

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to transfer water and wastewater systems of Cal Clair, Inc. d/b/a Breeze Hill Utility to Aqua Utilities Florida, Inc., request for amendment of Aqua Utilities Florida, Inc.'s Certificate Nos. 587-W and 506-S in Polk County, to include Cal Clair, Inc. d/b/a Breeze Hill water and wastewater territory, and request for cancellation of Cal Clair, Inc. d/b/a Breeze Hill's Certificate Nos. 598-W and 513-S.

DOCKET NO. 080167-WS
ORDER NO. PSC-08-0533-FOF-WS
ISSUED: August 18, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING TRANSFER, AMENDING CERTIFICATE NOS. 587-W AND 506-S,
AND CANCELLING CERTIFICATE NOS. 598-W AND 513-S

BY THE COMMISSION:

BACKGROUND

Cal Clair, Inc. d/b/a Breeze Hill Utility (Breeze Hill, seller, or utility) is a Class C water and wastewater utility serving approximately 1 general service and 122 residential customers in Polk County. The utility is located in an area of the South Florida Water Management District (SFWMD), which is not considered a water use caution area. The utility's operating income reported for 2007 is \$32,896 and \$36,650 for water and wastewater, respectively.

Breeze Hill was granted Certificate Nos. 598-W and 513-S in 1998.¹ Two transfers of these certificates have subsequently been approved.²

¹ Order No. PSC-98-1550-FOF-WS, issued November 23, 1998, in Docket No. 971192-WS, In Re: Application for grandfather certificates to operate a water and wastewater utility in Polk County by Bieber Enterprises, Inc. d/b/a Breeze Hill Utilities.

² Order No. PSC-01-1985-FOF-WS, issued October 5, 2001, in Docket No. 010801-WS, In re: Application for transfer of majority organizational control of Bieber Enterprises d/b/a Breeze Hill Utilities, Inc., holder of Certificates Nos. 598-W and 513-S in Polk County, from Paul E. Bieber to Terrance Hartigh; Order No. PSC-03-1114-PAA-WS, issued October 6, 2003, in Docket No. 030471-WS, In Re: Application for transfer of Certificate Nos. 598-W and 513-S in Polk County from Bieber Enterprises, Inc. d/b/a Breeze Hill Utilities to Cal Clair, Inc. d/b/a Breeze Hill Utility.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

On March 21, 2008, Aqua Utilities Florida, Inc. (AUF or buyer), submitted an application for transfer of the Breeze Hill water and wastewater systems to AUF and for the cancellation of Breeze Hill's certificates. AUF is a Class A utility providing water service to approximately 16,730 residential and 234 general service customers, and wastewater service to approximately 6,434 residential and 171 general service customers. AUF's 2007 annual report shows total operating revenue of \$5,456,559 and \$3,093,735 and net operating income of (\$416,704) and (\$681,260) for water and wastewater, respectively. We have jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes (F.S.).

DISCUSSION AND DECISION

AUF applied for a transfer of the Breeze Hill systems in Polk County to AUF on March 21, 2008. The closing on the sale of the utility facilities took place on June 14, 2007, subject to our approval as provided in Section 367.071(1), F.S.

All of the filing requirements for the application were completed on April 30, 2008. The application is in compliance with the governing statute, Section 367.071, F.S., and Rule 25-30.037, Florida Administrative Code (F.A.C.), pertaining to an application for the sale, assignment, or transfer of certificates of authorization. The territory being transferred is described in Attachment A. Pursuant to Rule 25-30.030, F.A.C., the application contained the requisite proof of noticing. No objections to the application were received and the time for filing such objections has expired.

The application indicates that Breeze Hill has the water capacity to pump 100,000 gallons per day (gpd) and wastewater treatment capacity to process 40,000 gpd. The application contains a statement that the buyer has performed a reasonable investigation of the utility systems and found the overall condition to be satisfactory and in general compliance with the requirements of the Florida Department of Environmental Protection (DEP). DEP has verified that there are currently no outstanding notices of violation. Additionally, both the SFWMD and the Polk County Health Department found that the utility systems were satisfactory and in compliance with their respective regulations.

According to the application, AUF has the necessary financial and technical ability to provide adequate, safe, and reliable water and wastewater service to the Breeze Hill customers. The buyer is a wholly-owned subsidiary of Aqua America, Inc., the largest publicly traded water and wastewater utility based in the United States, which provides services to more than 800,000 customers in thirteen states. Aqua America, Inc., has substantial economies of scale through mass purchasing of certain goods and the provision of centralized services. The Breeze Hill customers will benefit from the economies of scale of AUF's parent company, Aqua America, Inc. AUF was granted Certificate Nos. 587-W and 506-S as a Class A utility in a transfer docket in 2005.³ The application included executed and recorded copies of a special warranty deed and an assignment and grant of easement.

