

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval of transfer of water Certificate No. 518-W in Lake County from CWS Communities LP (Haselton Village) to MHC HV FL Utility Systems, L.L.C.

DOCKET NO. 120240-WU
ORDER NO. PSC-13-0176-PAA-WU
ISSUED: April 29, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING NET BOOK VALUE FOR TRANSFER PURPOSES
AND
ORDER APPROVING THE TRANSFER OF CWS COMMUNITES WATER SYSTEM AND
CERTIFICATE NO. 518-W

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, except for the transfer of CWS Communities LP, water system and Certificate No. 518-W, 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 (F.A.C.).

Background

CWS Communities LP (CWS or Utility) is a Class C water utility located in Lake County serving approximately 290 water customers in the Haselton Village Mobile Home Park. CWS is located in the St. Johns River Water Management District (SJRWMD or District). The Utility's 2008 annual report reflects operating revenues of \$23,691 and an operating loss of \$9,316.

The Utility began operations in 1973. On July 11, 1988, CWS applied for original certificates to operate a water and wastewater utility in Lake County. Certificate Nos. 518-W and 451-S were granted to CWS in 1989.¹ Prior to that time, the Utility provided water and

¹ See Order No. 21342, issued June 6, 1989, in Docket No. 880936-WS, In re: Application of Century Realty Funds, Inc. and Haselton Associates, Ltd. d/b/a Route 19A North Joint Venture for water and sewer certificates in Lake County, Florida.

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FPSC-COMMISSION CLERK

wastewater service solely to the rental community tenants as a part of the rent and was therefore exempt from our regulation pursuant to Section 367.022(5), Florida Statutes (F.S.). After the wastewater system was interconnected with the city of Eustis, the Utility was found to be an exempt wastewater reseller, and Certificate No. 451-S was cancelled in 1996.² Rate base was last established for the Utility by Order No. PSC-09-0587-PAA-WU.³

On September 25, 2012, an application was filed for the transfer of CWS water system and Certificate No. 518-W to MHC HV FL Utility System, L.L.C. (MHC HV or Buyer). The closing occurred on August 1, 2011, contingent upon our approval pursuant to Section 367.071(1), F.S. We have jurisdiction pursuant to Sections 367.071, F.S.

Transfer

On September 25, 2012, an application was filed for approval of the transfer of CWS water system and Certificate No. 518-W to MHC HV. The application is in compliance with the governing statute, Section 367.071, F.S., and administrative rules concerning applications for transfer of certificates. The closing occurred on August 1, 2011, contingent upon our approval, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

The application contains proof of compliance with the noticing provisions set forth in Section 367.071, F.S. and Rule 25-30.030, F.A.C. No objections to the transfer were timely filed with this Commission, and the time for doing so has expired. The application contains a description of the Utility's authorized service territory, which is appended to this Order as Attachment A. The application contains a copy of an easement that was executed on August 1, 2011, and recorded with the Lake County Clerk of Courts, as evidence that MHC HV has continued use of the land upon which the water treatment facilities are located.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(h), F.A.C., the application contains a copy of the executed purchase agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. The mobile home community and the Utility's assets were purchased by Equity LifeStyle Properties, Inc. (ELS), as part of a large transaction that related to the acquisition of Hometown America, LLC. The purchase price for the transaction that acquired 75 mobile home communities, utilities and other assets was \$1,263,600,064. There was not separate financing for the purchase of the Utility's assets, and the purchase agreement did not include a separate allocated amount for these assets. MHC HV purchased the assets secured by a bank loan. There are no customer deposits, guaranteed revenue contracts, developer agreements, or debt of CWS

² See Order No. PSC-1470-FOF-SU, issued December 3, 1996, in Docket No. 961146-SU, In re: Request for change in regulatory status and cancellation of Certificate No. 451-S in Lake County by Route 19A North Joint Venture (Century Realty Funds/Haselton Associates).

