

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

### -M-E-M-O-R-A-N-D-U-M-

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**DATE:** September 3, 2015

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Engineering (Ellis) *Pole*  
Division of Accounting and Finance (T. Brown, Norris) *AB*  
Division of Economics (Thompson) *KT*  
Office of the General Counsel (Brownless) *JSC*

*ALM* *Am*

**RE:** Docket No. 140176-WU – Application for approval of transfer of Certificate No. 116-W from Holiday Gardens Utilities, Inc. to Holiday Gardens Utilities, LLC, in Pasco County.

**AGENDA:** 09/15/15 – Regular Agenda – Proposed Agency Action for Issue 2 only – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Brisé

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** Staff recommends the Commission simultaneously consider Dockets Nos. 140174-WU and 140176-WU.

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### Case Background

Holiday Gardens Utilities, Inc. (Holiday Gardens or Utility) is a Class C water utility located in Pasco County, serving approximately 449 residential customers and two general service customers. Holiday Gardens is located in the Southwest Florida Water Management District (SWFWMD). Based on the utility's 2014 Annual Report, Holiday Gardens reported a total gross revenue of \$80,247.

The Utility has provided water service since at least 1967. In 1973, Holiday Gardens was issued Certificate No. 116-W.<sup>1</sup> Certificate No. 116-W was last amended in Order No. PSC-93-1530-FOF-WU.<sup>2</sup> Rate based was last established for Holiday Gardens by Order No. PSC-93-0013-FOF-WU.<sup>3</sup>

Holiday Gardens is owned by Holiday-Gulf Homes, Inc. (Seller) Both business entities are active corporations registered with the Florida Department of State, Division of Corporations. In addition to water service, Holiday Gardens provides garbage collection and street lighting services in its service territory.

On September 10, 2014, an application was filed by Michael Smallridge (Smallridge or Buyer) for the transfer of Holiday Gardens and Certificate No. 116-W, to Holiday Gardens Utilities, LLC (Holiday Gardens LLC) pursuant to Rule 25-30.037, Florida Administrative Code (F.A.C.). Holiday Gardens LLC was registered with the Florida Department of State, Division of Corporations on April 11, 2014.<sup>4</sup> Simultaneous with the filing of the transfer docket, an application for a staff-assisted rate case (SARC) for the LLC was also filed by Mr. Smallridge.<sup>5</sup>

An informal meeting was held on February 26, 2015, regarding both the transfer and SARC for Holiday Gardens. At this meeting, it was clarified that staff would only process the SARC upon completion of the transfer.

On April 23, 2015, staff filed a recommendation that the Commission deny the request for transfer for Holiday Gardens. The primary issues identified in staff's recommendation addressed failures to respond to data requests, conflicting information, and delays in filing customer notices. On April 27, 2015, Mr. Smallridge through his legal counsel, filed a request for deferral from the agenda of the May 15, 2015, Commission Conference.

This recommendation addresses the transfer of the water system. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

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<sup>1</sup> Order No. 5675, issued March 8, 1973, in Docket No. 72590-W, *In re: Application of Holiday Gardens Utilities, Inc. for a certificate to operate a water utility in Pasco County.*

<sup>2</sup> Order No. PSC-93-1530-FOF-WU, issued October 19, 1993 in Docket No. 930164-WU, *In re: Application for Amendment of Certificate No. 116-W in Pasco County, by Holiday Gardens Utilities, Inc.*

<sup>3</sup> Order No. 93-0013-FOF-WU, issued January 5, 1993 in Docket No. 920418-WU, *In re: Application for a staff-assisted rate case by Holiday Gardens Utilities, Inc., in Pasco County.*

<sup>4</sup> At this time water services are being provided under the name of the LLC. However, the certificated entity remains unchanged until the Commission approves the transfer of the certificate. Thus, for purposes of this recommendation, the name "Holiday Gardens" will apply to both the certificated entity and the LLC. Distinctions between the LLC and original certificated entity will be made in the text where necessary for clarity.

<sup>5</sup> Docket No. 140177-WU.

### Discussion of Issues

**Issue 1:** Should the application for transfer of Certificate No. 116-W from Holiday Gardens Utilities, Inc. to Holiday Gardens Utilities, LLC be approved?

**Recommendation:** Yes, but with conditions which have been agreed to by the owner of the utility. These conditions include payment of RAFs and filings of annual reports in a timely manner, meeting all environmental and health requirements for operation, responding to staff data requests in a timely and complete fashion, not purchasing any additional utilities until after December 31, 2017, and updating staff on existing utility system purchases.

