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Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: January 6, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Johnson, Kaproth)
Office of the General Counsel (C. Keating)

Handwritten notes: KK JS PD SA, WAK Mad, 198

RE: Docket No. 030948-WS – Application for transfer of majority organizational control of Paradise Lakes Utility, L.L.C., holder of Certificate Nos. 458-W and 392-S in Pasco County, from Paradise Lakes, Inc. to Larry and Janice DeLucenay.

AGENDA: 01/18/05 – Regular Agenda – Proposed Agency Action Issue 2 - Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\030948.RCM.DOC

Case Background

Paradise Lakes Utility, L.L.C. (Paradise Lakes, or utility) is a Class C water and wastewater utility serving approximately 403 water and wastewater customers in Pasco County. The service area and treatment facilities of Paradise Lakes are located at Dale Mabry Highway and Highway 41 North in the Southwest Florida Water Management District. The utility is in a critical water use caution area.. The utility's 2003 annual report reflects operating revenues of \$58,136 for water and \$123,717 for wastewater, and net operating income of \$8,922 and net operating loss of (\$518) for the respective water and wastewater systems.¹

¹ The Commission granted Paradise Lakes its original Certificate Nos. 458-W and 392-S in Order No. 15668, issued February 13, 1986, in Docket No. 850211-WS, In Re: Objection by Mad Hatter Utility, Inc. to application of Paradise Lakes Utility, Ltd.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The utility has had three staff assisted rate cases (SARC).² On May 9, 2002, the utility filed for a name change.³ In 2003, a price index application was approved.

On April 25, 2002, Paradise Lakes, Inc. (seller) and Larry and Janice DeLucenay (buyers) entered into a membership interest purchase agreement for 100% of the interest in Paradise Lakes Utility, L.L.C., held by Paradise Lakes, Inc. The actual closing of the contracts took place on December 31, 2002. The transfer is contingent upon Commission approval. The application for transfer of majority organizational control was filed on September 29, 2003 by Larry and Janice DeLucenay. At the time the application was filed, the buyer and seller had not resolved certain issues related to an exchange of land. Those issues were resolved on November 8, 2004, and staff now brings its recommendation concerning the transfer. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

² Docket No. 871005-WS (Order No. 19276, issued May 3, 1988), In Re: Application of Paradise Lakes Utility, Ltd. For staff-assisted rate case in Pasco County Docket No. 950169-WS (Order No. PSC-95-1538-FOF-WS, issued December 13, 1995), In Re: Application for staff-assisted rate case in Pasco County by Paradise Lakes Utility, Ltd. and Docket No. 970633-WS (Order No. PSC-98-0130-FOF-WS, issued January 26, 1998), In Re: Application for staff-assisted rate case in Pasco County by Paradise Lakes Utility, Ltd.

³ Docket No. 020411-WS, Order No. 02-0803-FOF-WS, issued June 13, 2002, In Re: Application for name change on Certificates Nos. 458-W and 392-S in Pasco County from Paradise Lakes Utility, Ltd. To Paradise Lakes Utility, L.L.C.

Discussion of Issues

Issue 1: Should the Commission approve the transfer of majority organizational control of Paradise Lakes Utility, L.L.C. from Paradise Lakes, Inc. to Larry and Janice DeLucenay?

Recommendation: Yes. The transfer of majority organizational control is in the public interest and should be approved. A description of the territory granted by Certificate Nos. 458-W and 392-S is appended to this memorandum as Attachment A. (Johnson, Kaproth)

Staff Analysis: On September 29, 2003, an application was filed for approval of the transfer of majority organizational control of Paradise Lakes. As stated in the case background, the underlying agreement was executed on April 25, 2002. The closing occurred on December 31, 2002, contingent upon Commission approval.

The application is in compliance with the governing statute, Section 367.071, Florida Statutes, pertaining to an application for transfer of majority organizational control. A description of the territory granted by Certificate Nos. 458-W and 392-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 contains a statement describing the purchase. According to the application documents, this was a cash transaction and the buyer acquired all the stock for Paradise Lakes, Inc. for \$100,000.

