

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval of transfer of Brendenwood Water System, Inc., and application for certificate to operate water utility in Lake County, by Brendenwood Utilities, LLC.

DOCKET NO. 110255-WU  
ORDER NO. PSC-11-0552-FOF-WU  
ISSUED: December 7, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

FINAL ORDER APPROVING TRANSFER OF WATER CERTIFICATE No. 339-W

BY THE COMMISSION:

On August 18, 2011, Brendenwood Utilities, LLC (applicant or buyer) filed an application for transfer of the water certificate and facilities in Lake County from Brendenwood Water System, Inc. (Brendenwood or Utility) to the applicant. Brendenwood is a Class C utility providing potable water service to approximately 58 customers (57 residential and 1 general service) in the Brendenwood and Jeremy Estates subdivisions, located south of County Road 44 adjacent to Lake Eustis. This service territory is in the St. Johns River Water Management District (SJRWMD) in a Water Resource Caution Area. The Utility's customers utilize septic tanks. According to Brendenwood's 2010 annual report, the Utility had gross revenues of \$30,569 and a net operating income of \$3,709.

We granted Brendenwood water Certificate No. 339-W in 1981.<sup>1</sup> Since its certification, the Utility has experienced two transfers of ownership, two amendments for expansion of its service territory, and one name change.<sup>2</sup> The current owner of Brendenwood is no longer interested in owning and operating this water system

<sup>1</sup> See Order No. 10184, issued August 5, 1981, in Docket No. 810079-WU, In re: Application of Brendenwood Water System for a certificate to operate a water Utility in Lake County, Florida, pursuant to section 367.041, F.S.

<sup>2</sup> See Order No. 22425, issued January 17, 1990, in Docket No. 891121-WU, In re: Application for transfer of ownership of Brendenwood Water System in Lake County from Robert S. Hanks, Jerry L. Rogers and Daniel H. Judy to Paul E. Day; Order No. 22398, issued January 10, 1990, in Docket No. 891122-WU, In re: Application of Brendenwood Water System for amendment of Certificate No. 339-W in Lake County; Order No. PSC-03-0118-FOF-WU, issued January 21, 2003, in Docket No. 020996-WU, In re: Application for name change on Certificate No. 339-W in Lake County from Brendenwood Water System to Brendenwood Water System, Inc.; Order No. PSC-04-1054-PAA-WU, issued October 27, 2004, in Docket No. 040276-WU, In re: Application for transfer of majority

DOCUMENT NUMBER PAGE

08807 DEC-7 =

FPSC-COMMISSION CLERK

We have jurisdiction pursuant to Sections 367.045 and 367.071, Florida Statutes (F.S.).

Pursuant to Section 367.071(1), F.S., a sale or transfer of a utility's certificate or facilities may occur prior to our approval if the contract for sale or transfer is made contingent upon Commission approval. As such, the closing on the sale of the utility facilities is scheduled to take place within 30 days following our approval of the transfer. We find that the application is in compliance with the governing statutes, Sections 367.045 and 367.071, F.S., and other pertinent statutes and administrative rules concerning an application for the sale, assignment, or transfer of a certificate of authorization. The territory being transferred is described in Attachment A to this Order.

The application contains proof of compliance with the noticing provisions of Section 367.045, F.S., and Rule 25-30.030, Florida Administrative Code (F.A.C.). No objections from any entities were received, and the time for filing such has expired.

The application contains a statement that the buyer has performed a detailed inspection of the utility system and found it to be in satisfactory condition and in compliance with all of the requirements of the Florida Department of Environmental Protection (DEP) and the SJRWMD. According to the buyer, the Utility has no outstanding DEP Consent Orders or Notices of Violation, and no major improvements to the system are required at this time. According to DEP, there are currently no violations or enforcement actions against the Utility. DEP's report of Brendenwood's most recent compliance inspection, conducted on June 30, 2011, indicates that the Utility had no deficiencies and the overall operation of the water plant was good. Brendenwood's 2010 Annual Drinking Water Quality Report – also known as a Consumer Confidence Report (CCR) – was timely distributed to its customers and showed that the Utility was in compliance with established Maximum Contaminant Levels (MCLs). According to the SJRWMD, the Utility is in compliance with the SJRWMD's regulations. In addition, the SJRWMD approved the buyer's application for the transfer of the Utility's Consumptive Use Permit (CUP) on September 19, 2011. The buyer's CUP will expire on January 10, 2025.