Staff recommends that with the conditions discussed herein the transfer is in the public interest and should be approved effective the date of the Commission vote. The territory being transferred is described in Attachment A. The resultant order should serve as Holiday Gardens Utilities, LLC's Certificate No. 116-W and be retained. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, F.A.C. Holiday Gardens Utilities, LLC should be responsible for annual reports and RAFs for 2015 and future years. (T. Brown, Brownless, Ellis, Norris, Thompson)

**Staff Analysis:** On March 31, 2014, Mr. Michael Smallridge purchased the assets of both Crestridge and Holiday Gardens for \$450,000. Mr. Smallridge was required to make a down payment of \$25,000 at closing and execute a purchase money mortgage with owner financing in the amount of \$425,000 at 7.5 percent interest for 12 years with a monthly payment of \$4,484.71 until paid in full and to pay another \$20,000 on or before January 31, 2015. In addition to the utilities, Mr. Smallridge also purchased the recorded street lighting and trash collection districts for the Crest Ridge Gardens Subdivision and Holiday Gardens Unit One.<sup>6</sup> In the Agreement for Purchase and Sale of Water Assets (Purchase Agreement), the Seller agreed to allow Mr. Smallridge to acquire title in the names "Holiday Gardens Utilities, LLC," and "Crestridge Utilities, LLC."<sup>7</sup>

On April 11, 2014, as contemplated by the Purchase Agreement, Mr. Smallridge did create and register Holiday Gardens Utilities, LLC, with the Secretary of State. On August 8, 2014, the warranty deeds for all of the property on which the Utility's facilities are located were executed in the name of the LLC and subsequently recorded on September 18, 2014.<sup>8</sup> Mr. Smallridge signed the Promissory Note for the purchase of both Utilities on August 22, 2014, and commenced paying the \$4,500 per month<sup>9</sup> mortgage on or about September 14, 2014. Title insurance policies were also issued for each of the Utilities' properties on September 18, 2014.

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<sup>6</sup> Crest Ridge Gardens Restrictions, Book 341, p. 438, Pasco County Public Records; Holiday Gardens Restrictions, Book 378, P. 165, Pasco County Public Records.

<sup>7</sup> Section 3.k.

<sup>8</sup> The warranty deed for Lot 692 of the Crest Ridge Gardens Unit Seven was recorded again on October 17, 2014, to reflect the addition of a date for the notary's signature.

<sup>9</sup> The Purchase Agreement and Promissory Note, dated August 22, 2014, state that the monthly payment is \$4,484.71. In response to a Staff Data Request, Mr. Smallridge indicated that he increased it to \$4,500 per month.

On September 10, 2014, Mr. Smallridge filed applications for the transfer of Certificate No. 116-W from Holiday Gardens to the LLC. The filing fee of \$1,500 as required by Rule 25-30.020, F.A.C., was not provided at the time with the application.

Sections 367.045 and 367.071, F.S., and Rule 25-30.037, F.A.C., control the sale, assignment, or transfer of water and wastewater authorization (certificates), facilities or majority operational control. In order for a sale or transfer to be approved, the applicant must demonstrate that the “proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee or transferee will fulfill the commitments, obligations, and representations of the utility.”<sup>10</sup> Rule 25-30.037(j), F.A.C., further requires that the applicant demonstrate that the buyer has experience in water or wastewater utility operations and has the financial ability to provide service.

As discussed in more detail below, throughout the early part of this process the applicant repeatedly failed to provide requested relevant materials and documents necessary to evaluate his financial or managerial ability to operate the utility in accord with applicable Commission rules and regulations. In some instances, the applicant provided responses that were incomplete or contained conflicting and incorrect information.

#### **Failure to Respond to Staff's Data Requests**

The application, as filed, failed to include the information required by Rule 25-30.037(2), F.A.C. On October 7, 2014, staff requested payment of the filing fee (\$1,500) and additional data to clarify the application and resolve several of the deficiencies. A due date for responses was set for November 5, 2014. However, no responses were received within the requested timeframe. Late-filed responses were received on November 10, 2014, which partially answered one deficiency. No filing fee was provided.

Without further responses from the applicant, staff again sent letters on January 12, 2015, requesting the payment of the filing fees and the additional information necessary to process the application. A deadline for a response was set for January 22, 2015. Staff noted that the failure to pay the filing fees and provide the necessary information would result in a recommendation that the application for transfer be denied. On January 23, 2015, partial responses were and the filing fee was paid.

Staff continued its review of the filing and determined that further information was necessary to approve the applications. On February 23, 2015, staff issued a second data request, including six questions, and requested responses by March 25, 2015. On March 18, 2015, the applicant filed responses to one question and provided information that rendered another question moot. No responses to the remaining four questions, including questions regarding financial information had been provided as of the date of filing the first staff recommendation in this docket despite staff's requests.

Staff sent a third set of data requests on March 4, 2015, with a total of 13 questions, and requested responses by April 2, 2015. On March 10, 2015, staff amended the requests with an additional question that had been inadvertently omitted. On April 6, 2015, the applicant partially responded to staff's third data requests but failed to respond to certain questions regarding

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<sup>10</sup> Section 367.071(1), F.S.

financial information. Specifically, staff requested information concerning Mr. Smallridge's personal line of credit which was referenced in his meeting with Commission staff on February 26, 2015. Other than to confirm that he does have a line of credit, Mr. Smallridge did not provide the requested details regarding this account.

