

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint application for transfer of CWS Communities LP d/b/a Crystal Lake Club, holder of Certificate Nos. 525-W and 454-S in Highlands County, to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

DOCKET NO. 041394-WS
ORDER NO. PSC-05-0428-FOF-WS
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

FINAL ORDER APPROVING TRANSFER OF FACILITIES
FROM CWS COMMUNITIES LP D/B/A CRYSTAL LAKE CLUB TO
MINK ASSOCIATES II, LLC D/B/A CRYSTAL LAKE CLUB UTILITIES

BY THE COMMISSION:

I. Background

CWS Communities LP d/b/a Crystal Lake Club (Crystal Lake, seller) is a Class C utility serving approximately 487 residential water and wastewater customers in Highlands County. The utility is in the Highlands Ridge Water Use Caution Area in the Southwest Florida Water Management District (SWFWMD). Crystal Lake's 2003 annual report shows total operating revenue of \$72,120 and \$59,325 for water and wastewater, respectively, and net operating income of \$3,876 for water and net operating loss of \$16,718 for wastewater.

Crystal Lake was granted Certificate Nos. 454-S¹ and 525-W² in 1989. Crystal Lake has been transferred three times.³

¹ Wastewater certificate issued pursuant to Order No. 21515, issued July 7, 1989, in Docket No. 881002-SU, In re: Application of Century Group, Inc. for a sewer certificate in Highlands County.

² Water certificate issued pursuant to Order No. 22300, issued December 12, 1989, in Docket No. 891011-WU, In re: Application of Century Group, Inc. for original water certificate in Highlands County.

³ Century Group transferred the utility pursuant to Order No. 23974, issued January 9, 1991, in Docket No. 900527-WS, In re: Application for transfer of Certificates Nos. 525-W and 454-S from Century Group, Inc. to Crystal Lake Community, Limited Partnership, Diamond Valley Associates, Ltd., Friendly Village Lancaster Associates, Ltd. d/b/a Crystal Lake Club in Highlands County. The second transfer was approved pursuant to Order No. PSC-01-0428-PAA-WS, issued February 22, 2001, in Docket No. 991889-WS, In re: Application for transfer of Certificates Nos. 525-W and 454-S in Highlands County from Crystal Lake Club to CWS Communities LP d/b/a Crystal Lake Club. The third transfer was approved pursuant to Order No. PSC-02-1027-FOF-WS, issued July 29, 2002, in Docket No. 020101-WS, In re: Request for approval of transfer of majority organizational control of CWS Communities LP d/b/a Crystal Lake Club, holder of Certificate Nos. 525-W and 454-S in Highlands County, from

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On May 27, 2003, CWS Communities LP (CWS) entered into a Mobile Home Park Purchase and Sale Agreement with Dockside Investors, L.L.C. (Dockside) for \$19 million. Dockside was created as a temporary, intermediate buyer. Upon closing on the transfer on September 3, 2003, all land was conveyed simultaneously and immediately by Dockside to Mink Associates I, LLC (Associates). That same day Dockside transferred all of the utility facilities to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities (Mink or buyer).

On December 14, 2004, the seller and Mink submitted a joint application for transfer of Crystal Lake to Mink. No deficiencies were found in this application. This Order addresses the transfer of the water and wastewater facilities from Crystal Lake to Mink. We have jurisdiction to consider this matter pursuant to section 367.071, Florida Statutes.

II. Transfer of Certificates

As previously stated, Crystal Lake and Mink applied for a transfer of the utility facilities and certificates in Highlands County on December 14, 2004. The closing on the transfer of the utility facilities took place on September 3, 2003, subject to our approval.

All of the filing requirements for the application were completed on December 21, 2004. The application as filed 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. The territory being transferred is described in Attachment A, attached hereto and incorporated herein by reference.

Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. No objections to the application were received and the time for filing such has expired. According to the application, there are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, debts of the utility, or leases pertaining to the utility operations at the time of the transfer.

The application contained a copy of an executed 99-year lease between the association and Mink giving Mink long-term use of the land for its water and wastewater facilities. Mink shall file a recorded copy of the 99-year lease for the land for the water and wastewater facilities within 30 days of the issuance date of this Order. It is noted that Crystal Lake owned the land during the 1993 staff assisted rate case; therefore, land was included in the utility's rate base. The prudence of the annual land rental will be addressed in the utility's next rate proceeding.

The application also contained a statement that the buyer has performed a reasonable investigation of the utility system and found the overall condition of the water facilities to be in satisfactory condition and in general compliance with the requirements of the Florida Department of Environmental Protection (DEP). Our staff has contacted DEP and verified that there are no outstanding notices of violation.

According to the application, the transfer is in the public interest because the Crystal Lake Club customers will continue to receive the same quality service to which they are accustomed. The buyer is retaining the local management team that has operated the water and wastewater utility for the past ten years. The utility is staffed with trained and licensed personnel. In addition, the members of the buyer will provide funding to the utility as needed to provide the financial stability required to maintain the utility system in accordance with Commission standards and environmental regulations.