According to the application, the buyer has the necessary financial and technical ability to provide adequate, safe, and reliable water service to the Utility's customers. The buyer is an active limited liability corporation authorized to conduct business in Florida since July 21, 2011. The sole member and registered agent of the corporation is Gerard P. Connolly. Although the buyer does not currently own any other water or wastewater utilities, Mr. Connolly has been employed in the water and wastewater industry for the past 13 years and has managed public and private water and wastewater facilities for the past 8 years. Further, Mr. Connolly holds water and wastewater licenses and is a licensed Professional Engineer in Florida and Illinois. The buyer intends to employ the services of a former customer service manager with 25 years of experience in utility billing to perform customer service and billing functions. Mr. Connolly asserts that, with his knowledge and experience in managing and operating water and wastewater systems, the buyer has the resources available to comply with evolving water quality standards

---

organizational control of Brendenwood Water System, Inc., holder of Certificate No. 339-W in Lake County, from Paul E. Day to Deborah J. Miller; Order No. PSC-05-0678-FOF-WU, issued June 20, 2005, in Docket No. 050255-WU, In re: Application for "quick take" amendment of Certificate No. 339-W in Lake County by Brendenwood Water System, Inc.

while providing excellent customer service. The buyer also states that it has sufficient resources, including the financial capability, to fulfill the commitments, obligations, and representations of the Utility. A review of the buyer's financial statement shows that the buyer also appears to have the necessary financial ability to provide adequate, safe, and reliable water service. Thus, we find that the buyer has the necessary technical ability to provide adequate, safe, and reliable water service.

The purchase price for Brendenwood is \$50,000. Pursuant to Section 367.071, F.S., we may set rate base in transfer dockets. Rate base was last set for the water system in 2010 at \$13,213.<sup>3</sup> Pursuant to Rule 25-30.0371(2), F.A.C., a positive acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances. The buyer did not request a positive acquisition adjustment; therefore, we do not approve a positive acquisition adjustment.

The buyer included in the application a statement that it has obtained copies of the Utility's federal income tax returns from the date rate base was last established by the Commission, in accordance with Rule 25-30.037(2)(o), F.A.C. A copy of Brendenwood's 2010 corporate income tax return was filed with the application. The buyer understands the need to maintain its books and records according to the National Association of Regulatory Utility Commissioners' (NARUC) Uniform System of Accounts (USOA), pursuant to Rule 25-30.115, F.A.C. In addition, the buyer understands the need to maintain all records pertaining to utility plant in service and depreciation for the water system since rate base was last established so that the buyer will have supporting documentation for rate base in any future rate proceeding.

Brendenwood has paid regulatory assessment fees (RAFs) accrued through December 31, 2010, and all prior years, pursuant to Rule 25-30.120, F.A.C. The closing on the sale of the utility facilities is scheduled to take place within 30 days following our approval of the transfer. Therefore, the Utility will continue to be responsible for all RAFs that accrue through such date. In accordance with Rule 25-30.110, F.A.C., Brendenwood has filed its annual reports for 2010 and all prior years. The buyer is hereby required to file a 2011 annual report, pursuant to Rule 25-30.110(3), F.A.C.

In 2010, Brendenwood's current water rates were established pursuant to Order No. PSC-10-0167-PAA-WU.<sup>4</sup> The Utility's current miscellaneous service charges, approved in 2000,<sup>5</sup> were unchanged by that Order. In accordance with Rule 25-9.044(1), F.A.C., the rates and charges approved for the Utility as shown on Attachment B to this Order are hereby continued until we authorize a change in a subsequent proceeding.

Based on the foregoing, we find that the transfer of Brendenwood's water Certificate No. 339-W and facilities to the applicant is in the public interest and is approved, effective November 22, 2011. The territory being transferred is described in Attachment A to this Order.

---

<sup>3</sup> See Order No. PSC-10-0167-PAA-WU, issued March 23, 2010, in Docket No. 090346-WU, In re: Application for staff-assisted rate case in Lake County by Brendenwood Water System, Inc.

<sup>4</sup> *Ibid.*

<sup>5</sup> See Order No. PSC-00-0807-PAA-WU, issued April 25, 2000, in Docket No. 991290-WU, In re: Application for staff-assisted rate case in Lake County by Brendenwood Water System.

This Order serves as the buyer's water certificate and shall be retained by the buyer as such. Within 30 days after the date of the order approving the transfer, the buyer shall submit an executed and recorded copy of the warranty deed for the land on which the water treatment facilities are located, pursuant to Rule 25-30.033(1)(j), F.A.C. No acquisition adjustment is hereby approved pursuant to Rule 25-30.0371, F.A.C. Pursuant to Rule 25-9.044(1), F.A.C., the rates and charges approved for the Utility shall continue until we authorize a change 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 pages, pursuant to Rule 25-30.475, F.A.C.