### **Conflicting Information**

In addition to failing to file timely responses, many of the responses were incorrect or conflicted with previous responses. The following examples are illustrative. First, attempts to determine the amount of the total purchase price of \$450,000 allocated to each Utility and to the street lighting and garbage collection rights were repeatedly asked. In response to staff's deficiency letter dated October 7, 2014, the applicant replied that the total purchase amount was pro-rated based on number of customers: \$269,375 for Crestridge and \$180,625 for Holiday Gardens.<sup>11</sup> No dollar amount was assigned to the street lighting and trash business "[s]ince the street lights and trash are in the deed restrictions and I had to take them as part of the deal, but they have no value because they have no assets nor do they produce any profit." In response to the December 3, 2014, staff audit findings that the net book value at the time of transfer for Holiday Gardens was \$24,544 and for Crestridge was \$60,694, the applicant indicated that positive acquisition adjustments in the amount of \$156,081 and \$208,681 for each Utility, respectively, were appropriate.<sup>12</sup> Staff's second data request no. 4 requested documentation to support how these acquisition adjustments were made. However, on March 18, 2015, the applicant subsequently withdrew the requests for acquisition adjustments for each utility, at which time the applicant also amended the allocation of the purchase price of the utilities to reflect a cost of \$60,694 for Crestridge, \$24,544 to Holiday Gardens, and the balance of \$364,762 to street lighting and garbage collection rights. As noted above, Mr. Smallridge has asserted that these services are provided at cost and produce no profit. This assertion conflicted with the general ledger provided to audit staff which shows customers are billed approximately \$4,450 per month more than the Utilities were charged for street lighting and garbage collection services. Staff repeatedly requested additional information to verify the amount billed to customers for street lighting and garbage collection services. This information had not been provided as of the date of filing the first staff recommendation in this docket.

Second, staff repeatedly asked about the closing date for the purchase of the Utilities in order to determine the net book value of each Utility. At various times, the applicant either stated or provided documents indicating that closing took place: a) on April 11, 2014, per the terms of the Purchase Agreement; b) on August 22, 2014, as stated on the Closing Statement provided in response to staff's third data request no. 9; or c) on August 27, 2014, as stated in response to staff's third data request no. 7. Based upon filings in the SARC dockets, the closing date provided to SWFWMD was given as August 22, 2014.

Third, staff tried to verify the amount of the mortgage payment to the Seller due each month pursuant to the Purchase Agreement. Depending on the documentation provided this amount was: a) \$4,484.71 per month as stated in Section 4 of the Purchase Agreement; b) \$4,500 per

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<sup>11</sup> Based on the 2013 Annual Reports, there were 615 residential customers for Crestridge and 449 residential and 7 general service customers for Holiday Gardens.

<sup>12</sup> A closing date of April 11, 2014, was used by the auditors for each Utility. This date was not contested by Mr. Smallridge in his subsequent responses to the audits filed on March 18, 2015.

month as stated on the first page of the Promissory Note dated August 22, 2014, provided in response to staff's first data request no. 4; or c) \$4,484.71 per month as stated on the complete Promissory Note dated August 22, 2014, provided in response to staff's third data request no. 8. The terms of the Promissory Note state that the monthly payment terms can only be changed with the written consent of the Seller. No such consent was provided.

### **Delays in Filing Customer Notices**

Rule 25-30.030, F.A.C., requires a legal notice to be sent to state and local government agencies, nearby water utilities, and customers within seven days of the application, in addition to a newspaper publication for any transfer. At a utility's request, staff provides a listing for state and local government agencies and nearby water and wastewater utilities. This notice is allowed to be a late-filed exhibit in a transfer application, and was noted as such in the applications for both utilities. However, no such exhibits were provided by the time of staff's first data requests, nor had requests for the information been made. On October 7, 2014, as part of the first data request, staff provided examples of a legal notice and a list of entities to notify, including government agencies and other water utilities in Pasco County. On November 10, 2014, staff received a request for an electronic copy of the example legal notice, which was provided.

On January 12, 2015, staff sent reminder letters to the applicant that included another copy of the example legal notice and updated lists of government agencies and water utilities to contact, as the previous lists had expired. In his January 23, 2015, responses to staff's first data request, legal notices were provided to staff for each proposed transfer. Staff assisted the applicant with attempts to resolve several flaws with the legal notices. On February 18, 2015, the applicant filed flawed notarized affidavits, including multiple incorrect dates for the filing and mailing of the notices, and both were missing affidavits from the publishing newspapers. On March 11, 2015, the applicant submitted proper affidavits of mailing customer notices and publications. Based upon these documents, customers were notified of the transfers on February 6, 2015, approximately five months after the applications were filed.

