

State of Florida




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: September 11, 2015

TO: Dorothy E. Menasco, Commission Deputy Clerk II, Office of Commission Clerk

FROM: Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel 

RE: DOCKET NO. 150198-WS

Please remove the following documents from Docket No. 140000 and place them in Docket No. 150198-WS. The document numbers for the documents to be removed from Docket No. 140000 and transferred to Docket No. 150198-WS are: 03856-14; 03873-14; 05394-14; 05469-14; and 06181-14.

In addition, please place the attached document, received by this office on October 21, 2014, into Docket No. 150198-WS.

Please call me at x 3-6216 should you have any questions. Thank you.

Cc: Marguerite McLean
Hong Wang

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Ms. Kathryn G.W. Cowdery
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Proposed Adoption of Rules 25-30.029 and 25-30.038 and Amendment of Rules 25-30.030, 25-30.032, 25-30.033, 25-30.034, 25-30.035, 25-30.036, 25-30.037, 25-30.039, and 25-30.090, Florida Administrative Code

Dear Ms. Cowdery,

In response to the Staff Workshop for the above mentioned proposed adoption and amendment of various Commission rules related to transfers of ownership and certificate matters, I offer the following information.

I am currently the Manager of Regulated Utilities for several regulated utilities. The listing below illustrates these recently transferred utilities, along with the Docket Numbers of each Commission approved transfer:

| <u>Utility</u> | <u>Docket Number</u> | <u>Order Number</u> |
|-------------------------------|----------------------|---------------------|
| Harbor Waterworks, Inc. | 120148-WS | PSC-12-0587-PAA-WU |
| Lakeside Waterworks, Inc. | 120317-WS | PSC-13-0425-PAA-WS |
| LP Waterworks, Inc. | 130055-WS | PSC-14-0130-PAA-WS |
| HC Waterworks, Inc. | 130175-WS | PSC-14-0314-PAA-WS |
| Brevard Waterworks, Inc. | 130174-WU | PSC-14-0326-PAA-WS |
| Sunny Hills Utility Company | 130172-WS | PSC-14-0315-PAA-WS |
| Lake Osborne Waterworks, Inc. | 130173-WU | PSC-14-0327-PAA-WS |
| Jumper Creek Utility Company | 130176-WS | PSC-14-0299-PAA-WS |
| The Woods Utility Company | 130171-WS | PSC-14-0300-PAA-WS |
| Country Walk Utilities, Inc. | 130294-WU | PSC-14-0495-PAA-WU |

In addition, I am also responsible for three pending dockets related to applications for approval of transfer for:

Raintree Waterworks, Inc. in Docket No. 140121-WU;
Brendenwood Waterworks, Inc. in Docket No. 140120-WU; and,
Lake Idlewild Utility Company in Docket No. 140171-WU.

Several provisions in the proposed rulemaking may present additional burdens on future transfer applications, or may simply not be achievable. Specifically, proposed revision to Rule 25-30.030(4)(e), F.A.C. could potentially be burdensome in the case where there are no common street names bordering the service territory. In addition, proposed revision to Rule 25-30.030(5)(c), F.A.C. may not be achievable if there are no general circulation newspaper in the proposed service area. There are usually general circulation newspaper near the service area which are available to purchase, but may not always be in the service territory.

Finally, there are several provisions in the proposed revision to Rule 25-30.037, F.A.C. that are potentially burdensome and/or troublesome. Specifically, the proposed revision to Rule 25-30.037(2)(l)1, F.A.C. requires further discussion. The utilities listed above were newly formed corporations incorporated in the State of Florida for the expressed purpose to purchase the assets of a regulated utility and conduct utility business within the state. As such, these newly formed utilities do not have any previous financial statements since they were incorporated at the time of the asset purchase agreement. Thus, the only financial statements would be personal individual financial information the disclosure of which would harm the privacy interests of individual persons and subject those persons to other harm including potential identity theft and could provide unauthorized access to third parties. Due to the broad Sunshine Laws in the State of Florida, this could potentially cause the disclosure of personal financial information for majority shareholders of incorporated companies within the State of Florida. Past practice before the Commission typically does not require the disclosure of personal financial information of majority shareholders of regulated utilities, since this information may be considered confidential in nature.

In addition, personal financial information typically does not come in the form of balance sheets or income statements like most businesses. The submittal of which may cause a subsequent deficiency letter to be issued.

The personal financial statements are those of the individual owners and not of a related companies and/or parent corporation. This information should be considered proprietary confidential information in that is (i) intended to be and is treated as private, confidential information by the Companies, (ii) because disclosure of the information would cause irreparable harm to the Companies' business operation, and (iii) the information has not been voluntarily disclosed to the public. Again, this personal financial information is of individual persons who own the utility, and not of those of a regulated utility or related business. This personal financial information will include such information as, (a) personal residences, (b) personal bank accounts, (c) personal vehicles, (d) personal investments, (e) personal retirement funds and/or investments, (f) personal indebtedness, (g) personal mortgages, etc. This information is not commonly available for public disclosure on a personal individual nature. The disclosure of personal individual financial information would have a chilling effect on future potential acquisitions of troubled water and wastewater utilities in the State of Florida by competent, experienced persons with the technical and financial wherewithal to provide continued quality of service the customers expect and are deserving thereof.

The workshop should explore ways to provide for the confidential consideration of such personal financial information of individuals which are relatively inexpensive and not burdensome or complicated. The majority of these utilities are very small in nature and do not have attorneys to process such requests. In addition, any related expense could potentially be borne by the utility's ratepayers, or have an adverse affect on the utility's earnings. The absence of which may present a "*chilling*" effect on any future potential acquisitions of troubled utilities.

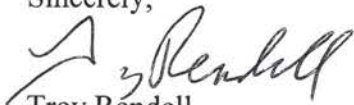
In addition the proposed revision to Rule 25-30-.037(2)(q) and (r), F.A.C., may potentially place additional burden and or financial obligations on the purchasing utility. The workshop should

provide clarity as to what may be expected, as well as, any potential to recover these additional costs of the new additional requirements. One idea may be to record any additional costs in a deferred asset to be addressed in the next rate case of the purchasing utility.

The water and wastewater utility has changed dramatically over the past decade. There are very few larger Class A and Class B utilities remaining under the jurisdiction of the Florida Public Service Commission. Many of the Class C utilities have either been sold to a governmental agency, or are currently in negotiations to do so. The remaining few small regulated utilities are facing increased requirements and costs from either regulations, or needed capital infrastructure repairs and replacements. This workshop should provide a forum to discuss a streamlining of regulations and application processes as well as the added burden from any proposed requirements. The proposed revisions to the existing rules should encourage the acquisition of troubled utilities and streamline the regulatory process for such transfers.

Thank you for your consideration, and if you have any questions, please do not hesitate to contact me at (727) 848-8292, ext. 245, or via e-mail at trendell@uswatercorp.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Trendell". The signature is fluid and cursive, with a large initial "T" and "R".

Troy Rendell

Manager of Regulated Utilities