Proof of Ownership. Pursuant to Rule 25-30.037(3)(i), Florida Administrative Code, the application contains a copy of a recorded quit claim deed and title insurance as evidence that the utility owns the land upon which the water utility facilities are located. The prior owner of Paradise Lakes exchanged the land formerly used for the sewage treatment facilities for additional water property adjacent to the existing water property. The wastewater land was no longer needed because the utility discontinued use of its wastewater treatment plant and ponds and interconnected its wastewater system with Pasco County. Additional land for the water system was needed because some of the existing water facilities are located outside the existing water plant land. The additional property was needed to accommodate the fence, electrical panel, storage facilities, and water equipment that would not fit on the existing water land. The water land originally consisted of a 1/10 acre parcel. With the transfer of lot 4 to the utility, the water land is expanded to a 1/4 acre parcel. On December 30, 2004, the applicant submitted an executed and recorded warranty deed in the name of Paradise Lakes Utility, L.L.C.

Annual Reports and Regulatory Assessment Fees (RAFs). Staff has verified that the utility is current on annual reports and RAFs through 2003. The buyers are responsible for filing the annual report and RAFs for future years.

Environmental Compliance. Pursuant to Rule 25-30.037(3)(h), Florida Administrative Code, the application contains a statement that the buyers 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.

Public Interest. Pursuant to Rule 25-30.037(3)(f), Florida Administrative Code, the application contains a statement of how the transfer is in the public interest, including a summary of the buyers' experience in water and wastewater operations and a showing of the buyers' financial ability to provide service. According to the application, the transfer is in the public interest because the utility will be owned, operated, and managed by an experienced full-time professional utility system operator that operates another utility adjacent to it. The customers will continue to receive the quality of service they are accustomed to receiving.

The buyers of the utility, Larry and Janice DeLucenay in conjunction with Mad Hatter Utility, Inc., will provide all needed funding to Paradise Lakes Utility, L.L.C. Larry and Janice DeLucenay own and operate Mad Hatter Utility, Inc., another Commission regulated utility. All interest in Paradise Lakes was assigned to Mad Hatter Utility, Inc. by Larry and Janice DeLucenay. Mad Hatter Utility, Inc. has a net worth in excess of \$1 million. In addition, the buyers provided a statement of intent to fulfill the commitments, obligations, and representations of the seller with regard to utility matters.

Conclusion. Based on all of the above, staff recommends that the transfer of majority organizational control of Paradise Lakes to Larry and Janice DeLucenay is in the public interest and should be approved. A description of the territory granted by Certificate Nos. 458-W and 392-S is appended to this memorandum as Attachment A.

Issue 2: What is the rate base of Paradise Lakes at the time of transfer?

Recommendation: The rate base for transfer purposes is \$101,664 for the water system and \$315,569 for the wastewater system as of December 31, 2002. (Johnson)

Staff Analysis: Rate base for this utility was previously established by Order No. PSC-98-0130-FOF-WS, issued January 26, 1998, in Docket No. 970633-WS, In Re: Application for Staff Assisted Rate Case in Pasco County by Paradise Lakes Utility, Ltd. as \$115,803 for water and \$417,515 for wastewater as of June 30, 1997.

On April 25, 2002, Paradise Lakes, Inc. and Larry and Janice DeLucenay (buyer) entered into a membership interest purchase agreement for 100% of the interest in Paradise Lakes Utility, L.L.C., to acquire the utility system. The closing occurred on December 31, 2002, therefore staff recommends that rate base be set as of that date.

Staff conducted an audit of the books and records of the utility to determine the rate base as of December 31, 2002. The rate base was determined from company provided historical records and supporting source documentation. The audit report contained several audit disclosures. The utility filed a response to the audit report in regards to audit disclosure No. 5 which addressed the issue of an acquisition adjustment. It is Commission practice that acquisition adjustments are not considered in stock transfers. Therefore, staff's recommendation in this case does not include an acquisition adjustment. The following adjustments were made by staff as a result of the rate base audit.

Utility Plant-In-Service (UPIS)

According to the utility's general ledger, the UPIS balances as of December 31, 2002, are \$227,525 for water and \$667,270 for the wastewater system. The utility did not adjust its UPIS balances to reflect the requirement of Order No. PSC-98-0130-FOF-WS which decreased UPIS for wastewater by \$264,042 to reflect the utility's interconnection with Pasco County and the retirement of the costs for the wastewater treatment plant. There were no other adjustments to the UPIS accounts. Therefore the wastewater UPIS balance should be decreased by a total of \$264,042. Based on the above adjustment, staff recommends that the utility's UPIS balance as of December 31, 2002, should be \$227,525 for water and \$403,228 for the wastewater system.

