

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of majority organizational control of Residential Water Systems, Inc., holder of Certificate No. 419-W in Marion County, to Charles deMenzes.

DOCKET NO. 961310-WU
ORDER NO. PSC-98-1152-FOF-WU
ISSUED: August 25, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING TRANSFER OF MAJORITY ORGANIZATIONAL CONTROL
AND CLOSING DOCKET

BY THE COMMISSION:

Background

On November 1, 1996, Residential Water Systems, Inc. (Residential or utility) filed an application for transfer of majority organizational control of Residential from Nancy and Elaine Finney (Sellers) to Charles deMenzes (Buyer), pursuant to Section 367.071, Florida Statutes. The application, as filed, was found to be deficient. The deficiencies were corrected on February 5, 1997.

Residential is a Class C utility which provides water service to 528 customers in Marion County. The utility's facilities consist of one water treatment plant and one water transmission and distribution system. Wastewater service is provided by septic tanks.

Application

The application is in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and provisions of the

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Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$1,500, as required by Rule 25-30.020, Florida Administrative Code. In addition, Residential provided proof that the utility owns the land upon which its facilities are located in accordance with Rule 25-30.037(3)(i), Florida Administrative Code.

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

With regard to buyer's technical ability, according to the application, Mr. deMenzes has experience managing and operating four water and wastewater utilities which are regulated by this Commission. Mr. deMenzes is part owner and President of Tradewinds Utilities, Inc., and has managed and operated that utility since 1983. He has also operated and managed C.F.A.T. H2O, Inc. and BFF⁺ Corporation for approximately seven years. In addition, Mr. deMenzes owns M.I.R.A. International, Inc. (MIRA), which is a management company. MIRA has been managing Residential since mid-1995. According to Mr. deMenzes, MIRA will continue to manage and operate the utility, assuring compliance with all Commission and Florida Department of Environmental Protection (DEP) requirements.

Regarding the Buyer's financial ability, we were initially concerned that Mr. deMenzes' assets were not sufficient to enable him to continue to operate the utility. Our review of the Buyer's financial statement indicated that he may be unable to cover the monthly payments for the stock purchase over an extended period of time. Further, a review of the utility's previous annual reports indicates that Residential may not produce enough income to fully support the stock purchase. According to the information provided with the application, the purchase price of the stock is \$526,000. Payment for the stock will be accomplished by a \$50,000 cash down payment, \$15,000 cash payment for previous shareholder loans to the utility, assumption of a \$90,000 balloon mortgage financed at a rate of 8.75 percent over five years, and \$395,355, which will be financed by the Sellers at 10 percent over 30 years. Additionally, the Buyer has agreed to obtain term life insurance in an amount equal to at least 50 percent of the outstanding debt with the Sellers as beneficiaries.

After informing the Buyer of our concerns, Mr. deMenzes provided additional financial information regarding his income from MIRA. From our review of the additional information, Mr. deMenzes appears to have the financial ability to cover the monthly stock payments and ensure the continued operation of the utility.

The Buyer inspected the utility to determine its condition prior to entering into the agreement. From that inspection, it was determined that certain upgrades needed to be made. Those upgrades have now been completed. Also, according to information provided by DEP, there are no outstanding notices of violation against the utility.

Residential has paid regulatory assessment fees for 1997 and filed the 1997 annual report. The Buyer will be responsible for paying regulatory assessment fees and filing the annual report for 1998 and all subsequent years.

Based on the foregoing, we find that the transfer of majority organizational control of Residential from Nancy and Elaine Finney to Charles deMenzes is in the public interest and it is approved. The territory Residential is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein.

Rate Base

It has been Commission practice not to establish rate base in transfers of majority organizational control because stock is publicly traded and the change in ownership does not affect a utility's rate base. Consequently, the stock purchase price and rate base are not considered in making a determination as to whether or not the transfer of majority organizational control is in the public interest.

Because rate base is not considered in these proceedings, rate base audits have historically not been conducted. However, the Division of Auditing and Financial Analysis initiated an audit in this case for the purpose of preserving a record of the utility's books and records for future rate proceedings. The audit raised several concerns regarding the lack of records to support the utility's rate base. However, a detailed review, such as would be conducted in a rate case, will be necessary to fully address the concerns and accurately determine rate base. Such a review is well beyond the scope of this docket.

