



Public Service Commission

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DATE: JUNE 27, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (CLAPP, C. ROMIG) DM
OFFICE OF THE GENERAL COUNSEL (CROSBY, C. KEATING) *Walt*

RE: DOCKET NO. 020122-WS - REQUEST FOR APPROVAL OF TRANSFER OF
MAJORITY ORGANIZATIONAL CONTROL OF CWS COMMUNITIES LP
D/B/A PALM VALLEY, HOLDER OF CERTIFICATE NOS. 277-W AND
223-S IN SEMINOLE COUNTY, FROM CWS COMMUNITIES TRUST TO CP
LIMITED PARTNERSHIP, KNOWN IN FLORIDA AS CHATEAU
COMMUNITIES LIMITED PARTNERSHIP.
COUNTY: SEMINOLE

AGENDA: 07/09/02 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: THIS RECOMMENDATION SHOULD IMMEDIATELY
FOLLOW THE RECOMMENDATION FILED IN DOCKET
NO. 020102-WU

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020122WS.RCM

CASE BACKGROUND

CWS Communities LP d/b/a Palm Valley (Palm Valley or utility)
is a Class C utility providing water and wastewater service in
Seminole County to 55 individually metered customers and one
general service customer. This location is in the St. Johns River
Water Management District (SJRWMD), all of which is considered a
water use caution area. The utility was granted Certificates Nos.
277-W and 223-S by Order No. 7518, issued November 22, 1976, in
Docket No. 750660-WS. The certificates have been amended pursuant
to Order No. 9626, issued November 5, 1980, in Docket No. 7901519-
WS; Order No. 12714, issued November 30, 1983, in Docket No.

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830530-WS; Order No. 14480, issued June 18, 1985, in Docket No. 850040-WS; Order No. 23094, issued June 20, 1990, in Docket No. 900166-WS; and Order No. PSC-00-2243-PAA-WS, issued November 27, 2000, in Docket No. 001138-WS. Also, the certificates have been transferred twice pursuant to Order No. 16360, issued July 16, 1986, in Docket No. 860583-WS and Order No. PSC-00-1675-PAA-WS, issued September 19, 2000, in Docket No. 991984-WS. The utility's 2001 annual report lists total gross revenues of \$43,424 for water and \$19,462 for wastewater with net loss of \$74,858 and \$166,951, respectively.

On February 14, 2002, the utility filed an application for transfer of majority organizational control (transfer) from CWS Communities Trust (Trust or seller) to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership (Chateau or buyer). The Agreement as to Transfer of Florida Public Service Commission Certificated Utilities (Agreement) was executed on August 2, 2001. The closing on the transfer of CWS took place on August 3, 2001, contingent upon Commission approval.

Palm Valley is one of three Commission regulated utilities transferred as part of a larger transaction. The other two utilities were CWS Communities, LP (Docket No. 020102-WU) and CWS Communities, LP d/b/a Crystal Lake Club (Docket No. 020101-WS). All three utilities are located within residential developments. According to information provided by the applicant, the \$552 million transaction included 46 manufactured home communities and three RV communities in 11 states.

The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the transfer of majority organizational control of CWS Communities, LP d/b/a Palm Valley from CWS Communities Trust to CP Limited Partnership, known in Florida as Chateau Communities Limited Partnership, be approved?

RECOMMENDATION: Yes. The transfer of majority organizational control should be approved. (CLAPP, C. ROMIG, CROSBY, C. KEATING)

STAFF ANALYSIS: On February 14, 2002, an application was filed for approval of the transfer of majority organizational control of Palm Valley from the Trust to Chateau. As stated in the case background, the agreement was executed on August 2, 2001, and made subject to Commission approval in compliance with Section 367.071, Florida Statutes. The closing occurred on August 3, 2001.

The application is in compliance with the governing statute, Section 367.071, Florida Statutes, pertaining to an application for transfer of majority organizational control. The application contained the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. A description of the territory granted by Certificates Nos. 277-W and 223-S is appended to this memorandum as Attachment A.

Noticing. 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.

