

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of ) DOCKET NO. 881361-WU  
Certificate No. 364-W from Linadale )  
Water Company to Troy Alan Eagan in ) ORDER NO. 21834  
Marion County. )  
ISSUED: 9-5-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
THOMAS M. BEARD  
JOHN T. HERNDON  
GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING TRANSFER

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On October 17, 1988, Mr. Troy Alan Eagan (Mr. Eagan or Buyer) filed an application with this Commission for approval of the transfer of Linadale Water Company (Linadale), Certificate No. 364-W, from Ms. Myrtle I. Shields (Ms. Shields or Seller). The Utility provides service to approximately 217 customers in two noncontiguous 40-acre mobile home parks owned by Ms. Shields in Marion County. The water treatment plant is approximately seven years old, with water being provided by 2 wells through a looped system between the two developments. The system may serve approximately 247 connections at buildout.

Upon receipt of the application, we conducted an on-site inspection and found the plant to be in good condition. Although the water plant is of sufficient capacity to serve the

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development at build-out, some of the lines will need to be replaced and some lines will have to be looped for the system to be more effective. The only deficiency was found by the Department of Environmental Regulation (DER) during a recent sanitary inspection. It was noted by DER that the water treatment plant is not enclosed by a fence.

#### Transfer

According to the application, Mr. Eagan has agreed to purchase the Linadale system for \$55,000, plus closing costs of \$1,924, using his home, which was appraised in 1988 at \$116,500, as collateral. According to the application, Mr. Eagan has been taking a class at Lake County Vo-Tech on water and sewage treatment, with the intention of attending school this fall so that he can eventually receive his Class C license as a water and wastewater plant operator. The application also stated that Mr. Eagan has been in training at Linadale since September, 1988, and is currently unemployed.

Mr. Eagan believes that he can run the Linadale system in a more efficient manner and reduce the expenses of the utility which have averaged \$17,688 annually over the 1983-1987 period according to the annual reports. While some reduction in expenses may be possible, we do not believe that the costs could be reduced sufficiently to cover the loan payments of \$7,501.56 per year. Our review of the Utility's annual reports and income tax returns reveals that the Utility is barely operating at a profit. Therefore, Mr. Eagan would probably not be able to meet the balloon payment, in the amount of \$50,493.49, on the loan in 3 years without selling his home.

Ms. Shields initially was interested in selling the Utility to raise money to finance improvements and expansion of the mobile home park. After she signed the sales contract with Mr. Eagan, she borrowed the money from the bank to make the improvements and now wants to keep the Utility. Ms. Shields currently has no loans against the Utility and the plant is in good condition.

While Mr. Eagan is interested in owning and operating Linadale, he has only limited experience in the actual operation of a water utility. Further, he intends to pay

\$56,924 for a system whose rate base is \$31,280, or 80% more than he will be able to earn a return on his investment. Furthermore, our review of Mr. Eagan's financial statement indicates that if improvements, such as the upgrade to the lines noted previously, need to be made soon, he would have to borrow the money, which would only increase his expenses, or require him to sell his home.

Due to the severe financial burden this Utility would place on the Buyer and his inexperience in utility operations, coupled with the renewed interest of the Seller to keep the system, we find that the transfer would not in the public interest, and it is, therefore, denied.

It is, therefore,

ORDERED by the Florida Public Service Commission that the application of Troy Alan Eagan, Highway 19 North, Altoona, Florida, for transfer of Linadale Water Company and Certificate No. 148-W from Ms. Myrtle I. Shields, 24901 S.E. Highway 42, Umatilla, Florida 32784, is hereby denied. It is further

ORDERED that the provisions of this Order, issued as Proposed Agency Action, shall become final unless an appropriate petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, 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 5th day of September, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on September 26, 1989. In the absence of such a petition, this order shall become effective the following day as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent 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.

If this order becomes final and effective, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date 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.