inc. to Colonial Manor Utility Company is in the public interest and we approve it. The territory being transferred is described in Attachment A. The effective date of the transfer is April 5, 2005. Colonial Manor Utility Company shall be responsible for filing the utility's 2004 annual report and paying 2004 RAFs, as well as for filing annual reports and paying RAFs for all subsequent years.

<sup>&</sup>lt;sup>3</sup> Dixie Groves Utility Company, pursuant to Order No. PSC-04-0338-PAA-WU, issued March 31, 2004, in Docket No. 030656-WU, <u>In Re: Application for transfer of facilities and Certificate No. 139-W in Pasco County from Dixie Groves Estates, Inc. to Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc. Virginia City Utility Company, pursuant to Order No. PSC-04-0342-PAA-WU, issued April 2, 2004, in Docket No. 030655-WU, <u>In Re: Application for transfer of facilities and Certificate No. 149-W in Pasco County from Virginia City Utilities, Inc. to Virginia City Utility Company a Division of Community Utilities of Florida, Inc. Holiday Utility Company. Inc., transfer pending in Docket No. 030458-WU, <u>In Re: Application for transfer of majority organizational control of Holiday Utility Company, Inc. in Pasco County to Holiday Waterworks Corporation, and amendment of Certificate No. 224-W.</u></u></u>

#### Rate Base

As explained below, for transfer purposes, rate base should be \$47,208, as of December 31, 2003. Within 30 days from the from the date this Order becomes final, Colonial Manor Utility Company shall provide a statement that the utility's books have been adjusted to reflect our approved rate base adjustments and balances.

We established rate base for the utility as of December 31, 2002.<sup>4</sup> The transfer of assets to Colonial occurred approximately one year later, on November 1, 2003. According to Colonial all assets were transferred except the office equipment and transportation equipment. No plant was added between December 31, 2002 and November 1, 2003. Therefore, we find, and the buyer agrees, that rate base for transfer purposes should be based on the rate base previously established by the Commission as of December 31, 2002, modified to remove office equipment and transportation equipment and to bring accumulated depreciation balances forward to December 31, 2003.

#### Utility Plant In Service (UPIS) and Land

Pursuant to Order No. PSC-03-1250-PAA-WU, the utility's UPIS and land balances as of December 31, 2002, were \$326,707 and \$16,272, respectively. We find that no changes to the land balance are necessary, but, the office equipment and transportation equipment balances of \$1,311 and \$25,756, respectively, were not transferred and should be removed. For transfer purposes the UPIS and land balances are \$299,640 and \$16,272, respectively, as of December 31, 2003.

#### Accumulated Depreciation

Pursuant to Order No. PSC-03-1250-PAA-WU, the utility's accumulated depreciation balance as of December 31, 2002, was \$260,995. The accumulated depreciation associated with the removed office equipment and transportation equipment is \$(668). The additional accumulated depreciation on the remaining plant balances through December 31, 2003, is \$7,041. We find that the appropriate accumulated depreciation balance for the utility for transfer purposes is \$268,704, as of December 31, 2003.

#### Contributions-in-aid-of-Construction (CIAC) and Amortization of CIAC

Pursuant to Order No. PSC-03-1250-PAA-WU, as of December 31, 2002, the utility's CIAC balance of \$173,559 was fully amortized. Since the utility is at build-out, there were no additional connections in 2003. Therefore, we find that for transfer purposes the CIAC and amortization of CIAC as of December 31, 2003, both remain at \$173,559.

Based upon the above, we find that rate base for transfer purposes is \$47,208 as of December 31, 2003. Schedule 1 shows the calculation of rate base. Schedule 2 shows staff's recommended adjustments. Schedule 3 shows the appropriate account balances for UPIS and

<sup>&</sup>lt;sup>4</sup> Order No. PSC-03-1250-PAA-WU, issued November 6, 2003, in Docket No. 030250-WU, <u>In Re: Application for staff-assisted rate case in Pasco County</u>, by Floralino Properties, Inc.

accumulated depreciation as of December 31, 2003. We note that rate base for transfer purposes does not include the normal rate making adjustments for used and useful or working capital. As mentioned above, within 30 days from the date this Order becomes final, Colonial Manor shall be required to provide a statement that the utility's books have been adjusted to reflect the Commission-approved rate base adjustments and balances.

#### Acquisition Adjustment

An acquisition adjustment occurs when the purchase price differs from the original cost of the assets adjusted to the time of the acquisition. The calculation of the acquisition adjustment for this transfer is shown below:

Purchase Price \$303,000

Rate Base \$ 47,208

Positive Acquisition Adjustment \$255,792

Pursuant to Rule 25-30.0371, Florida Administrative Code, a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. The buyer has neither requested an acquisition adjustment nor identified any extraordinary circumstances here, and therefore, we will not include an acquisition adjustment in the calculation of rate base for transfer purposes.

