



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

RECORDED 41900  
APR 19 PM 9:25  
MAY 1 1901

**DATE:** APRIL 19, 2001

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYNE)

**FROM:** DIVISION OF REGULATORY OVERSIGHT (CLAPP, WALDEN) J.A.  
DIVISION OF LEGAL SERVICES (CIBULA) S.M.C. DB

**RE:** DOCKET NO. 001513-WS - APPLICATION FOR TRANSFER OF CERTIFICATE NOS. 524-W AND 459-S IN PASCO COUNTY FROM ARBOR OAKS I, LLC & ARBOR OAKS II, LLC BOTH DELAWARE LIMITED LIABILITY COMPANIES D/B/A TIMBERWOOD UTILITIES, TO MINK ASSOCIATES I, LLC, A FLORIDA LIMITED LIABILITY COMPANY D/B/A TIMBERWOOD UTILITIES.  
COUNTY: PASCO

**AGENDA:** 5/1/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION FOR ISSUES NOS. 2 and 3 - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\RGO\WP\001513WS.RCM

### CASE BACKGROUND

Timberwood Utilities (Timberwood or utility) is a Class C utility serving approximately 159 water and wastewater customers in Pasco County. The utility was granted Wastewater Certificate No. 459-S by Order No. 22392, issued January 9, 1990, in Docket No. 881003-SU and Water Certificate No. 524-W by Order No. 22302, issued December 12, 1989, in Docket No. 891010-WU. The utility purchases bulk water from Pasco County and resells it to the utility's customers. The wastewater collection and treatment systems are owned and operated by Timberwood. The utility's 1999 annual report lists total gross revenues of \$14,624 for water and \$36,656 for wastewater with net operating losses of \$4,233 for water and net operating income of \$8,611 for wastewater. The

DOCUMENT NUMBER-DATE

04834 APR 19 2001

REG. REC. REPORTING

utility has been granted an extension for filing the year 2000 annual report until April 30, 2001.

On September 29, 2000, Timberwood submitted an application for transfer of the utility from Arbor Oaks I, LLC and Arbor Oaks II, LLC both Delaware Limited Liability Companies d/b/a Timberwood Utilities (partners or seller) to Mink Associates I, LLC d/b/a Timberwood Utilities (Mink or buyer). The application was found to be deficient and the applicant was notified on November 9, 2000. The final corrections were received on January 25, 2001. The transfer application is the subject of this recommendation.

According to the application, on September 1, 1999, the sellers and the buyer entered into a contract for sale and first addendum to contract where the buyer would purchase the Arbor Oaks Mobile Home Park and all improvements and easements including the Timberwood utility system. On January 2, 2000, the parties entered into a second addendum to contract. The purchase price for the park and utility is \$4,050,000, including the assumption of an existing mortgage of \$2,306,490. The actual closing on the transfer took place on or about March 23, 2000. The utility also provided an estimate of the rate base at the time of transfer, using the January 31, 1998 information formalized in transfer Docket No. 971456-WS, by which the Commission approved the transfer of the utility from B.C.D., Inc. d/b/a Timberwood Utilities to Arbor Oaks I, LLC and Arbor Oaks II, LLC both Delaware Limited Liability companies d/b/a Timberwood Utilities, updated to February 29, 2000. This analysis resulted in a proposed value of the utility system as of the date of the proposed transfer of \$5,143 for water and \$60,944 for wastewater. The Commission has jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the transfer of Certificates Nos. 524-W and 459-S from Arbor Oaks I, LLC and Arbor Oaks II, LLC both Delaware Limited Liability Companies d/b/a Timberwood Utilities to Mink Associates I, LLC d/b/a Timberwood Utilities be approved?

**RECOMMENDATION:** Yes, the transfer of Certificates Nos. 524-W and 459-S from Arbor Oaks I, LLC and Arbor Oaks II, LLC both Delaware Limited Liability Companies d/b/a Timberwood Utilities to Mink Associates I, LLC d/b/a Timberwood Utilities should be approved. A description of the territory being transferred is appended to this issue as Attachment A. (CLAPP, WALDEN)

**STAFF ANALYSIS:** As stated in the case background, Timberwood applied for a transfer of its Water Certificate No. 524-W and Wastewater Certificate No. 459-S in Pasco County to Mink on September 29, 2000. Staff identified deficiencies in the utility's application and notified the applicant. Those deficiencies were corrected on January 25, 2001. The application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for transfer. The application contains a check in the amount of \$1,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Section 367.071, Florida Statutes, requires that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without prior approval of the Commission unless such sale, assignment, or transfer is made contingent upon Commission approval. The utility property was deeded to Mink on or about March 23, 2000. However, to ensure that the utility was not transferred prior to Commission approval, the parties entered into a 99-year lease whereby Arbor Oaks has continued use of the utility property and operates and controls the utility. The 99-year lease is effective until the Commission approves the transfer or until the term of the lease expires.

