

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-

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**DATE:** March 24, 2005

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

**FROM:** Division of Economic Regulation (Brady, Romig)  
Office of the General Counsel (Brown)

**RE:** Docket No. 041461-WU – Application for transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. to Colonial Manor Utility Company.  
County: Pasco

**AGENDA:** 04/05/05 – Proposed Agency Action for Issues 2, 3, and 4 -- Regular Agenda – Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\041461.RCM.DOC

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### Case Background

On December 30, 2004, an application was filed for the transfer of Certificate No. 153-W in Pasco County from Floralino Properties, Inc. (Floralino or seller) to Colonial Manor Utility Company (Colonial or buyer). Floralino is a Class C water utility located in the Northern Tampa Bay Water-Use Caution Area of the Southwest Florida Water Management District (SWFWMD). Wastewater service is provided by septic. The utility serves approximately 701 residential and 8 general service customers. The utility's 2003 annual report indicated annual revenues of \$127,707, with a net operating loss of \$34,778.

Pasco County became jurisdictional on July 11, 1972, after which the Commission granted the utility Certificate No. 153-W in 1973.<sup>1</sup> The only other certification action was an investigation which resulted in the deletion of the service area for Ellis & Company, Ltd.

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<sup>1</sup> Order No. 5846, issued September 11, 1973, in Docket No. 73135-W, In Re: Application of Floralino Properties, Inc., for a certificate to operate an existing water system in Pasco County, Florida.

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(Holiday Mall) in 2001.<sup>2</sup> On October 1, 2003, Floralino entered into an Asset Purchase Agreement with Colonial which closed on November 1, 2003, subject to Commission approval.

The purpose of this memorandum is to address the transfer of certificate, rate base for transfer purposes, acquisition adjustment, and rates and charges. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

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<sup>2</sup> Order No. PSC-01-1302-FOF-WU, issued June 15, 2001, in Docket No. 991486-WU, In Re: Investigation into retention of certificated area of Ellis & Company, Ltd. (Holiday Mall) by Floralino Properties, Inc. in Pasco County.

### **Discussion of Issues**

**Issue 1:** Should the transfer of Certificate No. 153-W from Floralino Properties, Inc. to Colonial Manor Utility Company be approved?

**Recommendation:** Yes. The transfer is in the public interest and should be approved effective the date of the Commission's vote. The territory being transferred is described in Attachment A. Colonial Manor Utility Company should be responsible for filing the utility's 2004 annual report and paying 2004 regulatory assessment fees. (Brady, Romig, Brown)

**Staff Analysis:** On December 30, 2004, an application was filed for the transfer of Certificate No. 153-W from Floralino to Colonial. The closing occurred on November 1, 2003, subject to approval by the Commission. The application is in compliance with the governing statutes, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for the sale, assignment, or transfer of certificates of authorization. The territory being transferred is described in Attachment A.

**Noticing.** Pursuant to Rule 25-30.030, Florida Administrative Code, the application contained the requisite proof of noticing. One timely objection to the application was received by a customer of the utility. The customer was contacted by Commission staff to determine if the objection was a request for a hearing. It was not. Instead, the customer's complaint had to do with a billing issue that was resolved during the processing of the application. No other objections to the application were received by the Commission and the time for filing such has expired.

**Buyer Organization Structure.** The application indicates that the buyer is a Florida corporation, established September 16, 2003. It is 51% owned by Gary A. Deremer, as President, and 49% owned by Cecil R. Delcher, as Vice President.

**Sale Contract and Financing.** The application contained a copy of the Asset Purchase Agreement which was executed on October 3, 2003. The total purchase price of the assets was \$303,000. Financing was accomplished partly by cash and partly by a Mortgage and Security Agreement (mortgage) effective January 1, 2004. The mortgage is held by Floralino in the amount of \$180,000 for a term of five years at a rate of 7.00% per annum. The application included a statement from the buyer that all existing customer deposits held by Floralino Properties, Inc. were transferred to the buyer's control on January 1, 2004.

**Proof of Ownership.** Rule 25-30.037(2)(q), Florida Administrative Code, requires evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The application included recorded warranty deeds, title insurance, and an assignment of the utility easement from Floralino to Colonial.

