

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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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)
OFFICE OF THE GENERAL COUNSEL (CROSBY, ECHTERNACHT)

@ PD BRK SK DM TJD
Walt

RE: DOCKET NO. 020101-WS - REQUEST FOR APPROVAL OF TRANSFER OF
MAJORITY ORGANIZATIONAL CONTROL OF CWS COMMUNITIES LP
D/B/A CRYSTAL LAKE CLUB, HOLDER OF CERTIFICATE NOS. 525-W
AND 454-S IN HIGHLANDS COUNTY, FROM CWS COMMUNITIES TRUST
TO CP LIMITED PARTNERSHIP, KNOWN IN FLORIDA AS CHATEAU
COMMUNITIES LIMITED PARTNERSHIP.
COUNTY: HIGHLANDS

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

CRITICAL DATES: NONE

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

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020101WS.RCM

CASE BACKGROUND

CWS Communities LP d/b/a Crystal Lake Club (Crystal Lake or
Utility) is a Class C utility serving 457 residential water and
wastewater customers in Highlands County. This location is in the
Highlands Ridge Water Use Caution Area in the Southwest Florida
Water Management District (SWFWMD). The utility was granted
Wastewater Certificate No. 454-S by Order No. 21515, issued July 7,
1989, in Docket No. 881002-SU and Water Certificate No. 525-W by
Order No. 22300, issued December 12, 1989, in Docket No. 891011-WU.
Pursuant to Order No. PSC-01-0428-PAA-WS, issued February 22, 2001,
in Docket No. 991889-WS, the utility was transferred to CWS

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Communities LP. The utility's 2001 annual report lists total gross revenues of \$58,766 for water and \$61,573 for wastewater with net income of \$10,834 and \$432, respectively.

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.

Crystal Lake 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 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 d/b/a Crystal Lake Club 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, ECHTERNACHT)

STAFF ANALYSIS: On February 6, 2002, an application was filed for approval of the transfer of majority organizational control of Crystal Lake 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. 525-W and 454-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 from the buyer that, after reasonable investigation, the systems being acquired appeared to be in satisfactory condition and in

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compliance with all standards set by the Florida Department of Environmental Protection (DEP). Staff has confirmed with DEP that the utility's water and wastewater systems are currently in environmental compliance with respect to DEP standards. In addition, staff has confirmed with SWFWMD that there are no outstanding compliance issues with the utility.

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 established rate base in transfer Docket No. 991889-WS at \$161,702 for the water system and \$223,687 for the wastewater system as of August 30, 1999.

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

STAFF ANALYSIS: The utility's current rates for service were approved by the Commission in a administrative price index proceeding effective January 14, 2000. The remainder of the utility's charges were approved effective October 1, 1994, pursuant to the staff-assisted rate case Order No. PSC-94-0243-FOF-WS, issued March 4, 1994, in Docket No. 930572-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"	\$	2.78
3/4"		4.16
1"		6.94
1 1/2"		13.87
2"		22.19
3"		44.40
4"		69.37
6"		138.76

Gallonage Charge

Per 1,000 gallons	\$	1.29
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Wastewater Monthly Service Rates
Residential and General Service

Base Facility Charge

Meter Sizes:

5/8" x 3/4"	\$	3.63
3/4"		5.44
1"		9.06
1 1/2"		18.11
2"		28.99
3"		57.96

4"	90.57
6"	181.13

Gallonage Charge

Residential	\$ 1.42
(Maximum charge of 6,000 gallons)	
General Service	1.71

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>	
System Capacity Charge Residential-per ERC		\$375.00
Meter Installation Fee		100.00

	<u>Wastewater</u>	
System Capacity Charge Residential-per ERC		\$700.00

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).

Crystal Lake 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.

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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, ECHTERNACHT)

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 CRYSTAL LAKE CLUB

**HIGHLANDS COUNTY
WATER AND WASTEWATER SERVICE AREA**

In Section 2, Township 34 South, Range 28 East

All that part of the SE 1/4 and the SE 1/4 of the NE 1/4 of Section 2, Township 34 South, Range 28 East, lying West of the A.C.L. Railroad right-of-way together with that part of lots 9 to 14 inclusive, of WARREN AND MONDAY'S SUBDIVISION as recorded in P.B. 1, Page 10, Highlands County, Florida, lying within the following described boundary.

Commence at the SE corner of Sec. 2, T. 34 S., R. 28 E.; run thence N. 1° 08' 50" W. along the line between Section 1 and 2 for 242.14 feet for a point of beginning, thence N. 89° 48' 08" W., 2042.29 feet; thence N. 1° 16' 18" W. in and parallel with the West line of said SE 1/4 for 2352.93 feet to intersect the North line of said SE 1/4 (being also the South line of said WARREN AND MONDAY SUBDIVISION); thence run N. 20° 20' 23" W. 899.56 feet to a point herein designated point "A" which is the Westerly end of a control line along Lake Denton; thence continue N. 20° 20' 23" W. 30 feet, more or less, to the shore of Lake Denton, thence Easterly along the meanders of Lake Denton, 370 feet, more or less to intersect the North line of lot 9 of WARREN AND MONDAY SUBDIVISION; thence N. 88° 38' 32" E., 50.0 feet, more or less along said North line to a point of the aforesaid control line which bears N. 68° 29' 12" E., 417.65 feet from said point "A", thence continue N. 88° 38' 32" E. along said North line of Lot 9, 626.48 feet to intersect the East line of SW 1/4 of NE 1/4, thence N. 1° 12' 34" W., 331.46 feet to the NW corner of SE 1/4 of NE 1/4, thence N. 88° 38' 48" E. along North line of SE 1/4 of NE 1/4, 220.95 feet to the Westerly R/W line of the A.C.L. Railroad R/W, thence S. 18° 16' 58" E. along said Westerly R/W, 3746.87 feet to the East line of Section 2; thence S. 1° 08' 50" E., along the section line 149.60 feet to the point of beginning. Lying in Section 2, Township 34 South, Range 28 East, Highlands County, Florida. Also a 50 foot easement whose centerline is described as beginning at a point 437.82 feet North and 2051.50 feet West of the Southeast corner of Section 2, Township 34 South, Range 28 East, Highlands County, Florida, run N. 89° 48' 08" W., 1548.40 feet, to the beginning of a 100 foot easement, thence continue N. 89° 48' 08" W., 300.0 feet to a point in the East right-of-way boundary of SR-17A.