Further, establishment of rate base in this docket would result in an unnecessary deviation from Commission practice. We do not find that the facts in this docket warrant such deviation. The transfer of the stock of Residential from Nancy and Elaine Finney to Charles deMenzes will not alter the utility's asset and liability accounts. Accordingly, the transfer of stock will not change the rate base balance. Therefore, we do not find it appropriate to establish rate base in this docket.

Rates and Charges

Residential's current rates became effective June 27, 1998, pursuant to a price index rate adjustment. The utility's current miscellaneous service charges were approved administratively and became effective on April 24, 1990. The current customer deposits and service availability charges became effective on February 14, 1984, pursuant to Order No. 12842, issued on January 4, 1984, in Docket No. 830436-WU. The utility's approved rates and charges are set forth below.

Monthly Service Rates

Residential and General Service

Base Facility Charge:

<u>Meter Size:</u>	<u>Rate</u>
5/8" x 3/4"	\$ 9.15
1"	\$ 22.89
1-1/2"	\$ 45.77
2"	\$ 73.25
3"	\$ 146.51
4"	\$ 228.92

Gallage Charge

Per 1,000 Gallons	\$ 1.29
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Customer Deposits

Residential	\$ 20.00
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Miscellaneous Service Charges

Initial Connection Fee	\$ 15.00
Normal Reconnection Fee	\$ 15.00
Violation Reconnection Fee	\$ 15.00
Premises Visit Fee (in lieu of disconnection)	\$ 10.00
Late Payment Fee	\$ 5.00

Service Availability Charges

Connection Charge	\$ 500.00
Meter Installation Fee: 5/8" x 3/4" Meter Size	\$ 70.00

Rule 25-9.044(1), Florida Administrative Code, requires the new owner of a utility to adopt and use the rates, classification and regulation of the former operating company unless authorized to change by this Commission. The Buyer has not requested to change the rates and charges of the utility and we see no reason to change them at this time. Residential shall continue to charge the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding. A revised tariff reflecting the change in issuing officer due to the transfer of majority organizational control has been filed. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the transfer of majority organizational control of Residential Water Systems, Inc. from Nancy and Elaine Finney, 1527 Dess Drive, Orlando, Florida, 32818, to Charles deMenzes, 1732 Northeast 25th Avenue, Post Office Box 5220, Ocala, Florida, 34478-5220, is hereby approved. The territory Residential Water Systems, Inc. is authorized to serve is shown on Attachment A of this Order, which by reference is incorporated herein. It is further

ORDERED that Residential Water Systems, Inc. shall continue to charge the rates and charges approved in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

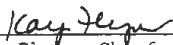
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ORDERED that the tariff filed by Residential Water Systems, Inc. reflecting the change in issuing office due to the transfer of majority organizational control shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Docket No. 961310-WU is hereby closed.

By ORDER of the Florida Public Service Commission this 25th day of August, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn, Chief
Bureau of Records

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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 Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee,

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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 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.

RESIDENTIAL WATER SYSTEMS, INC.
Marion County
Territory Description

Township 16 South, Range 22 East, Sections 2 and 11

Section 2

Commence at the Southwest corner of Southeast 1/4 of said Section 2 at a point on the centerline of Southeast 41st Court then South 89° 54' 08" East along the South boundary line of said Section 2 a distance of 40 feet to the point of beginning, then continue along the said boundary on said bearing a distance of 269.78 feet to a point on said boundary then North 38° 33' 30" East a distance of 665.96 feet, then North 51° 26' 30" West a distance of 600 feet, then North 38° 33' 30" East a distance of 600 feet, then South 51° 26' 30" East a distance of 600 feet, then North 38° 33' 30" East a distance of 2143.08 feet, then North 89° 48' 19" West a distance of 2426.19 feet, then South 00° 27' 20" East a distance of 2657.15 feet to the point of beginning, a/k/a Highpointe Subdivision

AND

The South 660 feet of the Northeast 1/4 a/k/a Suntree Subdivision

AND

The Northwest 1/4 of the Southeast 1/4 of the Northeast 1/4 and Southwest 1/4 of Northwest 1/4 of Northeast 1/4 a/k/a Country Estates Buffington Addition Subdivision

AND

The North 1/2 of the Southwest 1/4 a/k/a Wineberry Subdivision

Section 11

The Northwest 1/4 of the Southeast 1/4 less the South 330 feet a/k/a Edgewood Subdivision