Financing. Pursuant to Rule 25-30.037(3)(e) and (g), Florida Administrative Code, the application contained a statement describing the financing of the purchase, the entities providing funding to the buyer, and an explanation of the manner and amount of such funding. According to the buyer, 2,040,878 operating partnership units (OP units) at a value of \$30.935 per OP unit, \$151 million in assumed liabilities, \$9.9 million in 10 year 7.5% unsecured installment notes, and \$323 million in cash (including the payoff \$20 million in debt) were used to finance the 11 state transaction. Those with ownership interests in the Trust were given OP units or cash.

Proof of Ownership. Pursuant to Rule 25-30.037(3)(i), Florida Administrative Code, the application contained a statement that Crystal Lake continues to own the utility. The transfer is of the parent owner of CWS and not CWS itself. The Commission has a copy of the recorded warranty deed as evidence that the utility owns the land upon which the utility facilities are located.

Annual Reports and Regulatory Assessment Fees (RAFs). Staff has verified that the utility is current on annual reports and RAFs through 2001.

Environmental Compliance. Pursuant to Rule 25-30.037(3)(h), Florida Administrative Code, the application contained a statement that the buyer performed a reasonable investigation of the utility system. Staff has confirmed with the Florida Department of Environmental Protection (DEP) that the utility's water system is currently in environmental compliance with respect to DEP standards. According to SJRWMD the utility has no outstanding compliance issues.

CWS purchased the wastewater utility while it was under Consent Order 94-1144, which required major improvements related to the disposal system. Staff has learned that the wastewater system is still "under enforcement." However, the utility has worked cooperatively with DEP to correct the problems and has expanded the disposal system and added wastewater capacity to comply with the Consent Order. DEP expects the utility to have the remaining effluent problems corrected within six months.

Public Interest. Pursuant to Rule 25-30.037(3)(f), Florida Administrative Code, the application contained a statement of how the transfer is in the public interest including a summary of the buyer's experience in water and wastewater operations and a showing of the buyer's financial ability to provide service. The transfer is in the public interest because the customers will continue to receive the same quality service to which they are accustomed. The buyer has limited prior utility experience. However, the existing structure and staff of CWS will continue allowing for a seamless transfer from one owner to another.

For a showing of financial ability, the buyer provided a 2000 annual report for Chateau Communities which contains consolidated financial statements which appear to indicate sufficient liquid assets to maintain normal utility operations as well as address any utility emergencies. Finally, the buyer provided a statement of intent to fulfill the commitments, obligations and representations of the seller with regard to utility matters.

Rate Base. It has been Commission practice not to establish rate base for transfers of majority organizational control because a stock transfer has no regulatory impact on rate base. Similarly,

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it has also been Commission practice that an acquisition adjustment is not made for a stock transfer. Therefore, staff's recommendation does not include issues regarding the establishment of rate base at the time of transfer nor an acquisition adjustment.

For informational purposes, the Commission established rate base in transfer Docket No. 991984-WS at \$139,173 for the water system and \$564,877 for the wastewater system as of August 30, 1999. Additionally, on June 8, 2001, Palm Valley filed for a staff-assisted rate case in Docket No. 010823-WS.

Conclusion. Based on all of the above, staff recommends that the transfer of majority organizational control of Palm Valley from the Trust to Chateau is in the public interest and should be approved.

ISSUE 2: Should the existing rates and charges for the utility be continued?

RECOMMENDATION: Yes. The rates and charges approved for the utility should be continued. The tariff will not change since the transfer of majority organizational control affected only the parent of Palm Valley. (CLAPP)

STAFF ANALYSIS: The utility's current rates and charges for service were approved by the Commission in a administrative price index proceeding effective February 16, 1999. The utility's approved service availability charges were effective April 16, 1991, pursuant to Order No. 24181, issued March 1, 1991, in Docket No. 900402-WS. The utility's approved rates and charges are as follows:

Water Monthly Service Rates

Residential Service

Minimum Charge (Includes 2,000 gallons)	\$ 2.69
All usage over 2,000 gallons per thousand gallons	\$ 0.54

General Service

Gallonge Charge per 1,000 gallons	\$ 0.54
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Wastewater Monthly Service Rates

Residential Service

<u>Base Facility Charge</u>	
<u>Meter Size:</u>	
All Meter Sizes Flat Rate	\$ 8.77

General Service

Gallonge Charge per 1,000 gallons	\$ 0.56
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Service Availability Charges

Initial Connection Charge - Water:

Residential - per ERC (300 GPD) \$ 170.00

Initial Connection Charge - Wastewater:

Residential - per ERC (170 GPD) \$1,835.00

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

In case[s] 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)

Palm Valley has not requested a change in the rates and charges of the utility. Accordingly, staff recommends that 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.