The buyer shall file an executed and recorded copy of the warranty deed for the land on which the water treatment facilities are located within 30 days after the date of this Order approving the transfer in this docket. Following receipt of the warranty deed, this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of Brendenwood's Water Certificate No. 339-W and facilities to Brendenwood Utilities, LLC is hereby approved, effective on November 22, 2011. It is further

ORDERED that this Order serves as the buyer's water certificate and shall be retained by Brendenwood Utilities, LLC as such. It is further

ORDERED that within 30 days after the date of this Order, Brendenwood Utilities, LLC shall submit an executed and recorded copy of the warranty deed for the land on which the water treatment facilities are located. It is further

ORDERED that the existing rates and charges approved for the Utility shall continue. 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 pages. It is further

ORDERED that Brendenwood Utilities, LLC shall file an executed and recorded copy of the warranty deed for the land on which the water treatment facilities are located within 30 days after the date of this Order. It is further

ORDERED that following receipt of the warranty deed, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 7th day of December, 2011.



---

ANN COLE  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

MFB

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.

Brendenwood Utilities, LLC  
Brendenwood and Jeremy Estates Subdivisions  
Lake County  
Description of Water Territory

**PER ORDER NO. 10184**

The North 660 feet of the East 924 feet of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East, Lake County, Florida. Also described as: Begin at the Northeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East, Lake County, Florida, run thence S89°53'07" W along the North Line of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East a distance of 924.00 feet, then S0°36'29" E parallel to the East line of said Northwest 1/4 of the Southeast 1/4 of Section 32 a distance of 660.00 feet, thence N89°53'07" E parallel to the aforesaid North line of the Northwest 1/4 of the Southeast 1/4 of Section 32 a distance of 924.00 feet, thence N0°36'29" W 660.00 feet to the point of beginning.

**PER ORDER NO. 22398**

Township 18 South, Range 26 East  
In Section 32

Jeremy Estates

From the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East, Lake County, Florida. Run N 00°35'29"W along the East Line of said Northwest 1/4 of the Southeast 1/4 a distance of 369.20 feet; thence S 89°58'23"W, 25.00 feet to a point on the Westerly right-of-way line of Fish Camp Road and the POINT OF BEGINNING of this description; from said POINT OF BEGINNING run S 89°58'23"W, 508.92 feet; thence N 00°37'31"W, 297.73 feet; thence N 89°53'07"E, 509.09 feet to a point on the Westerly right-of-way line of Fish Camp Road; thence S 00°35'29"E along said Westerly right-of-way line, 298.51 feet to the POINT OF BEGINNING.

Grand Island Post Office

The East 275 feet of the Southwest 1/4 of the Northeast 1/4 all lying South of Highway No. 44 and West of Fish Camp Road.

**PER ORDER NO. PSC-05-0678-FOF-WU**

Township 18 South, Range 26 East, Lake County, Florida

Section 32: The East 278.35 feet of the North 156.50 feet of the South 369.2 feet of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East in Lake County, Florida  
LESS the East 33 feet for Rd R/W.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**Brendenwood Utilities, LLC**  
**pursuant to**  
**Certificate Number 339-W**

to provide water service in Lake 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>
10184	08/05/81	810079-W	Original Certificate
22398	01/10/90	891122-WU	Amendment
22425	01/17/90	891121-WU	Transfer of Majority Organizational Control
PSC-03-0118-FOF-WU	01/21/03	020996-WU	Name Change
PSC-04-1054-PAA-WU	10/27/04	040276-WU	Transfer of Majority Organizational Control
PSC-05-0678-FOF-WU	06/20/05	050255-WU	Amendment
PSC-11-0552-FOF-WU	12/07/11	110255-WU	Transfer of Certificate

**BRENDENWOOD UTILITIES, LLC  
WATER SYSTEM**

**Monthly Residential Service Rates**

<u>Meter Size</u>	<u>Base Facility Charge</u>
5/8" x 3/4"	\$ 14.74
Full 3/4"	22.11
1"	36.85
1.5"	73.70
2"	117.92
3"	235.84
4"	368.50
6"	737.00
Charge per 1,000 gallons	
0-5,000 gallons	\$ 2.00
5,001-10,000 gallons	\$ 2.24
Over 10,000 gallons	\$ 4.48

**Monthly General Service Rates**

<u>Meter Size</u>	<u>Base Facility Charge</u>
5/8" x 3/4"	\$ 14.74
Full 3/4"	22.11
1"	36.85
1.5"	73.70
2"	117.92
3"	235.84
4"	368.50
6"	737.00
Charge per 1,000 gallons	\$ 3.05

**Comparison of Residential Service Bills – 5/8" x 3/4" Meter**

3,000 gallons	\$ 20.74
5,000 gallons	\$ 24.74
10,000 gallons	\$ 37.14
15,000 gallons	\$ 81.94



**BRENDENWOOD UTILITIES, LLC  
WATER SYSTEM**

**Miscellaneous Service Charges**

<b>Description</b>	<b>Charge</b>
Initial Connection Charge	\$ 15.00
Normal Reconnection Charge	\$ 15.00
Violation Reconnection Charge	\$ 15.00
Premises Visit in Lieu of Disconnection Charge	\$ 10.00
Late Payment Charge	\$ 3.00