

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application For Transfer) DOCKET NO. 910817-SU
of Certificate No. 453-S From) ORDER NO. PSC-94-0038-FOF-SU
Century Group, Inc. to the Pine) ISSUED: January 11, 1994
Island Cove Homeowners)
Association, Inc. in Lee County.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO
DIANE K. KIESLING

ORDER APPROVING TRANSFER AND CLOSING DOCKET

BY THE COMMISSION:

Background

On August 1, 1991, an application was filed with this Commission for approval of the transfer of Certificate No. 453-S from Century Group, Inc. (Century) to the Pine Island Cove Homeowners Association, Inc. (Pine Island or Association). Century is a small utility serving approximately 350 mobile homes within the Pine Island Cove Mobile Home Park (Pine Island Cove) in Lee County.

This Commission became aware that Century owned and operated five mobile home parks with jurisdictional utilities in 1988. In 1989 all five systems were granted original certificates. Since that time, Century has disposed of all five systems. Pine Island Cove was the last system to be sold. Century sold Pine Island Cove to Pine Island on December 30, 1990.

Although the sale closed on December 30, 1990, the application was not filed until August 1, 1991. Filing of the application was delayed because the sales contract indicated that the buyer was responsible for the filing. Neither the Association nor its counsel is familiar with utility regulation. Although Section 367.071, Florida Statutes, states, in part, that "No utility shall sell, assign, or transfer its certificate of authorization, facilities, or any portion thereof . . . without approval of the

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Commission . . .," show cause proceedings will not be instituted in light of the utility's unfamiliarity with Commission statutes and rules and since the contract and the closing statement both indicate that the transfer is subject to Commission approval.

Originally, the application was filed seeking to transfer the utility to an exempt entity, Pine Island. However, Pine Island does not qualify for exemption since it provides service to homes which are not members of the homeowners association. Although service is provided solely to the mobile home park, there are two customer groups. The original developer sold the initial 105 lots to individual homeowners who belong to the Pinewood Cove Homeowners Association (Pinewood Cove). Under new ownership, the remaining lots were subject to 99-year leases. After sale of the park and the utility, the leased lots and common facilities belong to Pine Island. Despite numerous discussions, Pine Island and Pinewood Cove have been unable to agree to form a master non-profit utility association which would be exempt. Therefore, Pine Island filed its application in the instant docket seeking approval of the transfer.

As stated previously, the sale occurred on December 30, 1990. Pine Island provided two contracts for sale. One contract provided by Pine Island concerned the sale of the mobile home park, which included the land upon which the wastewater plant is located. The other contract was for the sale of the wastewater plant, lift stations and collection systems. There were no customer deposits and Century paid all regulatory assessment fees though the date of the sale.

Application

Except as discussed previously, the application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules. In particular, the application contains a filing fee in the amount of \$150, as required by Rule 25-30.020, Florida Administrative Code. Pine Island also provided evidence that it owns the land upon which the utility's facilities are located, pursuant to Rule 25-30.037(1)(o), Florida Administrative Code.

Pine Island provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system being transferred. No objections to the notice of application have been received and the time for filing such has expired.

The Company which Pine Island has retained to operate the system is the same company, Floyd Enterprises, that successfully operated the utility for Century for several years. Also, according to information provided with the application, it appears that Pine Island has the financial ability to operate the utility. Pine Island has a vested interest in the successful operation of the system since it owns both the utility and the mobile home park. It should also be noted that the utility is in compliance with the regulations of the Department of Environmental Protection.

Therefore, we find that the transfer of Certificate No. 453-S from Century to Pine Island is in the public interest and it is approved. The territory being transferred is described on Attachment A of this Order, which by reference is incorporated herein. Pine Island shall return Certificate No. 453-S to this Commission within 20 days of this Order for entry reflecting the change in ownership.

Rates and Charges

The utility's current rates and charges became effective pursuant to Order No. 21516, issued on July 7, 1989, in Docket No. 880994-SU. 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 operating company unless authorized to change by this Commission.

Pine Island has not requested to change the rates and charges and we see no reason to change them at this time. Pine Island shall continue to charge the rates and charges approved in Century's tariffs until authorized to change by this Commission in a subsequent proceeding. Pine Island has filed revised tariff sheets reflecting the change in ownership. The tariff sheets shall be effective for service rendered or connections made after the stamped approval date on the tariff sheets.

Rate Base

Rate base has never been established for this utility. Since books and records exist only from the time Century acquired the system to the present, in order to calculate rate base an on-site inspection and original cost study would be necessary. Therefore, rate base is not being set in this Docket.

It is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Certificate No. 453-S from Century Group, Inc., Post

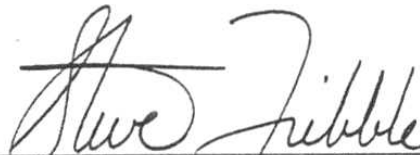
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Office Box 7079, Winter Haven, Florida 33883, to Pine Island Cove Homeowners Association, Inc., 7290 Ladyfish Drive, St. James City, Florida 33956-2723, is hereby approved. Certificate No. 453-S shall be returned to this Commission within 20 days of the date of this Order for entry reflecting the change in ownership. It is further

ORDERED that Pine Island shall charge the rates and charges approved in Century's tariff until authorized to change by this Commission. It is further

ORDERED that Docket No. 910817-SU is hereby closed.

By ORDER of the Florida Public Service Commission, this 11th day of January, 1994.



STEVE TRIBBLE, Director,
Division of Records and Reporting

(S E A L)

ALC

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.

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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 Civil 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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ATTACHMENT A

PINE ISLAND COVE HOMEOWNERS ASSOCIATION, INC.

LEE COUNTY

Service Territory Description
(Pine Island Cove Mobile Home Park)

Township 45 South, Range 22 East

In Sections 9 and 10

Flamingo Bay

Beginning at the Southeast corner of Section 10, run North 89°02'10" for 728.13 feet; thence run North 00°26'09" West for 2037.07 feet; thence run North 50°20'26" East for 558.86 feet; thence run North 89°42'06" East for 653.51 feet to a point of curvature of a circular curve, concave to the Northeast and having a radius of 453.92 feet, an arc distance of 192.13 feet, and a cord bearing North 77°34'31" East for 190.70 feet; thence run North 65°27'02" East for 64.98 feet to a point of curvature of a circular curve, concave to the Southeast and having a radius of 25 feet, an arc distance of 29.28 feet, and a cord bearing South 69°32'36" East for 35.36 feet; thence run North 24°32'13" West for 60.00 feet; thence run South 65°27'02" West for 1250.00 feet; thence run South 65°27'13" West for 416.00 feet; thence run South 24°32'58" East for 208.52 feet; thence run South 18°38'42" East for 1289.20 feet; thence run North 89°59'49" West for 221.19 feet; thence run South 00°00'11" West for 129.56 feet more or less; thence run South 89°59'49" East for 585.65 feet more or less to the point of beginning.