Section 367.1214, F.S., requires that a utility notify both the Commission and its customers before changing a utility's name. Mr. Smallridge has represented that he held meetings with customers in which he notified them of the name changes and change of ownership of the utilities prior to September 10, 2014, when the application for transfer was filed. However, the Commission was not notified of the name changes until the applications for transfer were filed.

### **Public Interest Standard**

Pursuant to Rule 25-30.037(1)(j), F.A.C., the application contains statements describing the technical and financial ability of the applicant to provide service to the proposed service area. Staff believes the Buyer has ample experience in the utility regulatory process. As stated in his application,<sup>13</sup> the Buyer was appointed to the Citrus County Water and Wastewater Authority, the local regulatory body for Citrus County, where he served for seven years. The Buyer also served as the "Class C" representative for the Governors Study Committee for Investor Owned Water and Wastewater Utility Systems in 2013. He maintains a regular yearly schedule of training classes through the Florida Rural Water Association and completed the NARUC Utility Rate School in 2001. He serves as the appointed circuit court receiver for Four Points Utility

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<sup>13</sup> Document No. 05046-14, filed September 10, 2014, Exhibit 1.

Corporation and West Lakeland Wastewater, Inc.,<sup>14</sup> both of which have been involved in staff-assisted rate cases, limited proceedings or certificate transfer cases in the last three years. The Buyer also owns Pinecrest Utilities, LLC (Pinecrest), which was involved in a staff-assisted rate case and a tariff amendment to increase miscellaneous service charges in 2012.<sup>15</sup> In total, the Buyer owns, is the receiver of, or is the manager of, a total of nine Class C water and wastewater facilities, seven of which are regulated by the Commission.

In 2012, the Commission found that “the application contains documentation to demonstrate that the Buyer has sufficient personal financial resources to operate and maintain the Pinecrest water system.”<sup>16</sup> At the time the Commission made that determination, Pinecrest was the only system owned by Mr. Smallridge. Since then, the Buyer purchased Crestridge, Holiday Gardens,<sup>17</sup> and West Lakeland Wastewater, Inc.<sup>18</sup> In addition, Florida Utility Services 1, LLC, which is owned and operated by Mr. Smallridge, purchased Charlie Creek Utilities, LLC<sup>19</sup> and East Marion Utilities, LLC.<sup>20</sup>

### ***Staff's First Recommendation***

Notwithstanding his training and experience with both the Commission and the regulatory process, Mr. Smallridge initially failed to respond or to comply with Commission rules and procedures. As a result, on April 23, 2015, staff filed a recommendation that the Commission deny the requests for transfer of certificates for Crestridge and Holiday Gardens. The primary issues identified in staff's recommendation addressed failures to respond to data requests, conflicting information, and delays in filing customer notices. On April 27, 2015, Mr. Smallridge, through his counsel, filed a request for deferral from the agenda of the May 15, 2015, Commission Conference.

After the deferral, staff made multiple data requests in an attempt to resolve the concerns raised in the original recommendation. Staff initially had questions regarding the Buyer's financial ability to maintain and make necessary improvements to the systems currently owned, especially given the rate at which additional systems were being acquired. Staff reviewed the personal financial statements and tax returns of the Buyer, as well as the financial statements and tax returns of Florida Utility Services 1, LLC. The Buyer also provided staff with copies of recent

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<sup>14</sup> The Buyer also serves as the appointed circuit court receiver for Bimini Bay Utilities, which is not regulated by the Commission.

<sup>15</sup> Docket Nos. 120269-WU, Application for staff-assisted rate case in Polk County by Pinecrest Utilities, LLC; and 120290-WU, Request for approval of amendment to tariff sheets for miscellaneous service charges in Polk County by Pinecrest Utilities, LLC.

<sup>16</sup> Order No. PSC-12-0475-PAA-WU, issued September 18, 2012, in Docket No. 110311-WU, *In re: Application for transfer of Certificate No. 588-W from Pinecrest Ranches, Inc., in Polk County, to Pinecrest Utilities, LLC*, p.3.

<sup>17</sup> Docket No. 140176-WU, Application for approval of transfer of Certificate No. 116-W from Holiday Gardens Utilities, Inc. to Holiday Gardens Utilities, LLC, in Pasco County.

<sup>18</sup> Docket No. 130065-SU, Application for transfer of Certificate No. 515-S in Polk County from West Lakeland Wastewater, Inc. to West Lakeland Wastewater, LLC. Application was withdrawn at the request of the Utility on September 11, 2014.

<sup>19</sup> According to the Utility, an application for original certificate will be filed with the Commission no later than September 4, 2015.