Rule 25-30.037(2)(q), Florida Administrative Code, requires the utility to provide proof of ownership of the land upon which its facilities are located. The application contains a Warranty Deed in the name of Mink that covers the entire mobile home park including the land upon which the utility treatment facilities are located. The owners of the mobile home park also own the utility.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the application were received, and the time for the filing of such objections has expired. A description of the territory served by the utility is appended to this issue as Attachment A. The service area attached is the original service area granted to the utility in Order No. 22302, issued December 12, 1989, in Docket No. 891010-WU and Order No. 22392, issued January 9, 1990, in Docket No. 881003-SU.

Regarding the Buyer's technical ability, the applicant indicated that the utility is the first and only regulated water and wastewater system owned by Mink. However, Mink will continue to employ the personnel who are familiar with both the administrative and regulatory affairs of Timberwood. The buyer has contracted with the Gator Water and Wastewater Management, Inc., certified operators, to provide the ongoing maintenance of the water and wastewater facilities. At the present time, the utility provides safe and reliable water and wastewater service to its customers. Mink has the financial resources to maintain consistent compliance with environmental regulations. Staff has contacted the Department of Environmental Protection (DEP) and has learned that there are some outstanding items needing attention at the wastewater treatment plant, which were noted to the utility in a letter late last year. Staff has reminded the utility's consultant of the importance of addressing these items, and will follow up to ensure that these concerns expressed by DEP are resolved as a result of this transfer of ownership.

Based on the application, the buyer has demonstrated its financial ability to provide service. Mink invested approximately \$1,900,000 in cash and assumed an existing mortgage from LaSalle National Bank in the amount of \$2,306,490 for the purchase of the mobile home park and the utility. Additionally, some of the cash invested by Mink was also used for closing costs and purchase of two model homes. Mink has indicated that it will provide the financial stability required to maintain the utility systems in accordance with Commission standards. The buyer provided a copy of the 2000 year-end Balance Sheet which showed total assets of approximately \$4,000,000.

The application contains a copy of the agreement for purchase and sale, first addendum to contract, second addendum to contract, and bill of sale which includes the sales price, terms of payment and a list of the assets purchased and liabilities assumed of Arbor Oaks Mobile Home Park and Timberwood Utilities. The application also contains a statement that the transfer is in the public

interest because the customers of the utility will continue to receive the same quality service as in the past since the same team will continue to operate the water and wastewater facilities.

Supplemental information from the applicant stated that there were no outstanding or pending customer deposits, guaranteed revenue contracts, developer agreements, or customer advances related to the utility. Additionally, the applicant stated that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters. The buyer stated that the existing debts of the utility will be paid by the utility.

According to our records, the utility is current on its regulatory assessment fees, has filed an annual report for 1999 and all prior years, and has been granted an extension for filing its 2000 annual report until April 30, 2001. Mink will be responsible for future annual reports and the payment of all regulatory assessment fees starting with the year 2000. The application states that Mink's representative has performed a reasonable investigation of the utility system. The water and wastewater plant facilities appear to be in satisfactory condition and in compliance with all applicable standards set by DEP.

Based on the above, staff recommends that the transfer of assets and facilities from the seller to the buyer and the transfer of Water Certificate No. 524-W and Wastewater Certificate No. 459-S is in the public interest and should be approved.

ATTACHMENT A

TIMBERWOOD UTILITIES

PASCO COUNTY

TERRITORY DESCRIPTION

WATER AND WASTEWATER SERVICE AREA

The following described lands located in a portion of Section 9, Township 26 South, Range 21 East, Pasco County, Florida:

Section 9

The SW 1/4 of the NE 1/4 of the NW 1/4 and the S 1/2 of the SE 1/4 of the NE 1/4 of the NW 1/4 and the N 1/2 of the N 1/2 of the SE 1/4 of the NW 1/4.

**ISSUE 2:** What is the rate base of Timberwood at the time of transfer?

**RECOMMENDATION:** The rate bases, which for transfer purposes reflect the net book value, are \$7,770 for the water system and \$65,379 for the wastewater system as of March 23, 2000. (CLAPP)

**STAFF ANALYSIS:** Rate base for the utility was established by Order No. PSC-98-1388-FOF-WS, issued October 15, 1998, in Docket No. 971456-WS, at \$6,254 for the water system and \$69,681 for the wastewater system as of the transfer date of January 31, 1998. According to the application, the proposed rate base is \$5,143 for the water system and \$60,944 for the wastewater system as of the date of transfer. Rate base was determined by starting with the October 15, 1998 Order and updating the information to the March 23, 2000 transfer date.

An audit of the utility's books was performed and the resulting report contained two audit exceptions concerning the utility's books and records. These audit exceptions are discussed in detail below.