Land

The utility's general ledger reflected land balances of \$7,800 for water and \$36,000 for wastewater. However, the utility did not adjust its land balances to reflect Order No. PSC-98-0130-FOF-WS which established the land value for wastewater at \$12,600. As mentioned earlier, the utility discontinued use of its wastewater treatment plant and ponds and interconnected the system with Pasco County. As part of the transfer of the utility, the buyer requested an additional parcel of property be transferred to the utility for water plant purposes in exchange for the wastewater parcel that was no longer needed. The utility requested that the additional land for the water system be valued at the amount previously included in rate base for

the wastewater land. The utility provided documentation that supports the value of the additional water parcel of \$12,600. The additional parcel of land is .15 acre of lakefront property. Staff agrees that the additional land is needed to accommodate the existing water facilities and the amount is reasonable. Therefore, staff recommends that \$12,600 be included in rate base to reflect the value of the additional .15 acre parcel for water and that \$12,600 be removed from land for wastewater. The resulting balances are \$20,400 for water and zero for the wastewater land.

Accumulated Depreciation

The utility's books and records reflected balances of \$121,308 for water and \$413,310 for wastewater in accumulated depreciation as of December 31, 2002. The utility did not adjust its books and records to reflect the accumulated depreciation adjustments as required by Order No. PSC-98-0130-FOF-WS which decreased accumulated depreciation for wastewater by \$230,132.

In addition to not recording the adjustments of the order, the utility made several errors in calculating accumulated depreciation balances for water and wastewater. The utility incorrectly applied the depreciation rate to the beginning water plant balance each year, which resulted in accumulated depreciation being understated by \$1,339. The utility continued to calculate depreciation on the retired reuse plant, which overstated accumulated depreciation for wastewater by \$146,805. The utility did not depreciate the interconnection plant, which resulted in wastewater accumulated depreciation being understated by \$48,065. The net adjustments to accumulated depreciation are \$1,339 for water and \$328,873 to wastewater. Based on the above adjustments, staff recommends that the utility's accumulated depreciation balances as of December 31, 2002, should be \$122,647 for water and \$80,484 for the wastewater system.

Contribution-In-Aid-of-Construction (CIAC)

The utility's books and records reflect CIAC balances of \$27,600 for water and \$55,920 for wastewater. However, the utility did not book the adjustment required by Order No. PSC-98-0130-FOF-WS to remove \$23,400 in contributed land as a result of the retired wastewater plant. One customer was added since the last rate case, but the CIAC for the new customer was not recorded. Therefore, CIAC should be increased by \$330 for water and \$412 for wastewater. As mentioned above, the utility exchanged wastewater land for water land, and all wastewater land was removed to reflect the retirement. The land was donated to the utility. Therefore, an adjustment of \$7,800 to increase water CIAC and decrease wastewater CIAC should be made to reflect the exchange of land. Based on the above adjustments, staff recommends a water CIAC balance of \$35,730 and a wastewater CIAC balance of \$25,132, as of December 31, 2002.

Accumulated Amortization Of CIAC

The utility recorded accumulated amortization of CIAC balances of \$8,273 for water and \$11,932 for wastewater as of December 31, 2002. The utility used an amortization rate of 2.39% for water and 1.47% for wastewater from 1997 to 2002. Commission Order No. PSC-98-0130-

FOF-WS required the utility to correct its balances by computing and using the appropriate yearly composite rate.

The audit investigation revealed that the CIAC records were not adequately maintained by the utility. Pursuant to Rule 25-30.140(9)(b), a composite plant depreciation rate should be used when the CIAC records and accounts are not adequately maintained by the utility.

Staff recalculated the accumulated amortization of CIAC balances by using annual composite depreciation rates and determined that the accumulated amortization of CIAC balance should be increased by \$3,843 for water and \$6,025 for wastewater to reflect amortization of CIAC balances of \$12,116 for water and \$17,957 for wastewater as of December 31, 2002.

Rate Base

The calculation of rate base for water and wastewater is shown on Schedule Nos. 1 and 2, respectively. The adjustments to rate base are itemized on Schedule No. 3. Based on these schedules, as of December 31, 2002, staff recommends that rate base for Paradise Lakes be established as \$101,664 for water and \$315,569 for the wastewater system. These rate base calculations are used solely to establish the net book value of the property being transferred and do not include the normal ratemaking adjustments for working capital and used and useful.

Issue 3: 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 pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. (Johnson)

Staff Analysis: The utility's rates and service availability charges were originally approved by the Commission in Order No. 16589. In Order No. 19276, issued May 3, 1988, in Docket No. 871005-WS, In Re: Application of Paradise Lakes Utility, Ltd. for staff-assisted rate case in Pasco County, the Commission granted increased water and wastewater rates and required service availability charges for the installation of meters. The rates were recently increased in an administrative price index proceeding pursuant to Rule 25-30.420, Florida Administrative Code, effective March 22, 2004. The utility's approved rates and charges are listed on Attachment B in this recommendation.

