



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-

DATE: March 5, 2012
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Melissa C. Jones-Alexis, Regulatory Analyst II, Division of Economic Regulation *meja*
RE: Docket No. 120021-WS, Joint application for transfer of water and wastewater facilities of Mink Associates II, LLC d/b/a Crystal Lake Club Utilities to City of Avon Park, Florida in Highlands County and request for cancellation of Certificates 525-W and 454-S.

Please add the attached document to the above-referenced docket file. This document is a memo dated February 24, 2012, to GCL/Lawson recommending that the Commission acknowledge the transfer of Crystal Lake's water and wastewater facilities and territory to the City of Avon Park as a matter of right, pursuant to Section 367.071(4)(a), F.S.; cancel Certificate Nos. 525-W and 454-S effective September 29, 2011; and close the docket as no further action is necessary. Thank you.

Attachment

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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: February 24, 2012

TO: Michael T. Lawson, Senior Attorney, Office of the General Counsel

FROM: Melissa C. Jones-Alexis, Regulatory Analyst II, Division of Economic Regulation
Curtis M. Mouring, Regulatory Analyst III, Division of Economic Regulation

RE: Administrative approval of a transfer to a governmental entity in Docket No. 120021-WS, Joint application for transfer of water and wastewater facilities of Mink Associates II, LLC d/b/a Crystal Lake Club Utilities to City of Avon Park, Florida in Highlands County and request for cancellation of Certificates 525-W and 454-S.

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Mink Associates II, LLC d/b/a Crystal Lake Club Utilities (Crystal Lake or Utility) is a Class C water and wastewater utility located in northwest Highlands County in the Southwest Florida Water Management District. The Utility serves approximately 519 residential water and wastewater customers. Crystal Lake's 2010 annual report indicates that the Utility had gross operating revenues of \$185,850 and a net operating loss of (\$36,517).

The Utility became certificated in 1989¹ and was subsequently transferred four times, most recently from CWS Communities LP d/b/a Crystal Lake Club.² Certificate Nos. 525-W and 454-S were also transferred to the Utility at that time.

On January 18, 2012, Crystal Lake applied for the transfer of its water and wastewater facilities and territory to the City of Avon Park (City) and cancellation of its Certificate Nos. 525-W and 454-S. Pursuant to Section 367.071(4), Florida Statutes (F.S.), the sale of facilities to a governmental authority shall be approved as a matter of right. As such, no notice of the transfer is required and no filing fees apply.

¹ See Order No. 21515, issued July 7, 1989, in Docket No. 881002-SU, In re: Application of Century Group, Inc. for a sewer certificate in Highlands County; Order No. 22300, issued December 12, 1989, in Docket No. 891011-WU, In re: Application of Century Group, Inc. for original water certificate in Highlands County.

² See Order No. 23974, issued January 9, 1991, in Docket No. 900527-WS, In re: Application for transfer of Certificates Nos. 525-W and 454-S from Century Group, Inc. to Crystal Lake Community, Limited Partnership, Diamond Valley Associates, Ltd., Friendly Village Lancaster Associates, Ltd. d/b/a Crystal Lake Club in Highlands County; Order No. PSC-01-0428-PAA-WS, issued February 22, 2001, in Docket No. 991889-WS, In re: Application for transfer of Certificates Nos. 525-W and 454-S in Highlands County from Crystal Lake Club to CWS Communities LP d/b/a Crystal Lake Club; Order No. PSC-02-1027-FOF-WS, issued July 29, 2002, in Docket No. 020101-WS, In re: 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; Order No. PSC-05-0428-FOF-WS, issued April 20, 2005, in Docket No. 041394-WS, In re: Joint application for transfer of CWS Communities LP d/b/a Crystal Lake Club, holder of Certificate Nos. 525-W and 454-S in Highlands County, to Mink Associates II, LLC d/b/a Crystal Lake Club Utilities.

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The application included a copy of the Asset Purchase Agreement Between Mink Associates I, LLC and Mink Associates II, LLC and the City of Avon Park, Florida (Agreement), dated as of November 4, 2010. The closing on the sale of the Utility's facilities took place on September 29, 2011, the effective date of the transfer.

The application contained a statement that the City obtained a copy of the Utility's most recent available income and expense statement, balance sheet listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the related accumulated amortization, and a statement of the current rate base for regulatory purposes, pursuant to Section 367.071(4)(a), F.S., and Rule 25-30.037(4)(e), F.A.C. In accordance with Rule 25-30.037(4)(g), F.A.C., the application specified that there were no customer deposits; therefore, no transfer or refunds of deposits were required.

Crystal Lake has paid regulatory assessment fees (RAFs) for January 1 through September 29, 2011, and all prior years, pursuant to Rule 25-30.120, F.A.C. Since the closing and transfer of the Utility occurred on September 29, 2011, no RAFs were accrued or due from that time forward. In accordance with Rule 25-30.110, F.A.C., Crystal Lake has filed annual reports for 2010 and prior years. The Utility should not be required to file a 2011 annual report since it was not jurisdictional as of December 31, 2011, pursuant to Rule 25-30.110(3), F.A.C. No penalties or interest are outstanding for annual reports or RAF payments.

The Commission has jurisdiction pursuant to Sections 367.071 and 367.022(2), F.S., and Rule 25-30.037(4), F.A.C. In addition, pursuant to Section 2.07(C)(4)d of the Administrative Procedures Manual, staff has been given administrative authority to approve transfers to governmental entities that are in compliance with Section 367.071(4)(a), F.S., and are not controversial in nature. Based on the above discussion, staff believes that the application is in compliance with Section 367.071(4)(a), F.S., and Rule 25-30.037(4), F.A.C. Therefore, staff recommends that the Commission acknowledge the transfer of Crystal Lake's water and wastewater facilities and territory to the City as a matter of right, pursuant to Section 367.071(4)(a), F.S., and cancel Certificate Nos. 525-W and 454-S effective September 29, 2011. Staff further recommends that the docket be closed as no further action is necessary.