<sup>20</sup> Docket No. 150091-WS, Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.

loan documents<sup>21</sup> indicating access to additional sources of capital, as well as a three-year capital expenditure and funding estimate<sup>22</sup> which included the status of recent improvements. Additional details regarding the Buyer's communication with customers as well as specific actions he has taken to improve the Utility since purchasing it were also provided.

Mr. Smallridge has responded promptly to staff's latest data requests and on the whole the responses are more complete and noncontradictory. Since the deferral, conversations with Mr. Smallridge's counsel about staff's areas of concern discussed above have identified conditions for certification which offer solutions to rectify these concerns. These conditions, as stated below, have been agreed to by Mr. Smallridge.

***Conditional Approval to Address Concerns***

Given these unique set of facts, an alternative approach to the denial of the transfer of the certificate in this case is to approve the transfer of certificate for Holiday Gardens with the following conditions:

For each Commission-related utility owned directly or indirectly by Michael Smallridge (Crestridge, Holiday Gardens, West Lakeland, East Marion, Charlie Creek and Pinecrest):

1. Pay all RAFs completely and on time.  
Rule 25-30.120, FAC; Section 367.145, F.S.
2. File all annual reports on time. Each annual report filed during the period these conditions are in effect shall include a notarized affidavit stating that Michael Smallridge has not purchased, either directly or indirectly, any additional utilities during the period ending December 31<sup>st</sup> of the last year.  
Rule 25-30.110, FAC; Section 367.121(1)(c), (i), F.S.
3. Meet all DEP and Water Management District requirements for operation.  
Section 367.11(2), F.S.
4. Comply completely and in a timely fashion with all Commission staff data requests associated with any Smallridge utility.  
Section 367.121(1)(c), (i), F.S.
5. Michael Smallridge shall not purchase, either directly or indirectly, any other Commission-regulated utilities until after December 31, 2017.
6. Michael Smallridge shall file an application for certificate for Charlie Creek and provide a status report on West Lakeland's efforts to secure the land on which its wastewater facilities are located by September 4, 2015.
7. Should Michael Smallridge fail to meet these requirements, the Commission staff shall show cause Michael Smallridge as to whether his certificate(s) should be revoked or further conditions imposed.

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<sup>21</sup> Document No. 04001-15, filed June 29, 2015.

<sup>22</sup> Document No. 04718-15, filed July 28, 2015.



These conditions are either based on the Commission's rules and authorizing statutes or Mr. Smallridge's current business plans for each of the six Commission-regulated utilities that he owns either directly or indirectly. Both Mr. Smallridge and staff agree that the proposed conditions will allow the Commission to closely monitor Mr. Smallridge's compliance with the financial responsibilities associated with providing adequate service to the customers of Holiday Gardens. For that reason, staff recommends that these conditions should be imposed on this certification in the public interest.

Section 367.045(5)(a), F.S., states that "[t]he commission may grant or amend a certificate of authorization, in whole or in part or with modifications in the public interest." [emphasis added] The Commission has included conditions in prior transfer of certificate cases.<sup>23</sup> The conditions proposed for this transfer are directly related to the standards of technical and financial ability to provide service to the certificated territory mandated by Section 367.071(1), F.S. A decision that allows the Utility to proceed, but closely monitors its compliance with its service responsibilities, is a "modification in the public interest."

### **Other Matters**

If the conditions above are approved, the amended application would be considered within compliance with the governing statutes and rules concerning an application for transfer of certificate. The closing date of the sales contract, based upon the most recent data response, should be August 27, 2014. Pursuant to Section 367.071(1), F.S., the sales contract was made contingent upon Commission approval.

### **Noticing Provisions**

As noted in staff's original recommendation, customers were notified of the transfer on February 6, 2015. No objections to the notice have been filed with the Commission and the time for filing objections, based on the late notice date, has expired. A description of the territory being transferred is appended to this recommendation as Attachment A. Recorded copies of warranty deeds have been provided as part of responses to staff's data requests which are evidence that Holiday Gardens owns the land on which the water treatment facilities are located, pursuant to Rule 25-30.037(2)(q), F.A.C.

### **Sales Contract**

Pursuant to Rule 25-30.037(2)(g), F.A.C., the application contains a copy of the sales contract, which includes the purchase price, terms of payment, and a list of the assets purchased. As noted above, the purchase contract was for the certificated utilities of Holiday Gardens and Crestridge and non-utility assets for each service territory for waste disposal and street lighting. Based upon the amended application, Holiday Gardens was acquired for \$25,544 of the \$450,000 combined purchase price.

Pursuant to Rule 25-30.037(2)(h), F.A.C., the contract addressed customer deposits, customer advances, leases, and other matters. According to the application, there are no leases, developer agreements, or guaranteed revenue contracts associated with the transfer.

