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DIVISION OF WATER &
WASTEWATER
CHARLES HILL
DIRECTOR
(904) 413-6900

Public Service Commission

July 8, 1997

Mr. David B. Erwin
Young, Van Assenderp & Varnadoe, P.A.
225 S. Adams Street, Suite 200
Post Office Box 1833
Tallahassee, Florida 32302-1833

RE: Docket No. ~~970556~~-WS, Application for transfer of majority organizational control of Indiantown Company, Inc. (holder of Certificates Nos. 331-S and 387-W) in Martin County to Postco, Inc.

Dear Mr. Erwin:

Staff has reviewed the utility's application for transfer of majority organizational control and determined that it is deficient pursuant to Rule 25-30.037, Florida Administrative Code. The following deficiencies have been noted:

- Financial Ability.** Rule 25-30.037(3)(f), Florida Administrative Code (F.A.C.), requires in part a showing of the buyer's financial ability to provide service. Please provide information regarding the buyer's financial ability, such as a financial statement for Mr. Post, Jr. or Postco, Inc. Pursuant to our earlier conversation, if Mr. Post would like to request confidential treatment of these documents, please refer to Rule 25-22.006, F.A.C., and feel free to contact Ms. Bobbie Reyes of our Legal Staff if you have any questions.
- Warranty Deed.** Rule 25-30.037(3)(i), F.A.C., requires evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost effective alternative. Please provide evidence that the utility owns the land upon which the treatment facilities are located. Please note that the Commission cannot accept a quit claim deed as proof of ownership without title insurance.

In addition to the above noted deficiencies, please provide the following information:

Steps of the Stock Purchase. Based upon the application, it is our understanding that the sale of the utility's stock will involve a name change, a corporate

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reorganization which involves a transfer of assets, the sale of the stock, and then another name change.

- A. Please explain why the utility has chosen to include the additional steps of the name changes and corporate reorganization rather than only selling the stock.
 - B. It is our understanding that all four of these steps will occur simultaneously. Please verify if this is correct. If it is not correct, please specify how long the utility anticipates it will take to complete each of these steps.
2. **Name Change from Indiantown Company, Inc. to CFC Parent, Inc.** Rule 25-30.039, F.A.C., provides the requirements for applying for a name change. To the extent that it is not included in your answer to No. 1 above, please provide the following information regarding the first name change from Indiantown Company, Inc. to CFC Parent, Inc.:
- A. As required by Rule 25-30.039(2)(c), F.A.C., please provide a statement setting out the reasons for the name change.
 - B. As required by Rule 25-30.039(2)(d), F.A.C., please provide the effective date of the name change.
 - C. Rule 25-30.039(2)(e), F.A.C., requires in the case of a corporation, limited partnership, or any other type of entity that is chartered by the State of Florida or any other state, a copy of the certificate or other document issued by the state showing its acceptance of the entity's new name. In addition, an officer of the entity shall provide a statement that the ownership and control of the utility and its assets will not change under the proposed name. In the case of a sole proprietorship, general partnership, or any other type of entity not chartered by the State of Florida or any other state, a statement, signed by a duly authorized representative, that the ownership and control of the utility and its assets will not change under the proposed name.
3. **Creation of Subsidiaries by CFC Parent, Inc. and Transfer of Assets.** Section 367.071(1), Florida Statutes, states in part that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof...without determination and approval of the Commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. Because the corporate reorganization involves the transfer of utility assets, it will be necessary for the utility to provide additional information in accordance with Rule 25-30.037,

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F.A.C., which sets forth the requirements for an application for authority to transfer a utility. Please provide the following additional information regarding the portion of the transaction in which CFC Parent, Inc. creates the two subsidiaries to which the utility assets are transferred.