³ See Order No. PSC-09-0587-PAA-WU, issued August 31, 2009, in Docket No. 080715-WU, In re: Application for staff-assisted rate case in Lake County by CWS Communities LP.

that must be disposed of with regard to the transfer. As noted, the sale took place on August 1, 2011, subject to our approval, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

The water system consists of two wells (one 4-inch and one 6-inch) treated with chlorine. The treated water is channeled into a 5,000-gallon hydropneumatic tank for distribution to customers. The water distribution system consists of approximately 12,858 feet of pipe, 3 auto flushers and 6 fire hydrants. Commission staff has verified that the water system is currently in substantial compliance with all applicable standards set by the Florida Department of Environmental Protection.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2)(j), F.A.C., the application contains a statement indicating that the transfer is in the public interest. According to the application, the transfer is in the interest of the customers as MHC HV has the financial and technical ability to continue to provide the safe and reliable service to which they are accustomed. As discussed above, MHC HV operates under the parent company, ELS. Although MHC HV does not own any other water or wastewater utilities, its parent company manages other utility systems in Florida, including four systems regulated by this Commission.⁴ In addition, ELS has a second docket pending before this Commission for the transfer of Hidden Valley SPE LLC d/b/a Orange Lake to MHC OL Utility Systems, L.L.C.⁵ As of the end of 2011, ELS had indirect ownership of approximately 382 properties in the United States. We have reviewed ELS' earnings and financial statements and find it has the financial ability to provide safe and reliable service to its customers. As a result, we find that MHC HV has demonstrated the financial and technical ability to operate the Utility pursuant to Rule 25-30.037(2)(j), F.A.C.

Rates and Charges

The Utility's rates and charges were last approved in a 2009 staff-assisted rate case (SARC) and a subsequent 2011 price index.⁶ The Utility's existing rates and charges are shown on Schedule 2. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, we find that the Utility's existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding. We also note the current tariffs do not include charges for customer deposits or service availability charges.

⁴ ELS manages OB Utility Systems, L.L.C., COL Utility Systems, L.L.C., HV Utility Systems, L.L.C., and MFL Utility Systems, L.L.C., which are regulated by this Commission.

⁵ See Docket No. 120239-WS, In re: Application for approval to transfer water and wastewater Certificate Nos. 625-W and 536-S in Lake County from Hidden Valley SPE LLC d/b/a Orange Lake to MHC OL Utility Systems, L.L.C.

⁶ See Order No. PSC-09-0587-PAA-WU, issued August 31, 2009, in Docket No. 080715-WU, In re: Application for staff-assisted rate case in Lake County by CWS Communities LP.

Regulatory Assessment Fees and Annual Reports

The Utility is current on its annual report for 2011 and all prior years and there are no outstanding RAFs, fines, or refunds due. According to the Utility's purchase agreement, MHC HV is responsible for filing the Utility's annual reports and paying RAFs for 2012 and all future years.

Net Book Value

The rate base for the Utility's water system was established as of December 31, 2008, in a SARC by Order No. PSC-09-0587-PAA-WU. Included in the Utility's application was a statement that there had been no adjustments made to the plant since the previously mentioned Order. The annual reports for 2009 through 2011 reflected minor plant additions. However, in response to Commission staff's data request, MHC HV determined that it could not produce supporting documentation for these plant additions. Further, MHC HV stated no plant additions should be considered in the instant docket. We find it is necessary to establish the appropriate NBV for transfer purposes as of December 31, 2011. The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment shall be approved. The NBV does not include normal ratemaking adjustments for used and useful plant or working capital. The NBV for water is shown on Schedule No. 1.

Utility Plant in Service (UPIS)

In its 2011 annual report, MCH HV reflected a plant balance of \$262,744. After a review of the Order and subsequent annual report filings, we find that the ordered adjustments from the Utility's last rate proceeding have not been properly made. To account for the adjustments, UPIS shall be decreased by \$6,679. With these adjustments, we find that the appropriate UPIS balance for water is \$256,965. The appropriate UPIS amounts for the Utility's water system are outlined in Schedule No. 1.

Land and Land Rights

In its 2011 annual report, the Utility reflected a land balance of \$7,500. In its application, MHC HV stated that there had been no adjustments made to the land balances since the SARC Order. An audit was conducted in the 2009 SARC that determined the appropriate land balance was \$2,500. Therefore, we order a decrease of \$5,000 in land and land rights to reflect the previously approved amount.

Accumulated Depreciation

As noted above, we find that the Utility did not properly make the plant adjustments required in its last rate proceeding. In its 2011 annual report, the Utility reflected an accumulated depreciation balance of \$159,940. Calculating the accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C., and the previously approved 2009 plant balances; we find these balances shall be increased by \$35,284 as of December 31, 2011, to

reflect the calculated depreciation. The accumulated depreciation balance is shown on Schedule No. 1.