In a prior transfer, Docket No. 991889-WS, it was determined that the utility was not using the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) as required by Rule 25-30.115, Florida Administrative Code. The utility was ordered to set up its books using the NARUC USOA. In related Docket No. 030998-WS⁴, it was determined that Chateau Properties, Inc. was not maintaining books and records for other CWS properties according to NARUC USOA. We have discussed with the buyer and seller the rule requiring the use of NARUC USOA. The buyer stated it would comply with this requirement. Therefore, we find that Mink shall provide a statement within 30 days of this order that it has established its books and records in compliance with the NARUC USOA, including separate general ledgers for the water and wastewater systems.

Rate base was last set for the utility as of August 30, 1999.⁵ Pursuant to section 367.071, Florida Statutes, we may set rate base in transfer dockets. Although rate base is typically set in transfer proceedings, no audit was performed in this docket. According to the contract in this transfer, the buyer and seller agreed that the portion of the purchase price allocable or attributable to the utility property is to be the net book value of the utility assets as established by this Commission. In the absence of this Commission setting rate base in this docket, the buyer will rely on the rate base established by the Commission in 1999 and subsequent adjustments made by the seller. In addition, because the purchase price is an allocated amount equal to rate base, there will be no resulting acquisition adjustment pursuant to Rule 25-30.0371, Florida Administrative Code.

We also discussed with the buyer and seller the need for the buyer to obtain from the seller all records pertaining to utility plant in service, depreciation, and contributions-in-aid-of-construction accounts for the water and wastewater utilities since rate base was last set so that the buyer will have supporting documentation for rate base for any future rate proceeding. They understand the need to maintain this information and are making every effort to see that the buyer receives this information.

⁴ The transfer/merger of the grandparent corporation, Chateau Communities, Inc., and the subsequent transfer of majority organization control of three of its utilities, was approved pursuant to Order No. PSC-05-0186 –PAA-WS, issued February 17, 2005, in Docket No. 030998-WS, In re: Joint application for approval of transfer of majority organizational control of Chateau Communities, Inc., grandparent of Del Tura Phase I, LLC d/b/a Del Tura Utilities, holder of Certificate No. 298-S in Lee County; CWS Communities LP d/b/a Palm Valley Utilities, holder of Certificate Nos. 277-W and 223-S in Seminole County; and CWS Communities LP, holder of Certificate No. 518-W in Lake County, to Hometown America, L.L.C.

⁵ Rate base was last set for the utility pursuant to Order No. PSC-01-0428-PAA-WS, issued February 22, 2001, in Docket No. 991889-WS, In Re: Application for transfer of Certificates Nos. 525-W and 454-S in Highlands County from Crystal Lake Club to CWS Communities LP d/b/a Crystal Lake Club.

The 2003 and all previous annual reports were timely filed and regulatory assessment fees (RAFs) have been paid timely through December 31, 2003. No penalties, late fees, interest, or refunds are due or outstanding. The buyer has provided written assurance that it will be responsible for the 2004 and future RAFs and the 2004 and future annual reports.

Based on the above, we find that the transfer of facilities and Certificate Nos. 525-W and 454-S from CWS Communities LP d/b/a Crystal Lake Club to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities is in the public interest and is hereby approved effective April 5, 2005. The utility shall file a recorded copy of the 99-year lease for the land for the water and wastewater facilities within 30 days of the issuance date of this Order. Within 30 days of this Order, the buyer shall provide a statement that it has established its books and records in compliance with the NARUC USOA. Mink shall be responsible for the annual reports and regulatory assessment fees (RAFs) for 2004 and future RAFs and the 2004 and future annual reports. The territory being transferred is described in Attachment A.

III. Rates and Charges

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 which 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.

Crystal Lake's current rates for water and wastewater service, customer deposits, service availability and other charges were approved by this Commission in the previous rate case.⁶ The utility's approved rates and charges are shown on Schedule No. 1, attached hereto and incorporated herein by reference.

Mink has not requested a change in the rates and charges of the utility. Accordingly, we find that the existing rates and charges for Crystal Lake be continued by Mink, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by this Commission in a subsequent proceeding. The tariff pages reflecting the transfer shall be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of facilities and Certificate Nos. 525-W and 454-S from CWS Communities LP d/b/a Crystal Lake Club to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities is in the public interest and is hereby approved effective April 5, 2005. It is further

ORDERED that that all attachments appended hereto are incorporated herein by reference. It is further

⁶ The rates and charges were set pursuant to Order No. PSC-94-0243-FOF-WS, issued on March 4, 1994, in Docket No. 930572-WS, In re: Application for a Staff-Assisted Rate Case in Highlands County by Crystal Lake Club.

