



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: May 20, 1999

TO: Stephanie Crossman, Division of Legal Services
Alice Crosby, Division of Legal Services
Division of Records and Reporting

FROM: Patricia Brady, Division of Water and Wastewater

pb 35A bl

RE: Docket No. 990248-WU, Application for transfer of majority organizational control of Morningside Utility Inc., holder of Certificate No. 595-W in Osceola County, from George DeVillers to Gary K. Turner and change of name to Morningside Utilities, Inc.

On March 3, 1999, an application was filed for transfer of majority organizational control of Morningside Utility Inc. (Morningside or utility), in Osceola County, from George DeVillers to Gary K. Turner. During staff's review of the application, it was noted that a number of the documents, including the notice, warranty deed, and proposed tariffs, were prepared under the name of Morningside Utilities, Inc. Apparently, the discrepancy was due to transferror's mistaken belief that it had incorporated the utility under the name of Morningside Utilities, Inc. Staff's legal counsel discussed the matter with the utility and it was agreed there were only two choices: change all the documents or change the name of the utility. The choices were formalized by staff's April 19, 1999 notice to the utility of the deficiencies in its application.

On May 7, 1999, the utility filed the documentation necessary to request a change in the name on Certificate No. 595-W from Morningside Utility Inc. to Morningside Utilities, Inc. By memorandum dated May 14, 1999, staff requested that the docket title be changed to incorporate the request for a name change. Since the utility has a pending docket for a territory amendment (Docket No. 990247-WU) which has legal documents affected by the utility's name as well, staff is filing a separate recommendation on the request for name change so that the application for amendment will not be delayed while the transfer of majority control is being prepared for Commission vote at agenda conference.

Commission Rule 25-30.039, Florida Administrative Code (F.A.C.), governs the requirements for a name change where there is no change in the ownership or control of the utility or its assets. While the transferror learned that it had mistakenly recorded the utility's name with Florida's Department of State, Division of Corporations, pursuant to this filing for a transfer of majority organizational control, the change in name is not a "result" the transfer of control. Instead, it is the result of a decision by the transferror to correct the utility's recorded name so that documents filed in its application for transfer of majority control and its application for territory amendment are valid.

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The name, address and business type of the utility, as currently certificated, are Morningside Utility Inc., 1106 Monroe Avenue St. Cloud, Florida, 34769, a Florida Corporation. The proposed change in name is to Morningside Utilities, Inc., also a Florida Corporation. The address remains unchanged. The reason given for the name change is primarily for the purposes of the legal documents used to transfer majority organizational control. The effective date of the name change was April 23, 1999. A copy of the certificate issued by the Department of State, Division of Corporations, showing its acceptance of the utility's new name was provided with the petition. The utility has already provided notice under the proposed name, submitted a conforming tariff, and returned its original certificate as part of the requirements for its application to transfer of majority organization control.

Section 2.07(C)(3) of the Administrative Procedure's Manual grants the Director of the Division of Records and Reporting, in coordination with the appropriate industry division and the Division of Legal Services, the authority to approve changes of names of regulated utilities where no change of ownership or control or transfer of assets is involved. As indicated above, the change in name is to correct the name under which the utility was originally recorded and not a result of a change of ownership or control or transfer of assets.

Staff finds the request for name change in compliance with the provisions of Rule 25-30.039, F.A.C., and recommends that an administrative order be issued as soon as possible approving the change of name on Certificate No. 595-W to Morningside Utilities, Inc. The revised water tariff should be approved as part of the utility's application for transfer of majority control and this docket should remain open to process that application for transfer.

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cc: Division of Water and Wastewater (Chase, Snipes, Redemann)
Division of Records and Reporting (Grant)