Contribution in Aid of Construction (CIAC)

In its 2011 annual report, the Utility reflected a CIAC balance of \$47,775. An audit was conducted in the 2009 SARC and it was determined \$93,925 was the appropriate amount of CIAC, and the Utility's system was considered built out. No additions have been made subsequent to the last rate proceeding; therefore, we order an increase of \$46,150 in CIAC to reflect the corrected balance for the Utility's water system.

Accumulated Amortization of CIAC

In its 2011 annual report, the Utility reflected an accumulated amortization of CIAC balance of \$36,041. However, after a review of the Order and subsequent annual report filings, it was determined that the ordered adjustments from the Utility's last rate proceeding had not been properly made to the accumulated amortization of CIAC. Calculating the amortization of CIAC using composite rates prescribed in Rule 25-30.140, F.A.C., and the previously approved 2008 CIAC balances, we find the amounts in these accounts shall be increased by \$12,092 to reflect the calculated depreciation. The accumulated amortization of CIAC balance is shown on Schedule No. 1.

Net Book Value

Based on the adjustments described above and shown on Schedule No. 1, we find that the NBV of the Utility's water system is \$18,449, as of December 31, 2011. Schedule No. 1 contains the resulting National Association of Regulatory Utility Commissioners Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation as of December 31, 2011.

Acquisition Adjustment

An acquisition adjustment results when the purchase price of a utility differs from the original cost of the assets adjusted to the time of the acquisition. A positive acquisition adjustment exists when the purchase price is greater than NBV, and a negative acquisition adjustment exists when the purchase price is less than NBV. Pursuant to Rule 25-30.0371(2), F.A.C., a positive acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances. As discussed above, the purchase of MHC HV was part of a larger purchase of multiple properties. As such, a separate purchase price was not allocated to the Utility and its assets. ELS has indicated that the purchase price of the Utility assets was equal to the NBV as reflected in the 2011 annual report. MHC HV did not request a positive acquisition adjustment, and there is no evidence of extraordinary circumstances. Therefore, we find that an acquisition adjustment is not warranted.

Based on the foregoing, it is

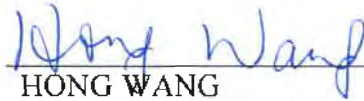
ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 518-W from CWS Communities LP to MHC HV FL Utility System, L.L.C. is in the public interest and is hereby approved effective April 9, 2013. The territory being transferred is described in Attachment A. This Order shall serve as MHC HV's water certificate and shall be retained as such. The Utility's existing rates and charges shall remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariffs reflecting the transfer shall be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475(1), F.A.C. MHC HV will be responsible for annual reports and regulatory assessment fees (RAFs) for 2012 and all future years. It is further

ORDERED that the net book value of MHC HV's water system for transfer purposes is \$18,449 as of December 31, 2011. An acquisition adjustment shall not be included in rate base. Within 30 days of the final Order, MHC HV shall be required to provide a general ledger that show its books have been updated to reflect the balances approved by this Commission as of December 31, 2011, along with a statement that these adjustments will also be reflected in the Utility's 2012 annual report. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, 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 Commission Clerk, 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of April, 2013.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MTL

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, except for the transfer of CWS Communities LP. water system and Certificate No. 518-W, 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 Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 20, 2013. 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 Office of Commission Clerk, 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 Office of Commission Clerk 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.