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ISSUE 3: Should the docket be closed?

RECOMMENDATION: Yes. There are no issues remaining and the docket should be closed upon the issuance of the Final Order. (CROSBY, C. KEATING)

STAFF ANALYSIS: There are no issues remaining and the docket should be closed upon the issuance of the Final Order.

**CWS COMMUNITIES LP D/B/A PALM VALLEY
WATER AND WASTEWATER TERRITORY
SEMINOLE COUNTY**

Order No. 7518

In Township 21 South, Range 31 East, Seminole County
Sections 34 and 35

Portions of said Sections 34 and 35 known as Palm Valley
Mobile Home Park and more particularly described as follows:

Lots 7 and 15 according to the plat thereof as recorded in Plat
Book 11, Page 43, of the Public Records of Seminole County,
Florida.

Order No. 9626

Township 21 South, Range 31 East
Section 24

Begin at the East 1/4 Corner of said Section 34, thence North 00
degrees 18 minutes 03 seconds East, a distance of 1333.33 feet;
thence North 89 degrees 23 minutes 00 seconds West, a distance of
257.38 feet; thence South 00 degrees 18 minutes 03 seconds West, a
distance of 228.21 feet, thence South 88 degrees 35 minutes 41
seconds West, a distance of 541.44 feet; thence South 00 degrees 18
minutes 03 seconds West, a distance of 720.49 feet to an iron pipe
on the South right-of-way of park Road; said point being on a curve
with a radius of 2625.65 feet, thence continue Easterly along said
South right-of-way a distance of 334.71 feet to a concrete
monument, said point being the point of curve of said curve; thence
South 89 degrees 13 minutes 35 seconds East, a distance of 225.0
feet more or less to the Northeast corner of Lot 7 as recorded in
Plat Book 11, page 43 of the Public Records of Seminole County,
Florida, thence South 00 degrees 02 minutes, 08 seconds West, a
distance of 1485.0 feet more or less; thence South 00 degrees 02
minutes 08 seconds West, a distance of 560.00 feet; thence South 89
degrees 37 minutes 00 seconds East a distance of 235 feet more or
less to a point on the East boundary of said Section 34; thence
North 00 degrees 18 minutes 03 seconds East, a distance of 1100
feet to the POINT OF BEGINNING.

ALSO

Beginning at a point on the East right-of-way line of Alafaya Trail 279.01 feet South of the South right-of-way line of Park Road running thence South 89 degrees 27 minutes 05 seconds East 613.86 feet to a point; thence North 00 degrees 03 minutes 18 seconds North 300.31 feet to a point on the South right-of-way line of Park Road; thence along the South right-of-way line of Park Road, following the arc of 1156.78 feet radius curve 315.38 feet to a point; thence continuing along said South right-of-way line of Park Road North 63 degrees 49 minutes 52 seconds East, a distance of 1152.76 feet to a point; thence South 00 degrees 02 minutes 08 seconds West, a distance of 1670 feet more or less to a point; thence North 89 degrees 37 minutes 00 seconds West, a distance of 670 feet to a point, thence North 00 degrees 02 minutes, 05 seconds East, a distance of 381.05 feet to a point; thence North 89 degrees, 27 minutes, 05 seconds West a distance of 1275.70 feet to the Westerly right-of-way line of Alafaya Trail; thence North along said right-of-way line North 00 degrees 03 minutes 18 seconds West, 350.02 feet to the POINT OF BEGINNING.

ALSO

Begin at the Southwest corner of Lot 19, Orlando Industrial Park, run West 00 degrees 02 minutes 08 seconds East, 921 feet; thence North 89 degrees 57 minutes 05 seconds East 105 feet, thence North 00 degrees 02 minutes 08 seconds East, 25 feet; thence North 63 degrees 04 minutes 52 seconds East, 807.00 feet; thence South 60 degrees 02 minutes 08 seconds West, 889.52 to the Northerly right-of-way of Park Road; thence South 63 degrees 49 minutes 53 seconds West along said right-of-way 935.93 feet to the POINT OF BEGINNING. Said parcel known as Fox Run Subdivision.