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)

Paradise Lakes 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, Paradise Lakes should 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 of control. 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.

Issue 4: Should the utility be required to provide proof, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the adjustments recommended herein?

Recommendation: Yes. To ensure that the utility adjusts its books in accordance with the Commission's decision, Paradise Lakes should provide proof, within 90 days of issuance of a final order on this matter, that the adjustments for all the applicable NARUC USOA primary accounts have been made and has set up its books and records according to NARUC USOA . (Johnson)

Staff Analysis: To ensure that the utility adjusts its books in accordance with the Commission's decision, staff recommends that the Larry and Janice DeLucenay should provide proof, within 90 days of issuance of a final order on this matter, that the adjustments for all the applicable NARUC USOA primary accounts have been made to the books of Paradise Lakes Utility, L.L.C. To assist the utility, staff has reflected its recommended 2002 year-end plant balance, by primary account in Schedules Nos. 4 and 5.

Issue 5: Should the docket be closed?

Recommendation: No. This docket should remain open pending receipt of evidence that Paradise Lakes Utility, L.L.C. has provided proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once the proof has been provided that the adjustments for all the applicable NARUC USOA primary accounts have been made, this docket may be closed administratively if no person whose substantial interest are affected by the Commission's proposed agency action timely files a protest to that action and a consummating order has been issued. (C. Keating)

Staff Analysis: This docket shall remain open pending receipt of evidence that Paradise Lakes Utility, L.L.C. has provided proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once the proof has been provided that the adjustments for all applicable NARUC USOA primary accounts have been made, this docket may be closed administratively if no person whose substantial interest are affected by the Commission's proposed agency action timely files a protest to that action and a consummating order has been issued.

Paradise Lakes Utility, L.L.C.

Pasco County

Water And Wastewater Territory Description

Utility Service Area

The Northeast 1/4 of the Northeast 1/4 of Section 35, and a portion of the South 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 25 and a portion of the South 1/2 of the East 3/4 of the Southeast 1/4 of the Southeast 1/4 of Section 26 all in Township 26 South, Range 18 East, Pasco County, Florida.

Water Monthly Service Rates
General, Residential and Multi-Residential Services

Flat Rates General Service

Clubhouse, pool guard house, maintenance building
(31.4 ERCs) \$ 368.59

Flat Rates Residential

Single Family Homes \$ 11.69
Double Wide Mobile Homes \$ 11.69

Flat Rates Multi-Residential Service

One, two and three bedroom condominiums
(31.4 ERCs) \$ 11.69

Base Facility Charge

Meter Sizes (Phase III):

5/8" x 3/4"	\$ 6.16
3/4"	9.22
1"	15.38
1 1/2"	30.76
2"	49.21
3"	98.43
4"	153.79
6"	307.59

Charge per 1,000 gallons \$ 1.81

Wastewater Monthly Service Rates
General, Residential and Multi-Residential Services

Flat Rates General Service

Clubhouse, Pool, Guard house, Maintenance building
Recreational Vehicle Park (31.5 ERCs) \$ 819.89

Flat Rates Residential

Single Family Homes \$ 26.01
Double Wide Mobile Homes \$ 26.01

Flat Rates Multi-Residential Service

One, two and three bedroom condominiums
(31.4 ERCs) \$ 26.01

Meter Sizes (Phase III):

Base Facility Charge

5/8" x 3/4"	\$ 9.09
3/4"	13.63
1"	22.73
1 1/2"	45.46
2"	72.74
3"	145.49
4"	227.32
6"	454.64

Charge per 1,000 gallons \$ 5.40

Docket No. 030948-WS
Date: January 6, 2005

Attachment B

Service Availability Charges

	Water	Wastewater
Meter Installation Fee		
5/8"x3/4"	\$ 100.00	
1"	\$ 250.00	
1 1/2"	\$ 487.00	
2"	\$ 582.00	
3"	\$ 750.00	
4"	\$1,250.00	
System Capacity Charge	\$ 230.00	\$412.00

SCHEDULE NO. 1

**PARADISE LAKES UTILITY, L.L.C.
SCHEDULE OF WATER RATE BASE
AS OF DECEMBER 31, 2002**

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$227,525	0	\$227,525
Land	7,800	12,600	20,400
Contributions in Aid of Construction (CIAC)	(27,600)	(8,130)	(35,730)
Accumulated Depreciation	(121,308)	(1,339)	(122,647)
Amortization of CIAC	<u>8,273</u>	<u>3,843</u>	<u>12,116</u>
WATER RATE BASE	<u>\$ 94,690</u>	<u>\$ 6,974</u>	<u>\$101,664</u>