- A. To the extent it is not included in your answer to No. 1 above, please explain why the creation of the two subsidiaries and transfer of assets from the parent company to the subsidiaries is necessary for sale of the utility's stock.
- B. As required by Rule 25-30.037(2)(a), F.A.C., the complete name and address of the seller (or transferor.)
- C. As required by Rule 25-30.037(2)(b), F.A.C., the complete name and address of the buyer (or transferee.)
- D. As required by Rule 25-30.037(2)(c), F.A.C., the nature of the buyer's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, or association.
- E. As required by Rule 25-30.037(2)(d), F.A.C., the name(s) and address(es) of all of the buyer's corporate officers, directors, partners or any other person(s) who will own an interest in the utility. Additionally, please provide the percentage of the utility that each of these individuals and/or companies will own.
- F. As required by Rule 25-30.037(2)(e), F.A.C., the date and state of incorporation or organization of the buyer.
- G. As required by Rule 25-30.037(2)(f), F.A.C., the names and locations of any other water or wastewater utilities owned by the buyer.
- H. As required by Rule 25-30.037(2)(g), F.A.C., a copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:
 1. purchase price and terms of payment;
 2. a list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of non-regulated operations or entities; and

3. a description of all consideration between the parties, for example, promised salaries, retainer fees, stock, stock options, assumption of obligations.
- I. As required by Rule 25-30.037(2)(h), F.A.C., the contract for sale shall also provide for the disposition, where applicable, of the following:
 1. customer deposits and interest thereon;
 2. any guaranteed revenue contracts;
 3. developer agreements;
 4. customer advances;
 5. debt of the utility;
 6. leases;
 - J. As required by Rule 25-30.037(2)(i), F.A.C., a statement describing the financing of the purchase;
 - K. As required by Rule 25-30.037(2)(j), F.A.C., a statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters.
 - L. As required by Rule 25-30.037(2)(k), F.A.C., a list of all entities upon which the applicant is relying to provide funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility.
 - M. As required by Rule 25-30.037(2)(l), F.A.C., the proposed net book value of the system as of the date of the proposed transfer. If rate base has been established by this Commission, state the order number and date issued and identify all adjustments made to update this rate base to the date of transfer.
 - N. As required by Rule 25-30.037(2)(m), F.A.C., a statement setting out the reasons for the inclusion of an acquisition adjustment, if one is requested.
 - O. As required by Rule 25-30.037(2)(n), F.A.C., if the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a

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statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records.

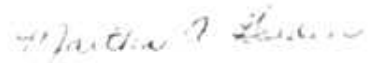
- P. As required by Rule 25-30.037(2)(o), F.A.C., a statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns.
- Q. As required by Rule 25-30.037(2)(r), F.A.C., a statement regarding the disposition of any outstanding regulatory assessment fees, fines, or refunds owed.
4. **CFC Parent, Inc. Following Stock Transfer.** Please explain what will happen to CFC Parent, Inc. following the sale of the stock of its subsidiaries to Postco, Inc. (e.g., will CFC Parent, Inc. continue to operate as some other type of business, cease to exist, etc.)
5. **Name Change from ICO Enterprises, Inc. to Indiantown Company, Inc.** As stated in No. 2 above, Rule 25-30.039, F.A.C., provides the requirements for applying for a name change. To the extent that it is not included in your answer to No. 1 above, please provide the following information regarding the second name change from ICO Enterprises, Inc. to Indiantown Company, Inc. following the purchase of the ICO Enterprises, Inc. stock by Postco, Inc.:
- A. As required by Rule 25-30.039(2)(c), F.A.C., please provide a statement setting out the reasons for the name change.
- B. As required by Rule 25-30.039(2)(d), F.A.C., please provide the effective date of the name change.
- C. Rule 25-30.039(2)(e), F.A.C., requires in the case of a corporation, limited partnership, or any other type of entity that is chartered by the State of Florida or any other state, a copy of the certificate or other document issued by the state showing its acceptance of the entity's new name. In addition, an officer of the entity shall provide a statement that the ownership and control of the utility and its assets will not change under the proposed name. In the case of a sole proprietorship, general partnership, or any other type of entity not chartered by the State of Florida or any other state, a

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statement, signed by a duly authorized representative, that the ownership and control of the utility and its assets will not change under the proposed name.

Please file an original and five copies of the requested information no later than September 9, 1997 with Ms. Blanca Bayo, Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850. Please feel free to call Bobbie Reyes at (904)413-6216, Richard Redemann at (904)413-6999 or me at (904)413-7015 if you have any questions.

Sincerely,



Martha A. Golden
Economic Analyst

/MAG

cc: Division of Water and Wastewater (Hill, Williams, Messer, Redemann)
Division of Legal Services (Reyes)
Division of Records and Reporting