

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for the transfer of)	DOCKET NO. 881545-SU
majority control of East Naples Sewage)	
Treatment Corporation's Certificate No.)	ORDER NO. 20649
385-S in Collier County from P. Gerald)	
DeSimone to James R. Plate.)	ISSUED: 1-24-89

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING TRANSFER

BY THE COMMISSION:

Background

On November 29, 1988, an application was filed with this Commission requesting the approval of the transfer of majority organizational control of East Naples Sewage Treatment Corporation (East Naples) from P. Gerald DeSimone to James R. Plate (Mr. Plate or buyer). East Naples Sewage Treatment Corporation provides sewer service to customers in Naples, Florida.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning transfer applications. In particular, the notarized application contains:

- a) A check in the amount of \$150.00 which, upon calculation, equates to the correct filing fee as prescribed by Section 367.141, Florida Statutes.
- b) Adequate service territory pursuant to Rule 25-030.035(3)(i), Florida Administrative Code.
- c) Proof of notice to all customers of record pursuant to Rule 25-30.030(2)(g), Florida Administrative Code.
- d) Proof of notice to all interested governmental/regulatory agencies, and all utilities within a 4 mile radius, and proof of advertisement in a newspaper of general circulation in the county, as prescribed by Rule 25-30.030, Florida Administrative Code.
- e) The utility provided proof that it owns the land on which the utility plant facilities are located.

No objections to the requested transfer have been received and the time for filing such has expired.

Mr. Plate states that this transfer is in the best interest of the public, since he is an owner in a limited partnership which has purchased Woodgate at Naples, the principal customer

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for East Naples Sewage Treatment Corporation. Therefore, Mr. Plate has a vested interest in seeing that Woodgate at Naples receives proper sewer service.

Although the buyer does not have any personal experience in sewer utility operations, he will retain the services of the plant operator currently operating the system of East Naples Sewage Treatment Corporation. Further, a review of Mr. Plate's personal financial statement indicates that he has the financial ability to operate the system. Since Mr. Plate has the technical resources and financial ability to continue to provide the customers of East Naples Sewage Treatment Corporation with high quality service, we find that the transfer is in the public interest.

Rate Base

The sale of common stock from P. Gerald DeSimone to James R. Plate will not alter East Naples' assets and liability accounts. Accordingly, this transfer of stock ownership will not change the rate base balance and East Naples' records will remain available for inspection in future rate case proceedings. Therefore, we find it appropriate not to establish rate base in this docket.

Rates

Pursuant to Rule 25-9.044(1), Florida Administrative Code, when a regulated utility is transferred, the new owner is required to adopt and use the rates and charges previously approved for the former owner, unless authorized to change by the Commission. Therefore, Mr. Plate is directed to continue charging the existing rates and charges of East Naples until different rates are approved by this Commission in a subsequent proceeding. Further, Mr. Plate is directed to file appropriate tariff sheets reflecting the existing rates and charges and the new issuing officer's name and title.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of majority organizational control of East Naples Sewage Treatment Corporation, 5000 Treetops Drive, Naples, Florida 33962, from P. Gerald DeSimone to James R. Plate, 45 West River Road, Rumson, New Jersey 07760, is hereby approved. It is further

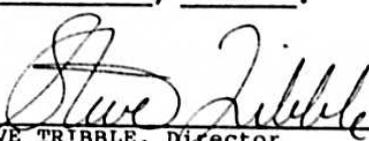
ORDERED that James R. Plate shall continue to charge the rates and charges previously approved for customers of East Naples Sewage Treatment Corporation, as set forth in the body of this Order. It is further

ORDERED that James R. Plate shall file revised tariff sheets reflecting the rates and charges previously approved for East Naples and the new issuing officer's name and title. The tariff sheets shall be filed within 30 days of the date of this Order. It is further

ORDERED that Docket No. 881545-SU shall be closed upon approval of the revised tariff sheets.

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By ORDER of the Florida Public Service Commission,
this 24th day of JANUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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.