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<sup>23</sup> Order No. PSC-98-0043-FOF-WS, issued January 6, 1998, in Docket No. 951026-WS, *In re: Application for transfer of Certificates Nos. 361-W and 316-S in Citrus County from J & J Water and Sewer Corporation to Meadows Utility Company, Inc.*

### **Accounting Standards**

Mr. Smallridge is aware that Holiday Gardens' books and records must be maintained in accordance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA).

### **Other Regulatory Entities**

The Florida Department of Environmental Protection (DEP) sets requirements for the water system. During its March 2015 Sanitary Survey, several deficiencies were found with the water system, but these have been resolved and the system is in compliance at this time. The Utility is in the process of applying for renewal of its water use permit from SWFWMD. At this time, Mr. Smallridge has not yet paid his filing fee and has outstanding data requests. Mr. Smallridge has requested and received a time extension for filing this information until October 2, 2015.

### **Rates and Charges**

The Utility's rates and charges were last approved in a staff-assisted rate case in 1993.<sup>24</sup> The rates were subsequently amended to reflect a four-year rate reduction required by Section 367.0816, F.S., in 1997 and numerous price indexes. In 2014, Holiday Gardens Utilities, Inc. was approved for an after-hours normal reconnection charge, a convenience charge, a late payment charge, a meter tampering charge, and initial customer deposits.<sup>25</sup> The Utility is built out and has no approved service availability charges other than a meter installation charge. The Utility's existing rates are shown on Schedule No. 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, staff recommends that the Utility's existing rates and charges remain in effect until a change is authorized by this Commission in a subsequent proceeding.

### **Annual Reports and Regulatory Assessment Fees**

Staff has verified that the Utility is current on the filing of annual reports and regulatory assessment fees (RAFs) through December 31, 2014. The Buyer will be responsible for filing the Utility's annual reports and paying RAFs for 2015 and all future years.

### **Conclusion**

Staff recommends that with the conditions discussed herein the transfer is in the public interest and should be approved effective the date of the Commission vote. The territory being transferred is described in Attachment A. The resultant order should serve as Holiday Gardens Utilities, LLC's Certificate No. 116-W and be retained. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs, pursuant to Rule 25-30.475, F.A.C. Holiday Gardens Utilities, LLC should be responsible for annual reports and RAFs for 2015 and future years.

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<sup>24</sup> Order No. PSC-93-0013-FOF-WU, issued January 5, 1993, in Docket No. 920418-WU, *In re: Application for staff-assisted rate case by Holiday Gardens Utilities, Inc. in Pasco County.*

<sup>25</sup> Order No. PSC-14-0017-TRF-WU, issued January 6, 2014, in Docket No. 130250-WU, *In re: Application for approval of miscellaneous service charges in Pasco County, by Holiday Gardens, Inc.*

**Issue 2:** What is the appropriate net book value for Holiday Garden's water system for transfer purposes and should an acquisition adjustment be approved?

**Recommendation:** The net book value of Holiday Gardens' water system for transfer purposes should be \$19,380 as of August 27, 2014. An acquisition adjustment should not be included in rate base. Within 90 days of the date of the final order, Holiday Gardens should be required to provide general ledger balances which show its books have been updated to reflect the Commission-approved balances as of August 27, 2014. The adjustments should be reflected in the Utility's 2015 Annual Report when filed. (T. Brown, Norris)

**Staff Analysis:** Rate base was last established for the Utility, as of March 31, 1992.<sup>26</sup> The utility has also filed for a staff-assisted rate case in Docket No. 140177-WU. The purpose of establishing net book value (NBV) for transfers is to determine whether an acquisition adjustment should be approved. The NBV does not include normal ratemaking adjustments for used and useful plant or working capital. The utility's NBV has been updated to reflect balances, as of August 27, 2014. Staff's recommended NBV, as described below, is shown on Schedule 1.

#### **Utility Plant in Service (UPIS)**

The Utility's general ledger reflected a UPIS balance of \$187,111, as of August 27, 2014. Audit staff reviewed UPIS additions since the last rate case proceeding in 1992 to calculate a UPIS balance that totals \$181,038. As a result, UPIS should be decreased by \$6,073 to reflect a UPIS balance of \$181,038, as of August 27, 2014. Staff's recommended UPIS balance is shown on Schedule 1.

#### **Land**

The Utility's general ledger reflected a land balance of \$3,059, as of August 27, 2014. In Order No. 21920, issued December 14, 1988, the Commission established the value of the land to be \$2,414. There have been no additions to land purchased since Order No. 21920 was issued. Therefore, staff recommends that land be reduced by \$645 to reflect land of \$2,414, as of August 27, 2014. Staff's recommended land balance is shown on Schedule 1.

#### **Accumulated Depreciation**

The Utility's general ledger reflected an accumulated depreciation balance of \$81,170, as of August 27, 2014. Audit staff calculated that the appropriate accumulated depreciation balance to be \$164,072. As a result, accumulated depreciation should be increased by \$82,902 to reflect an accumulated depreciation balance of \$164,072, as of August 27, 2014. Staff's recommended accumulated depreciation balance is shown on Schedule 1.