#### Rates and Charges

We find that the utility shall continue to charge the existing water service rates, customer deposits, and miscellaneous service charges until authorized to change by the Commission in a subsequent proceeding. The utility's existing service availability charges shall be eliminated. The tariff sheets reflecting these rates and charges shall be effective for services rendered or connections made on or after the stamped approval date.

Rule 25-9-044(1), Florida Administrative Code, provides that in the case of change of ownership or control of a utility which places the operation under a different or new utility, the company that will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company unless authorized to change by the Commission. Floralino's current rates and charges were approved by Order No. PSC-03-1250-PAA-WU, as shown below. The water service rates, which include rate case expense amortization, are to be reduced to remove the rate case expense by December 1, 2007.

# Residential, Multi-Residential, and General Service Monthly Water Service

Meter Size	<u>Charg</u>	<u>e</u>
5/8" x 3/4"	\$ 8.0	02
3/4"	\$ 12.0	03
1"	\$ 20.0	06
1 ½"	\$ 40.	11
2"	\$ 64.	18
3"	\$128.3	36
4"	\$200	56
6"	\$401.	12
Residential Gallonage Charge (per 1,000 gallons)		
0-10,000 gallons	\$ 2.	12
Above 10,000 gallons	\$ 2.0	65
General Service Gallonage Charge		
Per 1,000 gallons	\$ 2.	19

# Residential and General Service Customer Deposits

Meter Size	<u>Charge</u>
5/8" x 3/4"	\$ 48.00
1"	\$ 48.00
1 1/2"	\$ 48.00
Over 2"	\$ 48.00

#### **Miscellaneous Service Charges**

	Normal and After Hours
Initial Connection Fee	\$ 15.00
Normal Reconnection Fee	\$ 15.00
Violation Reconnection Fee	\$ 15.00
Premises Visit Fee (in lieu of disconnection)	\$ 10.00
Premises Visit Fee (at request of customer)	\$ 25.00

In addition to the above, the utility has existing service availability charges for plant capacity of \$120.00 per ERC (200 gallons per day) and actual cost for customer connections. Since the utility is at build-out and Pasco County serves the surrounding territory, the buyer has requested that these charges be eliminated from its tariff as unnecessary. We agree. The utility's existing service availability charges shall be eliminated. The utility has filed a revised tariff which reflects the change in ownership and the approved rates and charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Application for transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. to Colonial Manor Utility Company is approved, effective April 5, 2005. It is further

ORDERED that Attachment A to this Order is incorporated herein. It is further

ORDERED that the utility shall continue to operate under its existing tariffs and apply its approved rates and charges as described in the body of this Order until authorized to change them in a subsequent proceeding, except that the service availability charges have been eliminated. It is further

ORDERED that the portion of this Order establishing the utility's rate base for purposes of the transfer, setting no acquisition adjustment, and eliminating service availability charges shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open pending receipt of the statement from Colonial Manor Utility Company that the utility's books have been adjusted to reflect the Commission approved rate base adjustments and balances. Upon receipt of such statement, this docket may be closed administratively if no timely protest has been filed by a substantially affected person.

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

(SEAL)

MCB

#### 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.

As identified in the body of this order, our action establishing rate base, denying an acquisition adjustment and continuing existing rates and charges is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 11, 2005. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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 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 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.

#### Attachment A

#### WATER SERVICE TERRITORY FLORALINO PROPERTIES, INC. PASCO COUNTY

# **Township 26 South, Range 16 East Sections 19 and 20**

In Sections 19 and 20, Township 26 South, Range 16 East, Pasco County, Florida:

Commence at the Northeast corner of the Southeast 1/4 of said Section 19 for a POINT OF BEGINNING; thence run North along the East line of said Section 19 1,315 feet; thence West 2,140 feet to a point of the East Right-of-way line of U.S. Highway Number 19, as it is now established; thence Southwesterly along said Right-of-way line 345 feet; thence East 35 feet; thence South 990 feet to the North line of the Southeast 1/4 of said Section 19; thence run Easterly along said line 225 feet; thence Southerly 1,000 feet; thence West 450 feet to the East Right-of-way line of U.S. Highway Number 19 as it is now established; thence South along said Right-of-way line 250 feet; thence East 1,435 feet; thence North 250 feet; thence East 115 feet; thence North 1,000 feet to the North line of the Southeast 1/4 of said Section 19; thence Easterly along said North line of the Southeast 1/4 895 feet to the POINT OF BEGINNING.