**Annual Report and Regulatory Assessment Fees (RAFs).** Staff verified that, in accordance with Rule 25-30.110, Florida Administrative Code, annual reports for the utility have been filed for 2003 and all prior years. In accordance with Rule 25-30.120, Florida Administrative Code, RAFs have been paid for 2003 and prior years. Further, there are no

penalties or interest due for noncompliance with annual report or RAF filing requirements. In addition, Colonial Manor Utility Company, the buyer, provided written confirmation that it will be responsible for filing the 2004 annual report and paying the 2004 RAFs. Its written confirmation states that it will request extensions for filing the annual report and paying the RAFs and that both requirements will be finalized by April 30, 2005.

**Environmental Compliance.** Pursuant to Rule 25-30.037(2)(p), Florida Administrative Code, the application contained a statement from the buyer that the utility facilities appear to be in satisfactory condition and, to the best of his knowledge, are in compliance with all applicable standards set by the Florida Department of Environmental Protection (FDEP). Staff has confirmed with the FDEP that there are no outstanding notices of violation issued for the utility systems. In addition, staff has confirmed with the SWFWMD that the utility's peak monthly average flows are well within the permit levels for water resource extraction.

**Technical and Financial Ability.** Pursuant to Rule 25-30.037(2), Florida Administrative Code, the application contained a statement indicating how the transfer is in the public interest, including a summary of the buyer's experience and financial ability. The buyer also provided a statement of the willingness to fulfill the obligations, commitments, and representations of the seller with regard to utility matters.

The application states that buyers are persons with over 20 years of water and wastewater utility related experience in operations, management, and maintenance. Mr. Deremer is currently the owner of three other Commission regulated utilities which are also located in Pasco County.<sup>3</sup> In addition, Mr. Deremer is currently the President of U.S. Water Services Corporation and holds the appointed position of Consulting Director for the City of Port Richey, Florida. In his position as President of U.S. Water Services Corporation, Mr. Deremer previously operated Floralino's facilities for the seller. Mr. Deremer is licensed by the FDEP as a Class "A" drinking water and Class "B" wastewater treatment plant operator. He is also licensed by the Florida Board of Business and Professional Regulation (DBPR) as an Underground Utility Contractor. Mr. Delcher has been licensed by the DBPR as a General Contractor for over 30 years with the last 10 years focused on utility related construction. The application also contained personal financial statements for both Mr. Deremer and Mr. Delcher. The statements reflect significant financial resources.

**Conclusion.** Based upon all the above, staff recommends that the transfer of the assets and Certificate No. 153-W from Floralino Properties, Inc. to Colonial Manor Utility Company is in the public interest and should be approved. The territory being transferred is described in Attachment A. The effective date of the transfer should be the date of the Commission vote on

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<sup>3</sup> Dixie Groves Utility Company, pursuant to Order No. PSC-04-0338-PAA-WU, issued March 31, 2004, in Docket No. 030656-WU, In Re: Application for transfer of facilities and Certificate No. 139-W in Pasco County from Dixie Groves Estates, Inc. to Dixie Groves Utility Company a Division of Community Utilities of Florida, Inc. Virginia City Utility Company, pursuant to Order No. PSC-04-0342-PAA-WU, issued April 2, 2004, in Docket No. 030655-WU, In Re: Application for transfer of facilities and Certificate No. 149-W in Pasco County from Virginia City Utilities, Inc. to Virginia City Utility Company a Division of Community Utilities of Florida, Inc. Holiday Utility Company, Inc., transfer pending in Docket No. 030458-WU, In Re: Application for transfer of majority organizational control of Holiday Utility Company, Inc. in Pasco County to Holiday Waterworks Corporation, and amendment of Certificate No. 224-W.

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April 5, 2005. Colonial Manor Utility Company should be responsible for filing the utility's 2004 annual report and paying 2004 RAFs, as well as for filing annual reports and paying RAFs for all subsequent years.

**Issue 2:** What is the rate base for Floralino Properties, Inc. at the time of transfer?

**Recommendation:** For transfer purposes, rate base should be \$47,208, as of December 31, 2003. Within 30 days from the from the date of the issuance of the Consummating Order finalizing rate base, Colonial Manor Utility Company should be required to provide a statement that the utility's books have been adjusted to reflect the Commission approved rate base adjustments and balances. (Brady)

**Staff Analysis:** The Commission recently established rate base for the utility as of December 31, 2002.<sup>4</sup> As noted, the transfer of assets to Colonial occurred approximately one year later on November 1, 2003. According to buyer, all assets were transferred except office equipment and transportation equipment. In addition, no plant was added from December 31, 2002 through November 1, 2003. Therefore, staff recommends, and the buyer agrees, that rate base for transfer purposes should be based on the rate base previously established by the Commission as of December 31, 2002, modified to remove office equipment and transportation equipment and to bring accumulated depreciation balances forward to December 31, 2003.