#### **Contributions-in-Aid-of-Construction (CIAC) & Accumulated Amortization of CIAC**

As of August 27, 2014, the Utility's general ledger reflected balances of \$85,630 for CIAC and \$85,630 for accumulated amortization of CIAC. No adjustments have been identified by staff. Therefore, staff recommends a CIAC balance of \$85,630 and accumulated amortization of CIAC balance of \$85,630, as of August 27, 2014. Staff's recommended balances for CIAC and accumulated amortization of CIAC are shown on Schedule 1.

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<sup>26</sup> Order No. 93-0013-FOF-WU, issued January 5, 1993, in Docket No. 920418-WU, *In re: Application for a staff-assisted rate case by Holiday Gardens Utilities, Inc. in Pasco County.*

### **Net Book Value**

The Utility's general ledger reflected NBV of \$109,000. Based on the adjustments described above, staff recommends that the NBV for the Utility is \$19,380, as of August 27, 2014. Staff's recommended NBV and the NARUC USOA balances for UPIS and accumulated depreciation are shown on Schedule 1, as of August 27, 2014.

### **Acquisition Adjustment**

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. Of the total contract purchase price of \$450,000, the Buyer allocated \$24,544 to Holiday Gardens and \$60,694 to Crestridge Utilities, LLC, a sister utility. The balance of the purchase price, \$364,762, is allocated to garbage and street lighting operations.<sup>27</sup> As stated above, staff recommends that the appropriate NBV to be \$19,380. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment may be appropriate when the purchase price is greater than the NBV, and a negative acquisition adjustment may be appropriate when the purchase price is less than NBV. However, pursuant to Rule 25-30.0371(2), a positive acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances. While the Buyer did request a positive acquisition adjustment in response to staff's audit report, it was subsequently withdrawn.<sup>28</sup> Accordingly, staff recommends that no positive acquisition adjustment be approved.

### **Conclusion**

Based on the above, staff recommends that the NBV for transfer purposes is \$19,380, as of August 27, 2014. No acquisition adjustment should be included in rate base. Within 90 days of the date of the final order, the Buyer should be required to provide general ledger balances which show its books have been updated to reflect the Commission-approved balances, as of August 27, 2014. The adjustments should be reflected in the Utility's 2015 Annual Report when filed.

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<sup>27</sup> Document No 01503-15, filed March 18, 2015.

<sup>28</sup> Document Nos. 00882-15 and 01503-15, filed February 9, 2015, and March 18, 2015, respectively.

**Issue 3:** Should this docket be closed?

**Recommendation:** If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued and the docket should be closed administratively after Holiday Gardens has provided proof that its general ledgers have been updated to reflect the Commission-approved balances, as of August 27, 2014. (Brownless)

**Staff Analysis:** If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued and the docket should be closed administratively after Holiday Gardens has provided proof that its general ledgers have been updated to reflect the Commission-approved balances, as of August 27, 2014.

**Holiday Gardens Utilities, LLC**  
**Water Territory**  
**Pasco County**

In Township 26 South, Range 16 East, Section 29

Commence at the Southwest corner of said Section 29 for a Point of Beginning.  
Thence run North 0 degrees 07 minutes 03 seconds East 1668.59 feet;  
thence South 89 degrees 40 minutes 50 seconds East 2642.58 feet;  
thence South 0 degrees 02 minutes 15 seconds West 667.08 feet;  
thence North 89 degrees 41 minutes 18 seconds West 440.58 feet;  
thence South 0 degrees 03 minutes 03 seconds West 832.70 feet;  
thence North 89 degrees 42 minutes 02 seconds West 280 feet;  
thence South 0 degrees 03 minutes 03 seconds West 168 feet;  
thence North 89 degrees 02 seconds West 100 feet;  
thence North 0 degrees 03 minutes 03 seconds East 168 feet;  
thence North 89 degrees 42 minutes 02 seconds West 501.55 feet;  
thence North 0 degrees 04 minutes 39 seconds East 832.88 feet;  
thence North 89 degrees 41 minutes 18 seconds West 440.58 feet;  
thence South 0 degrees 05 minutes 27 seconds West 1000.97;  
thence North 89 degrees 42 minutes 02 seconds West 881.63 feet to the Point of Beginning.

