



Public Service Commission
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COMMISSION CLERK

DATE: JUNE 27, 2002

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

FROM: DIVISION OF ECONOMIC REGULATION (CLAPP, C. ROMIG)
OFFICE OF THE GENERAL COUNSEL (CROSBY, VINING)

RE: DOCKET NO. 020102-WU - REQUEST FOR APPROVAL OF TRANSFER OF
MAJORITY ORGANIZATIONAL CONTROL OF CWS COMMUNITIES LP,
HOLDER OF CERTIFICATE NO. 518-W IN LAKE COUNTY, FROM CWS
COMMUNITIES TRUST TO CP LIMITED PARTNERSHIP, KNOWN IN
FLORIDA AS CHATEAU COMMUNITIES LIMITED PARTNERSHIP.
COUNTY: LAKE

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. 020101-WS

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020102WU.RCM

CASE BACKGROUND

CWS Communities LP (CWS or utility) is a Class C utility
serving 143 unmetered residential water and wastewater customers in
Lake County. 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. 518-W
and 451-S by Order No. 21342, issued June 6, 1989, in Docket No.
880936-WS. After the utility's wastewater system was
interconnected with the City of Eustis, the utility was found to be
an exempt wastewater reseller, and Certificate No. 451-S was
canceled by Order No. PSC-96-1470-FOF-SU, issued December 3, 1996,
in Docket No. 961146-SU. The utility transfer from Century Realty

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Funds, Inc. and Haselton Associates, Ltd. d/b/a Route 19A North Joint Venture to CWS was approved by Order No. PSC-01-0425-PAA-WU, issued February 22, 2001, in Docket No. 001083-WU. The utility's 2001 annual report lists total gross revenue of \$16,255 with a net operating loss of \$2,627.

On February 6, 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.

CWS is one of three Commission regulated utilities transferred as part of a larger transaction. The other two utilities were CWS Communities, LP d/b/a Crystal Lake Club (Docket No. 020101-WS) and CWS Communities, LP d/b/a Palm Valley (Docket No. 020122-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, 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, VINING)

**STAFF ANALYSIS:** On February 6, 2002, an application was filed for approval of the transfer of majority organizational control of CWS

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 Certificate No. 518-W is appended to this memorandum as Attachment A. This is the original service area that was granted to the utility in Order No. 21342, issued June 6, 1989.

**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 Rules 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 CWS 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 from the buyer that, after reasonable investigation, the systems being acquired appeared to be in satisfactory condition and in compliance with all standards set by the Florida Department of Environmental Protection (DEP). Staff has confirmed with DEP that the utility's water system is currently in environmental compliance with respect to DEP standards.

Staff contacted the SJRWMD and discovered that the utility had not filed the monthly usage reports with the water management district (WMD) for approximately six months. SJRWMD sent a letter of inquiry regarding the missing reports to the prior owner and had not yet received a reply from the utility. Staff provided the WMD with the appropriate contact information for the utility and made the utility aware of the need to file the WMD reports.

It should be noted that the utility is in a water use caution area and has flat rates for water service. However, without the usage reports, the WMD was unable to determine whether the utility customers are using excessive water. The utility has indicated that it will begin filing the appropriate reports with the WMD immediately. Further, the utility is currently taking bids to install meters and will soon be filing for a staff assisted rate case.

**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 be maintained 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, 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 did not establish rate base in transfer Docket No. 001083-WU because the prior owner maintained the books and records out of state and commingled utility records with those of the development company. CWS provided a statement with the 2000 Annual Report indicating that the books and records are now in compliance with the National Association of Regulatory Utility Commissioners (NARUC) system of accounts. By Order No. PSC-01-0425-PAA-WU, the Commission put CWS on notice that an original cost study may be required when the utility files a rate petition if the utility cannot provide original cost documentation.

**Conclusion.** Based on all of the above, staff recommends that the transfer of majority organizational control of CWS 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 CWS. (CLAPP)

**STAFF ANALYSIS:** The utility's current rates and charges for service were approved by the Commission pursuant to Order No. 21342, issued June 6, 1989, in Docket No. 880936-WS. The utility's approved rates and charges are as follows:

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

<u>Flat Base Facility Charge</u>	<u>Approved</u>
Occupied Unit	\$7.00
Unoccupied Unit	\$3.00

If Unoccupied for 60 consecutive days.

**Service Availability Charges**

Residential Tap in Fee - per ERC \$325.00

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, or when its name is changed, 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).

CWS 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. Staff further recommends that the current tariff remain in effect since there is no change in the Utility organization or operation.

DOCKET NO. 020102-WU

DATE: June 27, 2002

**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, VINING)

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

**CWS Communities LP**

**Lake County - Water Service Area  
Serving Haselton Village Mobile Home Park**

Township 18 South, Range 26 East, Section 34

PARCEL A: Beginning at the East 1/4 corner of Section 34, Township 18 South, Range 26 East, Lake County, Florida, run thence South 01 degrees 48' 30" West a distance of 600.06 feet, thence South 60 degrees 02' 15" East a distance of 258.75 feet to the Westerly right of way of County Road No. 19A, thence South 27 degrees 20' 27" West along said right of way, a distance of 529.11 feet to the beginning of a curve having a radius of 510.46 feet and being concave Easterly, thence along the arc of said curve and through a central angle of 23 degrees 49' 40" an arc length of 212.28 feet, thence South 01 degrees 43' 53" West along said Westerly right of way of County Road No. 19-A, a distance of 369.71 feet to the Northerly right of way of County Road No. 452-A, thence South 89 degrees 58' 57" West along said Northerly right of way a distance of 806.22 feet, thence North 01 degrees 52' 26" East, a distance of 514.53 feet, thence North 89 degrees 19' 12" West a distance of 9.49 feet, thence North 01 degrees 50' 47" East a distance of 39.32 feet, thence South 89 degrees 37' 31" West a distance of 339.62 feet, thence North 01 degrees 51' 37" East a distance of 641.18 feet to the Southwest bank of a dug canal, thence North 25 degrees 58' 09" West along said Southwest bank of dug canal, a distance of 304.55 feet, thence North 01 degrees 51' 37" East a distance of 340.00 feet to the East-West Mid-Section line, thence South 88 degrees 35' 32" East along said East-West Mid-Section line, a distance of 1315.80 feet to the Point of Beginning.

PARCEL B: (Wastewater Treatment Plant Site) That part of the Northeast 1/4 of Section 34, Township 18 South, Range 26 East, Lake County, Florida, described as follows: Begin at the Southeast corner of said Northeast 1/4 of Section 34, run thence North 01 degrees 54' 49" East along the East line of said Northeast 1/4 a distance of 202.01 feet, thence North 42 degrees 18' 58" West 524.11 feet, thence South 22 degrees 28' 22" West 621.10 feet to a point on the South line of said Northwest 1/4 of Section 34, thence South 88 degrees 28' 40" East along the said South line of the Northeast 1/4 Section 34, a distance of 583.71 feet to the Point of Beginning and Point of Terminus.