**Audit Exception No. 1.** This exception was the audit opinion that Plant-in-Service and Accumulated Depreciation were incorrect. The audit balances from the previous audit were used for the beginning balances and verified Annual Report additions plus other additions and retirements were used to determine the depreciable plant balances. The utility failed to account for its water meter replacement program from February 1, 1998 through March 23, 2000. A review of invoices indicated that meters were purchased, and plumbing invoices indicated the dates and costs of meter replacements. No retirements of existing meters were noted on the company records. Additional invoices indicated that the utility replaced a wastewater blower, chlorine pump, and lift station controller. None of these wastewater plant replacements appeared on the utility plant records either as additions or retirements. The resulting Plant-in-Service should be increased \$557 for water and \$737 for wastewater. The audit staff applied Rule 25-30.140, Florida Administrative Code, depreciation rates to the audited plant subaccounts balances from February 1, 1998 to March 23, 2000, to obtain the per audit water and wastewater accumulated depreciation balances. As a result of these calculations, Accumulated Depreciation should be decreased by \$1,683 for the water system and \$3,539 for the wastewater system.

**Audit Exception No. 2.** This exception was the audit opinion that the contributions-in-aid-of-construction (CIAC) was correct, however, the Amortization of CIAC was incorrect. Using the audit balances from the previous audit and verified Annual Report additions, the per audit CIAC amortization was recalculated. The resulting Amortization of CIAC should increase by \$418 for the water system and by \$417 for the wastewater system.

Staff recommends that, as of March 23, 2000, rate base for the Timberwood system is \$7,770 for the water system and \$65,379 for the wastewater system. The schedule of water rate base is shown on Schedule No. 1, with adjustments set forth on Schedule No. 2. The schedule of wastewater rate base is shown on Schedule No. 3, with adjustments set forth on Schedule No. 4. The rate base calculations are used solely to establish the net book value at the time the property is transferred. As such, the calculations do not include the normal ratemaking adjustments of working capital calculations and used and useful adjustments.



TIMBERWOOD UTILITIES  
SCHEDULE OF WATER RATE BASE  
AS OF MARCH 23, 2000

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$ 64,063	\$ 557	\$ 64,620
Land	0	0	0
Accumulated Depreciation	( 23,553)	1,683	( 21,870)
Contributions in Advance of Construction (CIAC)	( 53,583)		( 53,583)
Amortization of CIAC	<u>18,185</u>	<u>418</u>	<u>18,603</u>
WATER RATE BASE	<u>\$ 5,112</u>	<u>\$ 2,658</u>	<u>\$ 7,770</u>

TIMBERWOOD UTILITIES  
SCHEDULE OF WATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>STAFF RECOMMENDED ADJUSTMENT</u>
<b>Utility Plant-in-Service</b>	
1) To account for verified additions and retirements from February 1998 through March 2000	\$ 557
<b>Accumulated Depreciation</b>	
1) To recalculate depreciation based on service life pursuant to Rule 25-30.140	1,683
<b>Contributions in Advance of Construction (CIAC)</b>	
1) To account for CIAC from February 1998 through March 2000.	
<b>Accumulated Amortization of CIAC</b>	
1) To account for amortization of CIAC from February 1998 through March 2000	<u>418</u>
<b>TOTAL ADJUSTMENT</b>	<u>\$ 2,658</u>

TIMBERWOOD UTILITIES  
 SCHEDULE OF WASTEWATER RATE BASE  
 AS OF MARCH 23, 2000

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$ 195,232	\$ 737	\$ 195,969
Land	10,152	0	10,152
Accumulated Depreciation	( 87,909)	3,539	( 84,370)
Contributions in Advance of Construction (CIAC)	( 95,165)	0	( 95,165)
Amortization of CIAC	<u>38,376</u>	<u>417</u>	<u>38,793</u>
WASTEWATER RATE BASE	<u>\$ 60,686</u>	<u>\$ 4,693</u>	<u>\$ 65,379</u>

TIMBERWOOD UTILITIES  
SCHEDULE OF WASTEWATER RATE BASE ADJUSTMENTS

<u>EXPLANATION</u>	<u>STAFF RECOMMENDED ADJUSTMENT</u>
<b>Utility Plant-in-Service</b>	
1) To account for verified additions and retirements from February 1998 through March 2000	\$ 737
<b>Accumulated Depreciation</b>	
1) To recalculate depreciation based on service life pursuant to Rule 25-30.140	3,539
<b>Contributions in Advance of Construction (CIAC)</b>	
1) To account for CIAC from February 1998 through March 2000.	
<b>Accumulated Amortization of CIAC</b>	
1) To account for amortization of CIAC from February 1998 through March 2000	<u>417</u>
<b>TOTAL ADJUSTMENT</b>	<u>\$ 4,693</u>

**ISSUE 3:** Should an acquisition adjustment be approved?

**RECOMMENDATION:** No. An acquisition adjustment was not requested. Moreover, an acquisition adjustment cannot be determined at this time. (CLAPP)

**STAFF ANALYSIS:** An acquisition adjustment results when the purchase price differs from the original cost calculation adjusted to the time of the acquisition. The buyer stated in the application that it was not seeking an acquisition adjustment. However, as previously noted, the Buyer acquired the utility as part of the Arbor Oaks Mobile Home Park in a property transaction, valued at \$4,050,000. Neither party to the overall sales transaction was able to place a separate value on the purchase of the utility facilities.