MHC HV FL Utility Systems, LLC

Lake County

Description of Water Territory

Beginning at the East 1/4 corner of Section 34, Township 18 South, Range 26 East, Lake County, Florida, run thence South $01^{\circ}48'30''$ West a distance of 600.06 feet, thence South $60^{\circ}02'15''$ East a distance of 258.75 feet to the Westerly right-of-way of County Road No. 19A, thence South $27^{\circ}20'27''$ West along said right-of-way, a distance of 529.11 feet to the beginning of a curve having a radius of 510.46 feet and being concave Easterly, thence along the arc of said curve and through a central angle of $23^{\circ}49'40''$ an arc length of 212.28 feet, thence South $01^{\circ}43'53''$ West along said Westerly right-of-way of County Road No. 19A, a distance of 369.71 feet to the Northerly right-of-way of County Road No. 452-A, thence South $89^{\circ}58'57''$ West along said Northerly right-of-way a distance of 806.22 feet, thence North $01^{\circ}52'26''$ East, a distance of 514.53 feet, thence North $89^{\circ}19'12''$ West a distance of 9.49 feet, thence North $01^{\circ}50'47''$ East a distance of 39.32 feet, thence South $89^{\circ}37'31''$ West a distance of 339.62 feet, thence North $01^{\circ}51'37''$ East a distance of 641.18 feet to the Southwest bank of a dug canal, thence North $25^{\circ}58'09''$ West along said Southwest bank of dug canal, a distance of 304.55 feet, thence North $01^{\circ}51'37''$ East a distance of 340.00 feet to the East-West Mid-Section line, thence South $88^{\circ}35'32''$ East along said East-West Mid-Section line, a distance of 1315.80 feet to the Point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

MHC HV FL Utility Systems, L.L.C.

pursuant to

Certificate Number 518-W

to provide water service in Lake County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
Order No. 21342	6/6/1989	880936-WS	Original Certificate
PSC-13-0176-PAA-WU	04/29/2013	120240-WS	Transfer of Certificate

MHC HV FL Utility Systems, L.L.C.

MHC HV FL Water System

Net Book Value as of December 31, 2011

**Utility Proposed and Commission Approved
Schedule of Net Book Value as of December 31, 2011**

Description	Utility Proposed	Adjustment		Commission Approved
Utility Plant in Service	\$262,744	(\$5,779)	A	\$256,965
Land & Land Rights	7,500	(5,000)	B	2,500
Accumulated Depreciation	(159,940)	(35,284)	C	(195,224)
CIAC	(47,775)	(46,150)	D	(93,925)
Amortization of CIAC	<u>36,041</u>	<u>12,092</u>	E	<u>48,133</u>
Net Book Value	<u>\$98,570</u>	<u>(\$80,121)</u>		<u>\$18,449</u>

**Explanation of
Adjustments to Net Book Value as of December 31, 2011
Water**

Explanation	Amount
A. Utility Plant In Service (UPIS) To the appropriate UPIS per PSC-09-0587-P AA-WU.	<u>(\$5,779)</u>
B. Land and Land Rights To reflect the appropriate amount of Land and Land Rights.	<u>(\$5,000)</u>
C. Accumulated Depreciation To reflect the appropriate amount of Accumulated Depreciation.	<u>(\$35,284)</u>
D. Contribution in Aid of Construction (CIAC) To reflect the appropriate amount of CIAC.	<u>(\$46,150)</u>
E. Amortization of CIAC To reflect the appropriate amount of Amortization of CIAC.	<u>\$12,092</u>
Total Adjustments to Net Book Value as of December 31, 2011	<u>(\$80,121)</u>

MHC HV FL Utility Systems, L.L.C.

MHC HV FL Water System

Schedule of Account Balances as of December 31, 2011

Acct. No.	Description	UPIS	Accumulated Depreciation
304	Structures and Improvements	\$887	\$887
307	Wells and Springs	81,385	78,309
309	Supply Mains	4,008	4,008
310	Power Generation Equipment	3,064	3,064
311	Pumping Equipment	2,851	2,851
320	Water Treatment Equipment	14,162	14,162
330	Distribution Reservoirs and Standpipes	40,000	4,542
331	Trans & Dist. Mains - Pipes	65,963	49,246
333	Service to Customers	22,759	20,023
334	Meters	12,249	11,402
335	Hydrants	<u>9,637</u>	<u>6,730</u>
	Total	<u>\$256,965</u>	<u>(\$195,224)</u>

MHC HV Utility Systems, L.L.C.

Schedules of Rates and Charges

Monthly Service Rates

	Water	Residential and General Service
Flat Rate		
Occupied		\$12.29
Unoccupied – (For more than 60 consecutive days)		\$6.73

MISCELLANEOUS SERVICE CHARGES

DESCRIPTION	NORMAL HOURS	AFTER HOURS
Water Service		
Initial Connection	\$20.00	\$40.00
Normal Reconnection	\$20.00	\$40.00
Violation Reconnection	\$20.00	\$40.00
Premises Visit Charge	\$20.00	\$40.00