

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of)	DOCKET NO. 910097-WS
Certificates Nos. 524-W and 459-S from)	
Century Group, Inc. to B.D.C., Inc.)	ORDER NO. 24638
in Pasco County.)	
_____)	ISSUED: 6/7/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY
GERALD L. GUNTER
MICHAEL MCK. WILSON

ORDER APPROVING TRANSFER

BY THE COMMISSION:

Background

On January 31, 1991, this Commission received an application for the transfer of Century Group, Inc.'s Pasco County water and wastewater utilities (Century or utilities) to B.D.C., Inc. (BDC). Century provides water and wastewater service to approximately 145 equivalent residential customers (ERC) in the Arbor Oaks Mobile Home Park in Pasco County. The water service is provided through a pass-through arrangement with the County.

On November 19, 1990, BDC closed on the purchase of the utilities and the mobile home park. At that time the parties entered into a 99-year lease agreement for the wastewater treatment facility and Holdback and Document Escrow Agreement whereby BDC leased the property on which the wastewater plant is located back to Century so that Century could operate the plant until the transfer was approved by the Commission. Although the lease was executed in an effort by the parties to avoid transferring the utilities prior to Commission approval, the lease does not address the transfer of the water utility. Therefore, the lease did not accomplish its purpose and the transfer was finalized prior to Commission approval. However, since the application for approval of the transfer was filed within a reasonable time after the

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Commission Staff became aware of the transfer, we will not penalize Century for closing on the transfer prior to our approval.

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules.

1. A filing fee in the amount of \$300, as prescribed by Section 25-30.020, Florida Administrative Code.
2. Proof of notice to interested governmental and regulatory agencies and utilities within a four-mile radius of the territory, and proof of advertisement in a newspaper of general circulation in Pasco County, as prescribed by Rule 25-30.030, Florida Administrative Code.
3. Evidence that the Utility owns the land upon which its facilities are located, as required by Rule 25-30.037, Florida Administrative Code.

No objections to the notice of application have been received and the time for filing such has expired.

Since BDC has no experience in the water and wastewater industry, it has retained Wray Enterprises to manage and operate the systems to ensure proper operation. Also, from information submitted with the application, it appears that BDC has the financial ability to operate the systems. The Department of Environmental Regulation (DER) has no outstanding notices of violation against the Utility. Therefore, we find that the transfer is in the public interest and it is approved. The Utility has returned Certificates Nos. 524-W and 459-S to this Commission for entry reflecting the change in ownership. The Utility has also submitted tariff sheets reflecting the transfer.

Rate Base

Pursuant to Section 367.071(5), Florida Statutes, the Commission may establish rate base for a utility when it approves the transfer of the utility or its facilities or property from one entity to another. However, since rate base is being established in Docket No. 900749-WS, which is a staff-assisted rate case, and

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting 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 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 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.

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BDC has not requested an acquisition adjustment, we are not establishing rate base in this docket.

Rates and Charges

According to Rule 25-9.044(1), Florida Administrative Code, the new owner of a utility must adopt and use the rates, classification and regulations of the former owner unless authorized to change by the Commission. Since BDC requested a change in the rates and charges in Docket No. 900749-WS, any change in rates will be determined in that proceeding. Therefore, BDC is directed to continue charging the rates and charges approved in Century's tariff until authorized to change by the Commission.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificates Nos. 524-W and 459-S, from Century Group, Inc., Post Office Box 7079, Winter Haven, Florida 33883-7079, to B.D.C., Inc., 36323 Arbor Oaks Drive, Zephyrhills, Florida 33541, is hereby approved. It is further

ORDERED that B.D.C., Inc. shall continue to charge the rates and charges approved in Century's tariff until authorized to change by this Commission. It is further

ORDERED that Docket No. 910097-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 7th day of JUNE, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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ATTACHMENT A

CENTURY GROUP, INC.
TERRITORY DESCRIPTION

The following described lands located in portions of Section(s) 9, Township 26 South, Range 21 East, Pasco County, Florida:

Section 9

The SW 1/4 of the NE 1/4 of the NW 1/4 and the S 1/2 of the SE 1/4 of the NE 1/4 of the NW 1/4 and the N 1/2 of the N 1/2 of the SE 1/4 of the NW 1/4.