Moreover, in the absence of extraordinary circumstances, it has been Commission practice that a subsequent purchase of a utility system at a premium or discount shall not affect the rate base calculation. There are no extraordinary circumstances regarding this purchase that would justify an acquisition adjustment to rate base. The treatment of the acquisition adjustment in this instance is consistent with previous Commissions decisions. See Order No. PSC-00-1675-PAA-WS, issued September 19, 2000, in Docket No. 991984-WS; Order No. PSC-00-1659-PAA-WU, issued September 18, 2000, in Docket No. 000334-WU; Order No. PSC-00-1515-PAA-WU, issued August 21, 2000, in Docket No. 000333-WU; and Order No. PSC-00-1389-PAA-WU, issued July 31, 2000, in Docket No. 991001-WU.

In summary, the buyer is not requesting an acquisition adjustment. The buyer was unable to provide a separate purchase price for the utility's assets because the utility assets were included, non-specifically, in the overall sales transaction for the mobile home park. Therefore, staff recommends that an acquisition adjustment not be approved because one has not been requested. Moreover, an acquisition adjustment cannot be determined at this time.

**ISSUE 4:** Should the rates and charges approved for this utility be continued?

**RECOMMENDATION:** Yes, Mink should continue charging the rates and charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in ownership should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. (CLAPP)

**STAFF ANALYSIS:** Timberwood's current rates for water and wastewater service were approved by the Commission in an administrative price index proceeding effective May 30, 1999. The utility's service availability charges were approved pursuant to the staff-assisted rate case Order No. 24640, issued June 10, 1991, in Docket No. 900749-WS. The utility's approved rates and charges are as follows:

**Water Monthly Service Rates**  
**Residential and General Service**

Base Facility Charge

Meter Sizes:

5/8" x 3/4"	\$ 3.13
3/4"	4.68
1"	7.81
1 1/2"	15.61
2"	24.98
3"	49.94
4"	78.04
6"	156.07

Gallonage Charge

Per 1,000 gallons	\$ 2.34
-------------------	---------

**Wastewater Monthly Service Rates**  
**Residential and General Service**

Base Facility Charge

Meter Sizes:

5/8" x 3/4"	\$ 10.47
3/4"	15.71
1"	26.18
1 1/2"	52.36
2"	83.78
3"	167.58

4"	261.83
6"	523.65

Gallonage Charge

Per 1,000 Gallons

Residential (Maximum charge of 6,000 gallons)	\$ 1.42
--	---------

General Service	1.71
-----------------	------

Meter Test Deposit

Meter Size	Fee
5/8" x 3/4"	\$20.00
1" and 1 1/2"	25.00
2" and over	Actual Cost

Miscellaneous Service Charges

	<u>Water</u>	<u>Wastewater</u>
Initial Connection	\$15.00	\$15.00
Normal Reconnection	\$15.00	\$15.00
Violation Reconnection	\$15.00	Actual Cost
Premises Visit (in lieu of disconnection)	\$10.00	\$10.00

Service Availability Charges

	<u>Water</u>
Meter Installation Fee	100.00

	<u>Wastewater</u>
Plant Capacity Charge Residential-per ERC	\$500.00

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case of change of ownership or control of a utility which places the operation under a different or new utility . . . the company which will thereafter operate the utility business must adopt and use the rates, classification and regulations of the former operating company (unless authorized to change by the Commission).

Mink has not requested a change in the rates and charges of the utility. Accordingly, staff recommends that, pursuant to Rule 25-9.044(1), Florida Administrative Code, the utility continue operations under the existing tariff and apply the approved rates and charges until authorized to change by the Commission in a subsequent proceeding. The utility has filed a revised tariff reflecting the change in issuing officer due to the transfer. If the Commission approves staff's recommendation, the tariff filing should be effective for services rendered or connections made on or after the stamped approval date.



DOCKET NO. 001513-WS  
DATE: APRIL 19, 2001

**ISSUE 5:** Should this docket be closed?

**RECOMMENDATION:** Yes, if no timely protest is received to the proposed agency action issues, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed. (CIBULA)

**STAFF ANALYSIS:** If no timely protest is received to the proposed agency action issues, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.