Section 35

Begin at the West 1/4 corner of said Section 35; thence North 00 degrees 18 minutes 03 seconds East, a distance of 1333.33 feet; thence South 89 degrees 34 minutes 49 seconds East, a distance of 332.63 feet; thence South 00 degrees 14 minutes 18 seconds West 1333.71 feet; thence South 00 degrees 30 minutes 22 seconds East 1087.76 feet; thence North 89 degrees 37 minutes 00 seconds West 340 feet more or less to a point on the West boundary line of said Section 35; thence North 00 degrees 18 minutes 03 seconds East, a distance of 1100 feet more or less to the POINT OF BEGINNING.

Order No. 12714

Township 21 South, Range 31 East

Section 34

From the South 1/4 corner of said Section 34, run South 89 degrees 37 minutes 00 seconds East a distance of 740 feet along the South line of said Section; thence North 00 degrees 02 minutes 08 seconds East a distance of 2040 feet more or less, along the East R-O-W line of Seminole Avenue to a point at the intersection of said East line with the South R-O-W line of Jessup Street for a Point of Beginning. From said Point of Beginning thence run South 89 degrees 37 minutes 00 seconds East a distance of 800 feet along said South R-O-W line of Jessup Street, thence South 00 degrees 02 minutes 08 seconds West a distance of 500 feet parallel with said Seminole Avenue, thence North 89 degrees 37 minutes 00 seconds West a distance of 800 feet to said Seminole Avenue, thence North 00 degrees 02 minutes 08 seconds East a distance of 500 feet to the Point of Beginning.

Order No. 14480

Township 21 South, Range 31 East

Section 34

That portion of said Section 34 and all of Lot 8 and a portion of Lot 13, Orlando Industrial Park as recorded in Plat Book 10, Page 100 of the Public Records of Seminole County, Florida described as follows:

Commencing at the Southeast corner of said section, thence run North 89 degrees 37'00" West along the South line of said section and the centerline of an 80 foot R-O-W for a distance of 799.25 feet to a Southerly projection of the East line of Lot 11, Orlando Industrial Park; thence run North 00 degrees 02'08" East along said project line and the East line of Lot 11 for a distance of 840 feet to the Easterly most corner of Lot 13 of said Orlando Industrial Park for the Point of Beginning; thence run South 74 degrees 26'00" West along the South line of said Lot 13 a distance of 365.07 (calc) 364.01 (plat) to the Northeast corner of Lot 12 of said industrial park; thence run North 89 degrees 37'00" West along said South line of Lot 13 for a distance of 760.19 feet to the Southwest corner of said Lot 13; thence run North 00 degrees 02'08" East

along the West line of said Lot 13 for a distance of 387.76 feet; thence South 89 degrees 37'00" East for a distance of 225 feet; thence North 00 degrees 02'08" East a distance of 18.88 feet; thence South 89 degrees 37'00" East for a distance of 288 feet; thence North 01 degrees 20'29" West for a distance of 208.09 feet; thence North 89 degrees 37'00" West for a distance of 508 feet to the aforementioned West line of said Lot 13; thence run North 00 degrees 02'08" East along said West line a distance of 185.44 feet to the Northwest corner of said Lot 13; thence run South 89 degrees 37'00" East Along the North line of said Lot 13 for a distance of 800 feet to the Southwest corner of Lot 8 of said industrial park; thence run North 00 degrees 02'08" East along the West line of said Lot 8 a distance of 500 feet to the Northwest corner of said Lot 8; thence run South 89 degrees 37'00" East along the North line of said Lot 8 a distance of 780 feet to the Northeast corner of said Lot 8; thence run South 00 degrees 02'08" West along the East line of said Lot 8 a distance of 500 feet to the Southeast corner of said Lot 8; thence run North 89 degrees 37'00" West along the South line of said Lot 8 a distance of 355.63 feet to a point which lies South 89 degrees 37'00" East a distance of 424.37 feet from the aforementioned Southwest corner of Lot 8; thence South 00 degrees 29'25" East a distance of 218.33 feet; thence South 01 degrees 39'42" East a distance of 481.67 feet; thence North 89 degrees 37'00" West a distance of 129.01 feet to the Point of Beginning.