**Utility Plant In Service (UPIS) and Land.** Pursuant to Order No. PSC-03-1250-PAA-WU, the utility's UPIS and land balances as of December 31, 2002, were \$326,707 and \$16,272, respectively. Staff is recommending no changes to the land balance. However, as noted above, the office equipment and transportation equipment balances of \$1,311 and \$25,756, respectively, were not transferred and should be removed. Therefore staff is recommending UPIS and land balances of \$299,640 and \$16,272, respectively, as of December 31, 2003.

**Accumulated Depreciation.** Pursuant to Order No. PSC-03-1250-PAA-WU, the utility's accumulated depreciation balance as of December 31, 2002, was \$260,995. The accumulated depreciation associated with the removed office equipment and transportation equipment is \$(668). The additional accumulated depreciation on the remaining plant balances through December 31, 2003, is \$7,041. Therefore, staff recommends that the accumulated depreciation balance for the utility as of December 31, 2003, is \$268,704.

**Contributions-in-aid-of-Construction (CIAC) and Amortization of CIAC.** Pursuant to Order No. PSC-03-1250-PAA-WU, as of December 31, 2002, the utility's CIAC balance of \$173,559 was fully amortized. Since the utility is at build-out, there were no additional connections in 2003. Therefore, staff is recommending that CIAC and amortization of CIAC as of December 31, 003, both remain as \$173,559.

**Conclusion.** Based upon the above, staff is recommending that rate base for transfer purposes as of December 31, 2003, is \$47,208. Schedule 1 shows the calculation of rate base. Schedule 2 shows staff's recommended adjustments. Schedule 3 shows staff's recommended account balances for UPIS and accumulated depreciation as of December 31, 2003. Staff notes that rate base for transfer purposes does not include the normal rate making adjustments for used and useful or working capital. Within 30 days from the date of the issuance of the Consummating Order finalizing rate base, Colonial Manor Utility Company should be required

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<sup>4</sup> Order No. PSC-03-1250-PAA-WU, issued November 6, 2003, in Docket No. 030250-WU, In Re: Application for staff-assisted rate case in Pasco County, by Floralino Properties, Inc.

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to provide a statement that the utility's books have been adjusted to reflect the Commission approved rate base adjustments and balances.

**Issue 3**: Should an acquisition adjustment be approved?

**Recommendation**: No. An acquisition adjustment should not be included in the calculation of rate base for transfer purposes. (Brady)

**Staff Analysis**: An acquisition adjustment results when the purchase price differs from the original cost of the assets adjusted to the time of the acquisition. The calculation of the acquisition adjustment for this transfer is shown below:

Purchase Price	\$303,000
Rate Base	<u>\$ 47,208</u>
Positive Acquisition Adjustment	\$255,792

Pursuant to Rule 25-30.0371, Florida Administrative Code, a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. The buyer has neither requested an acquisition adjustment nor identified any extraordinary circumstances. Therefore, staff recommends that an acquisition adjustment should not be included in the calculation of rate base for transfer purposes.



**Issue 4:** Should the utility's existing rates and charges be continued?

**Recommendation:** The utility's existing water service rates, customer deposits, and miscellaneous service charges should be continued until authorized to change by the Commission in a subsequent proceeding. The utility's existing service availability charges should be eliminated. The tariff sheets reflecting these rates and charges should be effective for services rendered or connections made on or after the stamped approval date. (Brady)

**Staff Analysis:** Rule 25-9-044(1), Florida Administrative Code, provides that in the 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.

Floralino's current rates and charges were approved by Order No. PSC-03-1250-PAA-WU, as shown below. The water service rates, which include rate case expense amortization, are to be reduced to remove the rate case expense by December 1, 2007.