³ Order No. PSC-05-1242-PAA-WS, issued December 20, 2005, in Docket No. 040951-WS, In re: Joint application for approval of sale of Florida Water Services Corporation's land, facilities, and certificates in Brevard, Highlands,

Pursuant to Section 367.071, F.S., we may set rate base in transfer dockets. Rate base was last set for Breeze Hill at \$68,257 and \$45,552 for water and wastewater, respectively, as of December 31, 2001.⁴ The 2006 Breeze Hill annual report reflects rate base, excluding working capital, of \$55,861 and \$41,853 for water and wastewater, respectively.

Pursuant to Rule 25-30.0371, F.A.C., a negative acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. The purchase price for Breeze Hill (\$95,000) is greater than 80 percent of the estimated net book value (\$97,714), and there do not appear to be any extraordinary circumstances that would justify a negative acquisition adjustment. Furthermore, no negative acquisition adjustment was requested by the buyer in this matter. Therefore, no acquisition adjustment shall be made.

It has been discussed with the buyer the need to obtain from the seller all records pertaining to utility plant in service and depreciation for the water and wastewater utility since rate base was last set so that the buyer will have supporting documentation for rate base in any future rate proceeding. The buyer understands the need to obtain this information and has made every effort to collect this information.

Breeze Hill has no outstanding regulatory assessment fees (RAFs), and no fines or refunds are owed. Breeze Hill paid the 2007 RAFs for January 1, 2007, through June 14, 2007. AUF paid the RAFs for June 15, 2007 through December 31, 2007. AUF will be responsible for the 2008 RAFs. Breeze Hill filed the 2006 annual report and no penalties and interest are owed. AUF included the Breeze Hill systems in its 2007 annual report and will be responsible for future annual reports.

Breeze Hill's rates and charges were established pursuant to Order No. PSC-02-1114-PAA-WS. Its current late payment charge was established in 2000.⁵ 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 we have authorized a change. The new owner has not requested a change; therefore, the existing rates and charges shown on Attachment B shall continue in effect.

Based on the foregoing, we find that the application for transfer of the Breeze Hill systems to AUF is in the public interest and it is hereby approved. Certificate Nos. 587-W and 506-S shall be amended to include the Breeze Hill service area and Certificate Nos. 598-W and 513-S shall be cancelled effective as of July 29, 2008. This order shall serve as AUF's water and wastewater certificates and shall be retained by the buyer. The territory being transferred is

Lake, Orange, Pasco, Polk, Putnam, and a portion of Seminole, Volusia, and Washington counties to Aqua Utilities Florida, Inc.

⁴ Order No. PSC-02-1114-PAA-WS, issued August 14, 2002, in Docket No. 011481-WS, In re: Application for staff-assisted rate case in Polk County by Bieber Enterprises, Inc. d/b/a Breeze Hill Utilities, holder of Certificate Nos. 598-W and 513-S.

⁵ Order No. PSC-00-2165-TRF-WU, issued November 14, 2000, in Docket No. 001325-WU, In re: Request for approval of a tariff filing to establish a late payment charge in Polk County by Bieber Enterprises, Inc. d/b/a Breeze Hill Utilities.

described in Attachment A. 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 pursuant to Rule 25-30.475, F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application for transfer of the Breeze Hill systems to Aqua Utilities Florida, Inc., is hereby approved. It is further

ORDERED that Certificate Nos. 587-W and 506-S shall be amended to include the Breeze Hill service area. It is further

ORDERED that Certificate Nos. 598-W and 513-S shall be cancelled effective July 29, 2008. It is further

ORDERED that Aqua Utilities Florida, Inc., shall impose the approved rates, charges, classifications, and regulations upon the customers formerly served by Breeze Hill Utility, until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 18th day of August, 2008.



ANN COLE
Commission Clerk

(S E A L)

CMK

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 Office of Commission Clerk, 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 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.

TERRITORY DESCRIPTION

BREEZE HILL

POLK COUNTY

WATER AND WASTEWATER SERVICE

Township 30 South, Range 29 East

Section 32

The north 1,620 feet, east of Lake Walk in the Water Road, and west of Lake Walk in the Water Road, further described as:

Commence at the Northwest corner of said Section 32, thence North $89^{\circ}22'30.49''$ East, a distance of 130 feet, more or less, to the Point of Beginning (POB), this point also the east right-of-way of the Walk in the Water Road, thence continue North $89^{\circ}22'30.49''$ East, distance of 3,709.14 feet to the waters edge of Lake Walk in the Water, (this point also 3,839.14 feet from the Northwest corner of said Section 32), thence meander southerly and slightly westerly along the waters edge a distance of approximately 1,660 feet, more or less, thence run North $89^{\circ}58'44.5''$ West, a distance of 1,907.00 feet to the east right-of-way of Walk in the Water Road, thence northerly along the east right-of-way of Walk in the Water Road the following courses to the POB: thence North $44^{\circ}30'$ West, a distance of 1,950 feet, more or less, along the east right-of-way of Walk in the Water Road, thence North 40° West, a distance of 150 feet, more or less, along the east right-of-way of Walk in the Water Road, thence North 32° West, a distance of 130 feet, more or less, along the East right-of-way of Walk in the Water Road to the POB.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Aqua Utilities Florida, Inc.
pursuant to
Certificate Number 587-W

to provide water service in Polk 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>
PSC-96-1568-FOF-WS	12/23/96	960989-WS	Grandfather Certificate
PSC-96-1568-A-FOF-WS	12/24/96	960989-WS	Amendatory
PSC-97-0376-FOF-WS	04/07/97	960909-WS	Grandfather Certificate
PSC-97-0427-FOF-WS	04/16/96	970028-WS	Name Change
PSC-98-0371-FOF-WS	03/06/98	961014-WS	Grandfather Certificate
PSC-98-1550-FOF-WS	11/23/98	971192-WS	Grandfather Certificate
PSC-99-0483-FOF-WS	03/08/99	981508-WS	Transfer of Majority Control
PSC-99-1882-PAA-WS	09/21/99	981697-WS	Transfer of Certificate
PSC-01-1985-FOF-WS	10/05/01	010801-WS	Transfer of Majority Control
PSC-03-1114-PAA-WS	10/06/03	030471-WS	Transfer of Certificate
PSC-04-0715-FOF-WS	07/21/04	040359-WS	Name Change
PSC-04-0859-FOF-WU	09/02/04	040484-WU	Amendment
PSC-05-1242-PAA-WS	12/20/05	040951-WS	Transfer of Certificate
PSC-06-0973-FOF-WS	11/22/06	060643-WS	Reorganization/Name Change
PSC-08-0533-FOF-WS	08/18/08	080167-WS	Transfer of Certificate

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Aqua Utilities Florida, Inc.
pursuant to
Certificate Number 506-S

to provide wastewater service in Polk 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>
PSC-96-1568-FOF-WS	12/23/96	960989-WS	Grandfather Certificate
PSC-96-1568-A-FOF-WS	12/24/96	960989-WS	Amendatory
PSC-97-0376-FOF-WS	04/07/97	960909-WS	Grandfather Certificate
PSC-97-0427-FOF-WS	04/16/97	970028-WS	Name Change
PSC-98-0371-FOF-WS	03/06/98	961014-WS	Grandfather Certificate
PSC-98-1550-FOF-WS	11/23/98	971192-WS	Grandfather Certificate
PSC-99-0483-FOF-WS	03/08/99	981508-WS	Transfer of Majority Control
PSC-99-1882-PAA-WS	09/21/99	981697-WS	Transfer of Certificate
PSC-01-1985-FOF-WS	10/05/01	010801-WS	Transfer of Majority Control
PSC-03-1114-PAA-WS	10/06/03	030471-WS	Transfer of Certificate
PSC-04-0715-FOF-WS	07/21/04	040359-WS	Name Change
PSC-05-1242-PAA-WS	12/20/05	040951-WS	Transfer of Certificate
PSC-06-0973-FOF-WS	11/22/06	060643-WS	Reorganization/Name Change
PSC-08-0533-FOF-WS	08/18/08	080167-WS	Transfer of Certificate

Breeze Hill

Monthly Service Rates

Water Residential Service and General Service

Meter Size:	
5/8" x 3/4"	\$ 14.92
3/4"	22.39
1"	37.30
1 1/2"	74.60
2"	119.37
3"	238.73
4"	373.02
6"	746.05
Gallonage Charge per 1,000 gallons	\$2.60

Wastewater

Residential Service

All Meter Sizes	\$18.36
Per 1,000 Gallons (6,000 Gallon Cap)	\$3.27

General Service

Meter Size:	
5/8" x 3/4"	\$ 18.36
3/4"	27.55
1"	45.89
1 1/2"	91.81
2"	146.90
3"	293.83
4"	459.04
6"	918.08
Charge per 1,000 gallons	\$3.91

Miscellaneous Service Charges

	Water	Wastewater
	Normal Hours	Normal Hours
Initial Connection Fee	\$15.00	\$15.00
Normal Reconnection Fee	15.00	15.00
Violation Reconnection Fee	15.00	Actual Cost
Premises Visit Fee (in lieu of disconnection)	10.00	10.00
Late Payment Fee	4.00	

Service Availability Charges

	Water	Wastewater
Meter Installation Fee 5/8"x3/4"	\$190.00	N/A
Plant Capacity Charge Per ERC	\$400.00	\$600.00