

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: February 20, 2024

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Ryan Sandy, Senior Attorney, Office of the General Counsel *RPS*

RE: Docket No. 20230111-SU - Application for authority to transfer wastewater facilities and Certificate No. 537-S in Okeechobee County from The Vantage Development Corporation to Vantage Oaks Utility, LLC.

Please place the attached correspondence from Ryan Sandy to F. Marshall Deterding and Ouillie Joe Hazellief, on the Document side in the above referenced docket file.

Thank you.

RPS

COMMISSIONERS:
MIKE LA ROSA, CHAIRMAN
ART GRAHAM
GARY F. CLARK
ANDREW GILES FAY
GABRIELLA PASSIDOMO

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

February 19, 2024

F. Marshall Deterding, Esq.
Sundstrom & Mindlin, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

VIA CERTIFIED MAIL

Mr. Ouillie Joe Hazellief, Jr.
1595 SE 32nd Avenue
Okeechobee, Florida 34974

NOTICE OF APPARENT VIOLATION

Re: 20230111-SU - Application for authority to transfer wastewater facilities and Certificate No. 537-S in Okeechobee County from The Vantage Development Corporation to Vantage Oaks Utility, LLC.

Dear Messrs. Deterding and Hazellief,

On September 27, 2023, Vantage Oaks Utility, LLC (Vantage Oaks) submitted an application for authority to transfer wastewater facilities and Certificate No. 537-S in Okeechobee County from The Vantage Development Corporation (Vantage Development) to Vantage Oaks. According to the information contained in the application, the parties closed on the sale of the utility on June 20, 2022. Notably, Vantage Development's contract for sale to Vantage Oaks did not include any provisions stating that the contract was contingent upon Florida Public Service Commission (Commission) approval.¹

Section 367.071(1), Florida Statutes (F.S.), provides that no utility shall transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the Commission that the proposed transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. However, a transfer of certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to Commission approval if the contract for sale, assignment, or transfer is made contingent upon Commission approval.

Furthermore, Rule 25-30.037(1)(a), Florida Administrative Code (F.A.C.), provides that if a transfer occurs prior to Commission approval, the utility shall submit an application for authority to transfer no later than 90 days after the sale closing date.

¹ The contract for sale is attached as Exhibit A to Vantage Oak's application.

Notice of Apparent Violation

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Violations of the provisions of any lawful rule or any statute administered by the Commission may result in penalties as provided by Section 367.161, F.S. In particular, violations of the provisions of Chapter 367, F.S. or any rule adopted pursuant to the Chapter may result in a penalty for each offense of not more than \$5,000. As required by Section 120.695(2)(a), F.S., Vantage Oak's apparent noncompliance with Commission statutes, rules, and orders is outlined below:

- Contrary to Section 367.071(1), F.S., Vantage Development's contract for sale to Vantage Oaks did not include any provisions stating that the contract was contingent upon Commission approval.
- Contrary to Rule 25-30.037(1)(a), F.A.C., the parties closed on the sale of the utility on June 20, 2022 and did not file an application with the Commission until September 27, 2023 – approximately 15 months after the closing date.

Please submit a response to this letter within 30 days to the Office of Commission Clerk providing any mitigating circumstances as to why Vantage Oaks should not be fined or otherwise penalized pursuant to Section 367.161, F.S., for its apparent violations of Commission statutes and rules.

Your prompt attention to this matter is required. Should you have any questions or comments, please do not hesitate to contact me at (850) 413-6856 or RSandy@psc.state.fl.us.

Sincerely,

/s/ Ryan Sandy

Ryan Sandy

Senior Attorney

RPS

cc: (via electronic mail)
Office of Commission Clerk
Division of Engineering (M. Watts)