**Residential, Multi-Residential, and General Service**  
**Monthly Water Service**

<u>Meter Size</u>	<u>Charge</u>
5/8" x 3/4"	\$ 8.02
3/4"	\$ 12.03
1"	\$ 20.06
1 1/2"	\$ 40.11
2"	\$ 64.18
3"	\$128.36
4"	\$200.56
6"	\$401.12
<u>Residential Gallonage Charge (per 1,000 gallons)</u>	
0-10,000 gallons	\$ 2.12
Above 10,000 gallons	\$ 2.65
<u>General Service Gallonage Charge</u>	
Per 1,000 gallons	\$ 2.19

**Residential and General Service**  
**Customer Deposits**

<u>Meter Size</u>	<u>Charge</u>
5/8" x 3/4"	\$ 48.00
1"	\$ 48.00
1 1/2"	\$ 48.00
Over 2"	\$ 48.00

**Miscellaneous Service Charges**

	<u>Normal and After Hours</u>
Initial Connection Fee	\$ 15.00
Normal Reconnection Fee	\$ 15.00
Violation Reconnection Fee	\$ 15.00
Premises Visit Fee (in lieu of disconnection)	\$ 10.00
Premises Visit Fee (at request of customer)	\$ 25.00

In addition to the above, the utility has existing service availability charges for plant capacity and customer connection of \$120.00 per ERC (200 gallons per day) and actual cost, respectively. Since the utility is at build-out and Pasco County serves the surrounding territory, the buyer has requested that these charges be eliminated from its tariff as unnecessary.

Staff recommends that the utility's existing water service rates, customer deposits, and miscellaneous service charges be continued by Colonial Manor Utility Company until authorized to change by the Commission in a subsequent proceeding. Staff also recommends that the utility's existing service availability charges be eliminated. The utility has filed a revised tariff which reflects the change in ownership and the approved rates and charges. The tariff sheets should be effective for services rendered or connections made on or after the stamped approval date.

**Issue 5:** Should this docket be closed?

**Recommendation:** If no timely protest is received to the proposed agency action issues on rate base, acquisition adjustment, and rates and charges, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of the statement from Colonial Manor Utility Company that the utility's books have been adjusted to reflect the Commission approved rate base adjustments and balances. Upon receipt of such statement, the docket should be administratively closed.

**Staff Analysis:** If no timely protest is received to the proposed agency action issues on rate base, acquisition adjustment, and rates and charges, the Order will become final upon the issuance of a Consummating Order. However, the docket should remain open pending receipt of the statement from Colonial Manor Utility Company that the utility's books have been adjusted to reflect the Commission approved rate base adjustments and balances. Upon receipt of such statement, the docket should be administratively closed.

**WATER SERVICE TERRITORY  
FLORALINO PROPERTIES, INC.  
PASCO COUNTY**

**Township 26 South, Range 16 East**  
**Sections 19 and 20**

In Sections 19 and 20, Township 26 South, Range 16 East, Pasco County, Florida:

Commence at the Northeast corner of the Southeast 1/4 of said Section 19 for a POINT OF BEGINNING; thence run North along the East line of said Section 19 1,315 feet; thence West 2,140 feet to a point of the East Right-of-way line of U.S. Highway Number 19, as it is now established; thence Southwesterly along said Right-of-way line 345 feet; thence East 35 feet; thence South 990 feet to the North line of the Southeast 1/4 of said Section 19; thence run Easterly along said line 225 feet; thence Southerly 1,000 feet; thence West 450 feet to the East Right-of-way line of U.S. Highway Number 19 as it is now established; thence South along said Right-of-way line 250 feet; thence East 1,435 feet; thence North 250 feet; thence East 115 feet; thence North 1,000 feet to the North line of the Southeast 1/4 of said Section 19; thence Easterly along said North line of the Southeast 1/4 895 feet to the POINT OF BEGINNING.

**TERRITORY DESCRIPTION TO BE LESS AND EXCEPTED**

**Holiday Mall**

Tract 38 and that portion of Tract 39 of Tampa-Tarpon Springs Land Co. Subdivision of Section 19, Township 26 South, Range 16 East, as shown on plat recorded in Plat Book 1, Pages 68, 69, and 70 of the public records of Pasco County, Florida, lying East of U.S. Highway No. 19 (State Road No. 55) as it is now constructed; **LESS AND EXCEPT** the following described portions of said tracts:

1. Commence at the Northwest corner of the Southeast 1/4 of said Section 19; thence run along the North boundary of the Southeast 1/4 of said Section 19, N 89°-14'-00" E a distance of 404.21 feet; thence S 4°-26'-28" W a distance of 15.05 feet to the South Right-of-way line of Moog Road for a POINT OF BEGINNING; thence continue S 4°-26'-28" W a distance of 185.00 feet; thence S 89°-14'00" W a distance of 150.00 feet to the Easterly Right-of-way line of State Road No. 55, Section 14030 (U.S. Highway No. 19) as it is now constructed; thence along said Right-of-way line a distance of 185.01 feet along the arc of a curve to the right, to the South Right-of-way line of Moog Rd. said curve having a radius of 7,507.44 feet and a chord of 185.00 feet which bears N 4°-26'-28" E; a distance of 150.00 feet to the POINT OF BEGINNING:

2. Commence at the intersection of the Southerly boundary of said Tract 39 and the Easterly Right-of-way line of State Road No. 55 (U.S. Highway No. 19) as it is now constructed for a POINT OF BEGINNING; thence run along the said Easterly Right-of-way line of State Road No. 55, N 1°-24'-23" E a distance of 150.00 feet; run thence N 89°-16'-17" E a distance of 175.00 feet; thence run S 1°-24'-23" W a distance of 150.00 feet; thence run S 89°-16'-17" W a distance of 175.00 feet along the Southerly boundary of said Tract 39 to the POINT OF BEGINNING at the Easterly Right-of-way line of State Road No. 55:
  
3. Commence at the Northeast corner of Tract 38 for a POINT OF BEGINNING the Northeast corner of said Tract 38 being 15.0 feet South of the North boundary of the Southeast 1/4 of said Section 19; thence run S 0°-23'-57" W a distance of 975.56 feet; thence run S 89°-16'-17" a distance of 90.0 feet; thence run N 0°-23'-57" E a distance of 360.00 feet; thence run N 89°-14'-00" E a distance of 60.00 feet; thence run N 0°-23'-57" E a distance of 370.00 feet; thence run S 89°-14'-00" W a distance of 80.00 feet; thence run N 0°-23'-57" E a distance of 245.0 feet, more or less, to the Southerly right of way line of Moog Road; thence run N 89°-14'-00" E along said Southerly right of way line of Moog Road a distance of 110.00 feet to the POINT OF BEGINNING.

**Schedule 1**

**FLORALINO PROPERTIES, INC.  
 Water Rate Base  
 As of December 31, 2003**

<b>Description</b>	<b>Order No. PSC-93-1250-PAA-WU</b>	<b>Staff Adjustments</b>	<b>Recommended Balance</b>
Utility Plant in Service	\$ 326,707	\$( 27,067) A	\$ 299,640
Land & Land Rights	\$ 16,272	\$ - 0 -	\$ 16,272
Accumulated Depreciation	\$(260,995)	\$( 7,709) B	\$(268,704)
Contributions in Aid of Construction	\$(173,559)	\$ - 0 -	\$(173,559)
Accumulated Amortization of CIAC	<u>\$ 173,559</u>	<u>\$ - 0 -</u>	<u>\$ 173,559</u>
Total Water Rate Base	\$ 81,984	\$( 34,776)	\$ 47,208

**FLORALINO PROPERTIES, INC.**  
**Schedule of Water Rate Base Adjustments**  
**As of December 31, 2003**

<b>Explanation</b>	<b>Recommended Rate Water</b>
<b>A. Utility Plant in Service</b>	
To remove office equipment and transportation equipment.	\$(27,067)
<b>A. Accumulated Depreciation</b>	
1. To remove accumulated depreciation for office equipment and transportation equipment	\$( 668)
2. To update depreciation balances from 12/31/02 to 12/31/03.	<u>\$( 7,041)</u> \$( 7,709)
<b>Total Adjustments</b>	<b>\$(34,776)</b>

**Schedule 3**

**FLORALINO PROPERTIES, INC.**  
**Staff Recommended Water Account Balances**  
**As of December 31, 2003**

<b>Acct. No.</b>	<b>Account Name</b>	<b>Plant Balance</b>	<b>Accumulated Depreciation Balance</b>
304	Structures & Improvements	\$ 11,936	\$ 11,936
307	Wells	\$ 12,818	\$ 12,818
309	Supply Mains	\$ 9,879	\$ 8,503
311	Pumping Equipment (SubPump)	\$ 43,009	\$ 37,744
320	Water Treatment Equipment	\$ 33,187	\$ 33,187
330	Distribution Reservoirs & Standpipes	\$ 1,125	\$ 290
331	Transmission & Distribution Mains	\$ 99,214	\$ 80,650
333	Services	\$ 17,388	\$ 16,324
334	Meter	\$ 64,950	\$ 64,950
334	Meters (Replacement)	\$ 5,473	\$ 1,829
339	Other Plant & Miscellaneous Equipment	\$ 661	\$ 473
		<u>\$299,640</u>	<u>\$268,704</u>