ORDERED that Mink Associates II, LLC d/b/a Crystal Lake Club Utilities shall file a recorded copy of the 99-year lease for the land for the water and wastewater facilities within 30 days of the issuance date of this Order. It is further

ORDERED that Mink Associates II, LLC d/b/a Crystal Lake Club Utilities shall provide a statement that it has established its books and records in compliance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts (NARUC USOA), within 30 days of this Order. It is further

ORDERED that Mink Associates II, LLC d/b/a Crystal Lake Club Utilities shall be responsible for the annual reports and regulatory assessment fees (RAFs) for 2004 and future RAfs and the 2004 and future annual reports. It is further

ORDERED that the existing rates and charges for Crystal Lake Club be continued by Mink Associates II, LLC d/b/a Crystal Lake Club Utilities, pursuant to Rule 25-9.044(1), Florida Administrative Code, until authorized to change by this Commission in a subsequent proceeding. It is further

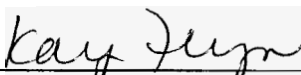
ORDERED that the tariff pages reflecting the transfer shall be effective for services provided or connections made on or after the stamped approval date on the tariff sheets.

ORDERED that this docket shall be closed administratively upon receipt of the recorded 99-year lease and a statement that Mink Associates II, LLC d/b/a Crystal Lake Club Utilities has established its books and records in compliance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts, including separate general ledgers for its water and wastewater systems.

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

(S E A L)

KEF

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.

MINK ASSOCIATES II, LLC d/b/a CRYSTAL LAKE CLUB UTILITIES
WATER AND WASTEWATER SERVICE AREA
DESCRIPTION OF TERRITORY SERVED

In Section 2, Township 34 South, Range 28 East

All that part of the Southeast 1/4 and the Southeast 1/4 of the Northeast 1/4 of Section 2, Township 34 South, Range 28 East, lying West of the A.C.L. Railroad right-of-way together with that part of lots 9 to 14 inclusive, of WARREN AND MONDAY'S SUBDIVISION as recorded in P.B. 1, Page 10, Highlands County, Florida, lying within the following described boundary.

Commence at the Southeast corner of Section 2, Township 34 South, Range 28 East; run thence North 1° 08' 50" West along the line between Section 1 and 2 for 242.14 feet for a point of beginning, thence North 89° 48' 08" West, 2042.29 feet; thence North 1° 16' 18" West in and parallel with the West line of said Southeast 1/4 for 2352.93 feet to intersect the North line of said Southeast 1/4 (being also the South line of said WARREN AND MONDAY SUBDIVISION); thence run North 20° 20' 23" West 899.56 feet to a point herein designated point "A" which is the Westerly end of a control line along Lake Denton; thence continue North 20° 20' 23" West 30 feet, more or less, to the shore of Lake Denton, thence Easterly along the meanders of Lake Denton, 370 feet, more or less to intersect the North line of lot 9 of WARREN AND MONDAY SUBDIVISION; thence North 88° 38' 32" East, 50.0 feet, more or less along said North line to a point of the aforesaid control line which bears North 68° 29' 12" East, 417.65 feet from said point "A", thence continue North 88° 38' 32" East along said North line of Lot 9, 626.48 feet to intersect the East line of Southwest 1/4 of Northeast 1/4, thence North 1° 12' 34" West, 331.46 feet to the Northwest corner of Southeast 1/4 of Northeast 1/4, thence North 88° 38' 48" East along North line of Southeast 1/4 of Northeast 1/4, 220.95 feet to the Westerly R/W line of the A.C.L. Railroad R/W, thence South 18° 16' 58" East along said Westerly R/W, 3746.87 feet to the East line of Section 2; thence South 1° 08' 50" East, along the section line 149.60 feet to the point of beginning. Lying in Section 2, Township 34 South, Range 28 East, Highlands County, Florida. Also a 50 foot easement whose centerline is described as beginning at a point 437.82 feet North and 2051.50 feet West of the Southeast corner of Section 2, Township 34 South, Range 28 East, Highlands County, Florida, run North 89° 48' 08" West, 1548.40 feet, to the beginning of a 100 foot easement, thence continue North 89° 48' 08" West, 300.0 feet to a point in the East right-of-way boundary of SR-17A.

SCHEDULE 1

Mink Associates II, LLC d/b/a Crystal Lake Club Utilities
 Monthly Service Rates
 Residential and General Service

Meter Sizes:	Base Facility Charge	
	Water	Wastewater
5/8" x 3/4"	\$ 2.78	\$ 3.63
3/4"	4.16	5.44
1"	6.94	9.06
1 1/2"	13.87	18.11
2"	22.19	28.99
3"	44.40	57.96
4"	69.37	90.57
6"	138.76	181.13
Charge Per 1,000 Gallons		
Residential	\$1.29	\$1.42*
General Service	\$1.29	\$1.71
*Maximum of 6,000 gallons		

Miscellaneous Service Charges

	Water	Wastewater
Initial Connection	\$15	\$15
Normal Reconnection	\$15	\$15
Violation Reconnection	\$15	Actual Cost
Premises Visit (in lieu of Disconnection)	\$10	\$10

Service Availability Charges

Meter Installation Fee	\$100
Water System Capacity Charge (per ERC)	\$375
Wastewater System Capacity Charge (per ERC)	\$700