And

A portion of the Southwest Quarter of Section 29, Township 26 South, Range 16 East being more particularly described as follows:

Commencing at the SE corner of the SW quarter of said Section 29 for a Point of Beginning, run North 89 degrees 42 minutes 02 seconds West along said section line 1322.44 feet, thence North 00 degrees 00 minutes 39 seconds East 168 feet to a point on the boundary of the present territory served; thence the following said boundary in successful courses and distances as follows:

South 89 degrees 42 minutes 2 seconds East 501.55 feet;  
South 0 degrees 3 minutes 3 seconds West 168 feet;  
South 89 degrees 42 minutes 2 seconds East 100 feet;  
North 0 degrees 3 minutes 3 seconds East 168 feet;  
South 89 degrees 42 minutes 2 seconds East 280 feet;  
North 0 degrees 3 minutes 3 seconds East 832.07 feet;  
South 89 degrees 42 minutes 18 seconds East 440.58 feet;

Thence departing boundary of said present territory served; South 0 degrees 02 minutes 15 seconds West 1000.61 feet returning to the Point of Beginning.

And

The Southwest Quarter of Section 30, Township 26, Range 16 East: From the Southeast Quarter of said Section 30, also the Point of Beginning; along the Southerly line of said Section west 879 feet; thence North 1165 feet; thence East 879 feet; thence South 1165 feet returning to the Point of Beginning.

**FLORIDA PUBLIC SERVICE COMMISSION**

**authorizes  
Holiday Gardens Utilities, LLC  
pursuant to  
Certificate Number 116-W**

to provide water service in Pasco 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>
5675	03/08/1973	72590-W	Original Certificate
PSC-93-1530-FOF-WU	10/19/1993	930164-WU	Amendment
*	*	140176-WU	Transfer of Certificate

**\*Order Numbers and dates to be provided at time of issuance.**



**Holiday Gardens Utilities, LLC**

**Water System**

**Schedule of Net Book Value as of August 27, 2014**

<b>Description</b>	<b>Balance Per</b>		<b>Staff</b>
	<b>Utility</b>	<b>Adjustments</b>	<b>Recommended</b>
Utility Plant In Service	\$187,111	(\$6,073) A	\$181,038
Land	3,059	(645) B	2,414
Accumulated Depreciation	(81,170)	(82,902) C	(164,072)
CIAC	(85,630)	0	(85,630)
Amortization of CIAC	<u>85,630</u>	<u>0</u>	<u>85,630</u>
Net Book Value	<u>\$109,000</u>	<u>(\$89,620)</u>	<u>\$19,380</u>

**Explanation of Staff's Recommended  
Adjustments to Net Book Value as of August 27, 2014  
Water System**

<b>Explanation</b>	<b>Amount</b>
A. Utility Plant In Service To reflect appropriate amount of utility plant in service.	<u>(\$6,073)</u>
B. Land To reflect appropriate amount of land.	<u>(\$645)</u>
C. Accumulated Depreciation To reflect appropriate amount of accumulated depreciation.	<u>(\$82,902)</u>
 Total Adjustments to Net Book Value as of August 27, 2014.	 <u>(\$89,620)</u>

**Holiday Gardens Utilities, LLC**  
**Water System**

**Schedule of Staff Recommended Account Balances as of August 27, 2014**

<b>Account</b>			<b>Accumulated</b>
<b>No.</b>	<b>Description</b>	<b>UPIS</b>	<b>Depreciation</b>
304	Structures & Improvements	\$5,844	(\$5,844)
307	Wells and Springs	11,612	(11,612)
309	Supply Mains	5,595	(3,411)
310	Power Generating Equipment	1,323	(1,324)
311	Pumping Equipment	22,152	(14,459)
320	Water Treatment Equipment	2,271	(2,271)
330	Dist. Reservoirs & Standpipes	11,328	(5,495)
331	Transmission & Dist. Mains	64,397	(64,397)
333	Services	21,801	(21,801)
334	Meters & Meter Installations	28,386	(27,973)
335	Hydrants	5,120	(4,274)
340	Office Equipment & Furniture	431	(431)
345	Power Operated Equipment	<u>780</u>	<u>(780)</u>
	<b>Total</b>	<b><u>\$181,038</u></b>	<b><u>(\$164,072)</u></b>

**Holiday Gardens Utilities, Inc.  
Monthly Water Rates**

**Residential and General Service**

Base Facility Charge by Meter Size

5/8" X 3/4"	\$7.64
3/4"	\$11.45
1"	\$19.14
1-1/2"	\$38.23
2"	\$61.22
3"	\$122.45
4"	\$191.29
6"	\$382.59

Charge per 1,000 Gallons – Residential and General Service \$1.35

**Initial Customer Deposits**

Residential - 5/8" X 3/4"	\$24.00
General Service - All Meters	2 times the average estimated bill

**Miscellaneous Service Charges**

	<u>Business Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$15.00	N/A
Normal Reconnection Charge	\$15.00	\$30.00
Violation Reconnection Charge	\$15.00	N/A
Premises Visit Charge (in lieu of disconnection)	\$10.00	N/A
Convenience Charge	\$2.50	
Late Payment Charge	\$5.25	
Meter Tampering Charge	\$50.00	

**Service Availability Charges**

**Meter Installation Charge**

5/8" x 3/4"	\$75.00
All other meter sizes	Actual Cost