SCHEDULE NO. 2

**PARADISE LAKES UTILITY, L.L.C.
SCHEDULE OF WASTEWATER RATE BASE
AS OF DECEMBER 31, 2002**

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$ 667,270	(\$264,042)	\$403,228
Land	36,000	(36,000)	0
Contributions in Aid of Construction (CIAC)	(55,920)	30,788	(25,132)
Accumulated Depreciation	(413,310)	328,873	(80,484)
Amortization of CIAC	<u>11,932</u>	<u>6,025</u>	<u>17,957</u>
WASTEWATER RATE BASE	<u>\$ 245,972</u>	<u>\$ 69,598</u>	<u>\$315,569</u>

SCHEDULE NO. 3

**PARADISE LAKES UTILITY, L.L.C.
 SCHEDULE OF ADJUSTMENT TO RATE BASE
 AS OF DECEMBER 31, 2002**

EXPLANATION	ADJUSTMENTS	
<u>A) Utility Plant-In-Service</u>	Water	Wastewater
1. Per Order PSC-98-0130-FOF-WS		<u>\$(264,042)</u>
<u>B) Land</u>		
1. Per Order PSC-98-0130-FOF-WS		\$ (23,400)
2. To record exchange of land	\$ 12,600	<u>(12,600)</u>
Total adjustment	<u>\$ 12,600</u>	<u>\$ (36,000)</u>
<u>C) CIAC</u>		
1. Per Order PSC-98-0130-FOF-WS		\$ 23,400
2. To reflect the exchange of land	\$(7,800)	\$ 7,800
3. To record additional CIAC	\$ (330)	<u>(412)</u>
Total adjustment	<u>\$(8,130)</u>	<u>\$ 30,788</u>
<u>D) Accumulated Depreciation</u>		
1. Per Order PSC-98-0130-FOF-WS	\$	\$ 230,132
2. To remove deprec. On retired plant		146,805
3. To record deprec. on interconnection		(48,065)
4. To correct depreciation	<u>(1,339)</u>	
Total adjustment	<u>\$(1,339)</u>	<u>\$ 328,873</u>
<u>E) Accumulated Amortization</u>		
1. To correct amortization	\$ 3,843	\$ <u>6,025</u>

Docket No. 030948-WS

Date: January 6, 2005

PARADISE LAKES UTILITY, L.L.C.		SCHEDULE NO. 4	
STAFF RECOMMENDED PLANT BALANCE AS OF DECEMBER 31, 2002			
ACCT NO.	ACCOUNT NAME	PLANT BALANCE	ACCUMULATED DEPRECIATION BALANCE
301	Organization	\$2,353	\$1,302
304	Structures and Improvements	2,242	1,606
307	Wells and Springs	7,076	5,212
309	Supply Mains	73,851	43,434
310	Power Generation Equipment	1,943	2,057
311	Pumping Equipment	21,244	14,178
320	Water Treatment Plant	49,425	27,443
330	Distribution Reservoirs & Standp	7,955	5,045
331	Transmission & Distribution	32,804	11,619
333	Services	8,327	4,042
334	Meters & Meter Installation	19,643	6,441
344	Laboratory Equipment Power Operated Equipment	130	110
345	Power Operated Equipment	532	160
	Total Water Plant	<u>\$227,525</u>	<u>\$122,647</u>

Docket No. 030948-WS

Date: January 6, 2005

PARADISE LAKES UTILITY, L.L.C.		SCHEDULE NO. 5	
STAFF RECOMMENDED PLANT BALANCE AS OF DECEMBER 31, 2002			
ACCT NO.	ACCOUNT NAME	PLANT BALANCE	ACCUMULATED DEPRECIATION BALANCE
351	Organization	\$2,403	330
354	Structures and Improvements	7,803	1,502
360	Collection Sewers – Force	31,805	6,451
361	Collection Sewers – Gravity	96,593	13,282
363	Services to Customers	13,200	2,074
370	Receiving Wells	2,854	746
381	Plant Sewers	45,327	7,642
382	Outfall Sewer Lines	1,620	297
397	Miscellaneous Equipment	623	93
	Interconnect to Pasco County	<u>201,000</u>	<u>48,065</u>
	Total Wastewater Plant	<u>\$403,228</u>	<u>\$80,484</u>