

STATE OF FLORIDA

Commissioners:
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DIVISION OF WATER & WASTEWATER
CHARLES H. HILL
DIRECTOR
(850) 413-6900

Public Service Commission

ORIGINAL

June 3, 1999

Mr. Matthew A. Potter, CPA
Dixie Groves Estates, Inc.
5940 Main Street
New Port Richey, Florida 34652

Re: Docket No. 990548-WU: Application for transfer of majority organizational control of Dixie Groves Estates, Inc., holder of Certificate No. 139-W in Pasco County.

Dear Mr. Potter:

Your application on behalf of Dixie Groves Estates, Inc., (Dixie Groves) for transfer of majority organizational control was received by the Commission on May 3, 1999, and assigned the above referenced docket number and name. Staff has preliminarily reviewed the application for deficiencies as well as for items that need clarification or correction. These items are as follows:

Deficiencies:

1. Utilities' Ownership of Land. Pursuant to Rule 25-30.037(3)(i), Florida Administrative Code (F.A.C.), evidence is to be provided that the utility owns the land upon which the utility treatment facilities are located. A long term lease (99 years) may be substituted for the ownership requirement. The 1995 notice of ad valorem taxes and property tax receipt submitted with your application do not meet this requirement. Please provide either a warranty deed that shows the property in the name of the utility, or a copy of a long term lease.
2. Notice of Actual Application. Pursuant to Rule 25-30.030, F.A.C., the three notices of application and affidavits are to be filed with the Public Service Commission no later than 15 days after filing the application. To date, none of these have been

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received. Please provide a copy of these required documents. An additional copy of this rule is enclosed for your review.

Other Information Needed:

1. **Statement from Buyer.** Pursuant to Rule 25-30.037(3)(h), F.A.C., requires that the applicant must provide:

a statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the DEP or, if the system is in need of repair or improvement, has any outstanding Notice of Violation(s) of any standard(s) set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violations, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost.

The statement provided in your application did not make any reference to DEP. Please provide a complete response to this item.

2. **Statement of Transfer.** Section 367.071, Florida Statutes, states, in part, "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 . . ." This Section further states that "the commission may impose a penalty . . . when a transfer occurs prior to approval by the commission." According to Exhibit B of your application, the 72 shares of Dixie Groves Estates, Inc., were transferred on January 1, 1997. Please provide a statement explaining why this transfer took place prior to receiving approval from the Commission.

The original and four copies of the response to the information requested in this letter should be filed with the Commission on or before **July 16, 1999**. When filing the response, please be sure to reference the docket number and to direct the response to :

**Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850**

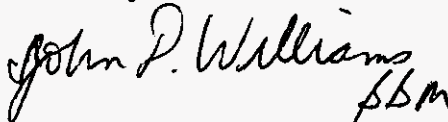
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Should you have any questions on this matter, feel free to contact Ms. Stephanie Clapp at (850) 413-6997.

Sincerely,



John D. Williams
Chief, Policy Development
and Industry Structure

JDW/SC
Enclosure

cc: Division of Water and Wastewater (Hill, Messer, Clapp)
Division of Legal Services (Crossman)
Division of Records and Reporting

**SECTION 367.071, FLORIDA STATUTES
SALE, ASSIGNMENT, OR TRANSFER OF CERTIFICATE OF
AUTHORIZATION, FACILITIES, OR CONTROL**

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control 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.

(2) The commission may impose a penalty pursuant to s. 367.161 when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. 367.145. No fee is required to be paid by a governmental authority that is the buyer, assignee, or transferee.

(4) An application shall be disposed of as provided in s. 367.045, except that:

(a) The sale of facilities, in whole or part, to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission with respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the system previously dedicated to public use which would impair the ability to provide service, without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction.

History.—

s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 9, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 7, 15, ch. 82-25; ss. 6, 26, 27, ch. 89-353; s. 2, ch. 90-166; s. 4, ch. 91-429.