#### TERRITORY DESCRIPTION TO BE LESS AND EXCEPTED

#### **Holiday Mall**

Tract 38 and that portion of Tract 39 of Tampa-Tarpon Springs Land Co. Subdivision of Section 19, Township 26 South, Range 16 East, as shown on plat recorded in Plat Book 1, Pages 68, 69, and 70 of the public records of Pasco County, Florida, lying East of U.S. Highway No. 19 (State Road No. 55) as it is now constructed; <u>LESS AND EXCEPT</u> the following described portions of said tracts:

1. Commence at the Northwest corner of the Southeast 1/4 of said Section 19; thence run along the North boundary of the Southeast 1/4 of said Section 19, N 89°-14'-00" E a distance of 404.21 feet; thence S 4°-26'-28" W a distance of 15.05 feet to the South Right-of-way line of Moog Road for a POINT OF BEGINNING; thence continue S 4°-26'-28" W a distance of 185.00 feet; thence S 89°-14'00" W a distance of 150.00 feet to the Easterly Right-of-way line of State Road No. 55, Section 14030 (U.S. Highway No. 19) as it is now constructed; thence along said Right-of-way line a distance of 185.01 feet along the arc of a curve to the right, to the South Right-of-way line of Moog Rd. said curve having a radius of 7,507.44 feet and a chord of 185.00 feet which bears N 4°-26'-28" E: a distance of 150.00 feet to the POINT OF BEGINNING:

- 2. Commence at the intersection of the Southerly boundary of said Tract 39 and the Easterly Right-of-way line of State Road No. 55 (U.S. Highway No. 19) as it is now constructed for a POINT OF BEGINNING; thence run along the said Easterly Right-of-way line of State Road No. 55, N 1°-24'-23" E a distance of 150.00 feet; run thence N 89°-16'-17" E a distance of 175.00 feet; thence run S 1°-24'-23" W a distance of 150.00 feet; thence run S 89°-16'-17" W a distance of 175.00 feet along the Southerly boundary of said Tract 39 to the POINT OF BEGINNING at the Easterly Right-of-way line of State Road No. 55:
- 3. Commence at the Northeast corner of Tract 38 for a POINT OF BEGINNING the Northeast corner of said Tract 38 being 15.0 feet South of the North boundary of the Southeast 1/4 of said Section 19; thence run S 0°-23'-57" W a distance of 975.56 feet; thence run S 89°-16'-17: a distance of 90.0 feet; thence run N 0°-23'-57" E a distance of 360.00 feet; thence run N 89°-14'-00" E a distance of 60.00 feet; thence run N 0°-23'-57" E a distance of 370.00 feet; thence run S 89°-14'-00" W a distance of 80.00 feet; thence run N 0°-23'-57" E a distance of 245.0 feet, more or less, to the Southerly right of way line of Moog Road; thence run N 89°-14'-00" E along said Southerly right of way line of Moog Road a distance of 110.00 feet to the POINT OF BEGINNING.

# Schedule 1

## FLORALINO PROPERTIES, INC. Water Rate Base As of December 31, 2003

Description	Order No. PSC-93-1250-PAA-WU	Staff Adjustments	Recommended Balance
Utility Plant in Service	\$ 326,707	\$( 27,067) A	\$ 299,640
Land & Land Rights	\$ 16,272	\$ -0-	\$ 16,272
Accumulated Depreciation	n \$(260,995)	\$( 7,709) B	\$(268,704)
Contributions in Aid of Construction	\$(173,559)	\$ -0-	\$(173,559)
Accumulated Amortizatio of CIAC	n <u>\$ 173,559</u>	<u>\$ -0-</u>	<u>\$ 173,559</u>
Total Water Rate Base	\$ 81,984	\$(34,776)	\$ 47,208

# Schedule 2

## FLORALINO PROPERTIES, INC. Schedule of Water Rate Base Adjustments As of December 31, 2003

Explanation	Recommended Rate Water	
A. Utility Plant in Service		
To remove office equipment and		
transportation equipment.	\$(27,067)	
<ul> <li>A. Accumulated Depreciation</li> <li>1. To remove accumulated depreciation for office equipment and transportation equipment</li> </ul>	\$( 668)	
2. To update depreciation balances from 12/31/02 to 12/31/03.	\$( 7.041) \$( 7,709)	
Total Adjustments	\$(34,776)	

# Schedule 3

# FLORALINO PROPERTIES, INC. Staff Recommended Water Account Balances As of December 31, 2003

Acct. No.	Account Name	Plant Balance	Accumulated Depreciation Balance
304	Structures & Improvements	\$ 11,936	\$ 11,936
307	Wells	\$ 12,818	\$ 12,818
309	Supply Mains	\$ 9,879	\$ 8,503
311	Pumping Equipment (SubPump)	\$ 43,009	\$ 37,744
320	Water Treatment Equipment	\$ 33,187	\$ 33,187
330	Distribution Reservoirs & Standpipes	\$ 1,125	\$ 290
331	Transmission & Distribution Mains	\$ 99,214	\$ 80,650
333	Services	\$ 17,388	\$ 16,324
334	Meter	\$ 64,950	\$ 64,950
334	Meters (Replacement)	\$ 5,473	\$ 1,829
339	Other Plant & Miscellaneous Equipment	\$ 661 \$299,640	\$ 473 \$268,704