Section 35

The West 1/4 of the Northwest 1/4 of the Northwest 1/4 of said Section 35,

AND the East 1/2 of the West 1/2 of the Northwest 1/4 of the Southwest 1/4 of said Section 35,

AND the South 453.34 feet of the East 1/2 of the West 1/2 of the Southwest 1/4 of the Northwest 1/4 of said Section 35.

Order No. 23094

Township 21 South, Range 31 East

In Sections 34 and 35

Parcels 5 and 6: This description is in Order No. 14480, except that is in a different format.

From a Northeast Corner of Section 34, run South along the East line of Section 34 3,250 feet. Thence run west 1,100 feet to the point of beginning. Thence South 00 degrees 30' 26" East 218.31 feet. Thence South 01 degrees 42' 27" East 180.76 feet. Thence South 01 degrees 42' 27" East 300.87 feet. Thence North 89 degrees 36' 50" West 129.82 feet. Thence South 74 degrees 26' 00" West 364.01 feet. Thence North 89 degrees 40' 34" West 68.30 feet. Thence North 89 degrees 40' 34" West 691.70 feet. Thence North 00 degrees 00' 38" West 387.73 feet. Thence South 89 degrees 34' 08" East 224.94 feet. Thence North 00 degrees 54' 35" East 18.92 feet. Thence South 89 degrees 44' 01" East 287.87 feet. Thence North 01 degrees 21' 41" West 208.21 feet. Thence North 89 degrees 40' 28" West 508.25 feet. Thence North 00 degrees 02' 34" West 185.42 feet. Thence South 89 degrees 38' 18" East 800.12 feet. Thence South 89 degrees 37' 25" East 424.39 feet to the point of beginning.

Parcel A-2:

The South 1/2 of the East 3/4 of the Southwest 1/4 of the Northwest 1/4, less the South 453.34 feet of the East 1/2 of the West 1/2 of said Southwest 1/4 of the Northwest 1/4, all in Section 35.

Order No. PSC-00-2243-PAA-WS

Addition 8

That part of the Northwest 1/4 of Section 35, Township 21 South, Range 31 East, Seminole County, Florida, being further described as follows:

Commence at the Northwest corner of Section 35, Township 21 South, Range 31 East, Seminole County, Florida and run thence N89 degrees 52'09"E 332.91 feet (N89 degrees 45'42"E 332.85 feet record) along the North boundary of Section 35 to the point of beginning; thence continue N89 degrees 47'40"E 662.10 feet (N89 degrees 45'42"E 665.73 record) along the North boundary of said Section 35; thence S00 degrees 15'18"E 1332.93 feet; thence N89 degrees 49'23"E 333.79 feet (N89 degrees 42'41"E record) to the Northwest corner of SE 1/4 of NW 1/4 of said Section 35; thence continue along the boundary of Brighton Park at Carillon according to the map or plat thereof as recorded in plat book 42, pages 86-89 of the Public Records of Seminole County, Florida, N89 degrees 49'23"E 283.75 feet to the appropriate centerline of a creek; thence continue along the

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ATTACHMENT A

boundary of said subdivision S09 degrees 24'12"E 271.06 feet (S09 degrees 24'12"E 273.12 feet record); thence continue along the said subdivision S06 degrees 51'54"W 400.91 feet (S06 degrees 51'54"W 389.91 feet record); thence S89 degrees 47'41" W 278.55 feet to the 40 acre line; thence continue S89 degrees 47'41"W 1003.11 feet along the Northerly boundary of Palm Valley Manufactured Housing; thence N00 degrees 00'32"W 1998.66 feet (N00 degrees 14'22"E deed) along the Easterly boundary of Palm Valley Manufactured Housing to the point of beginning.

Containing 1,755,983.6218 square feet of 40.3118 acres M.O.L.

Addition 8A

The East quarter of the Northwest quarter of the Northwest quarter of Section 35, Township 21 South, Range 31 East, Seminole County, Florida.

Containing 443,725.39 square feet or 10.1865 acres M.O.L.