

Public Service Commission

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RECORDS AND REPORTING
AUG 17 AM 11:45
RECEIVED-PPSC
Handwritten initials and signatures

DATE: AUGUST 17, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF REGULATORY OVERSIGHT (JOHNSON, BEDEMANN)
DIVISION OF LEGAL SERVICES (VAN LEUVEN)

RE: DOCKET NO. 991984-WS - APPLICATION FOR TRANSFER OF
CERTIFICATE NOS. 277-W AND 223-S IN SEMINOLE COUNTY FROM
ALAFAYA PALM VALLEY ASSOCIATES, LTD. TO CWS COMMUNITIES LP
D/B/A PALM VALLEY.
COUNTY: SEMINOLE

AGENDA: AUGUST 29, 2000 - REGULAR AGENDA - PROPOSED AGENCY ACTION
ON ISSUES NOS. 4 AND 5 - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\991984.RCM

CASE BACKGROUND

Alafaya Palm Valley Associates, Ltd. (Alafaya or utility) is a Class C utility which provides water and wastewater services in Seminole County to 697 water and wastewater customers. The annual report for 1999 shows that the operating revenue was \$45,097 and \$21,738, with net operating losses of \$11,940 and \$117,757, for the water and wastewater systems, respectively. The utility's facilities consist of four systems: one water treatment plant, one water transmission and distribution system, one wastewater collection system, and one wastewater treatment plant.

On December 21, 1999, CWS Communities LP d/b/a Palm Valley, (CWS or Buyer) filed an application for approval of the transfer of Certificates Nos. 277-W and 223-S currently held by Alafaya to CWS.

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The general partners of Alafaya were Clayton, Williams & Sherwood Financial Group 81. This entity was owned 50% by Steven J. Sherwood and 50% by Byron L. Williams. The general partners of CWS are Byron L. Williams and Steven J. Sherwood. According to the application, on August 30, 1999 Alafaya and CWS entered into a real property exchange transaction, where CWS exchanged three large apartment communities for six manufactured home communities in Florida owned by Alafaya. The contributed value for the exchanged property is \$18,231,000. Included in this large property transaction, CWS received the Palm Valley Mobile Home Community and the Alafaya utility system. The proposed net book value of the utility system as of the date of the proposed transfer is \$396,564.

Section 367.071, Florida Statutes, requires that no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without prior approval of the Commission unless such sale, assignment, or transfer is made contingent upon Commission approval. The parties closed on the exchange of the utility on February 29, 2000, without having made the transfer contingent upon the approval of the Commission, which is an apparent violation of Section 367.071, Florida Statutes. This matter will be discussed further in Issue 1. The following is staff's recommendation regarding the transfer application.

DISCUSSION OF ISSUES

ISSUE 1: Should Alafaya be ordered to show cause, in writing within 21 days, why it should not be fined for its failure to obtain Commission approval prior to transferring its facilities to CWS, in apparent violation of Section 367.071, Florida Statutes?

RECOMMENDATION: No. A Show cause proceeding should not be initiated, but the utility should be placed on notice that it is expected to know and comply with the Commission's rules and regulations. (VAN LEUVEN)

STAFF ANALYSIS: Section 367.071(1), Florida Statutes, requires that:

No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof . . . , without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest However, a sale, assignment, or transfer of its certificate of authorization, facilities . . . may occur prior to commission approval if the sale, assignment, or transfer is made contingent upon commission approval.

As stated in the case background, Alafaya closed on the transfer of its facilities to CWS on February 29, 2000, prior to obtaining Commission approval. In addition, the Real Estate Exchange and Contribution Agreement contained no provisions to make the agreement contingent upon Commission approval.

Section 367.161(1), Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any provision of Chapter 367, Florida Statutes. In closing on the transfer of its facilities prior to Commission approval, the utility's act was "willful" in the sense intended by Section 367.161, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be

fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule."

Although Alafaya's failure to obtain Commission approval prior to transferring facilities is an apparent violation of Section 367.071(1), Florida Statutes, there are circumstances that appear to mitigate the utility's apparent violation. Based on information contained in a letter dated February 25, 2000, Alafaya was transferred on August 30, 1999 as part of a large property exchange which involved other time sensitive sale transactions. Moreover, staff notes that Alafaya was not aware that it was required to obtain prior approval of the transfer from the Commission.

Alafaya's failure to obtain the Commission's approval prior to transferring its facilities appears to be due to a lack of understanding and knowledge of the Commission's rules and regulations. Although Alafaya is held to know the Commission's rules and statutes under which it must operate, when this matter was brought to their attention they stated that they were not aware of the statutory requirement. Staff does not believe that the apparent violation of Section 367.071, Florida Statutes, rises in these circumstances to the level which warrants the initiation of a show cause proceeding. Staff recommends that Alafaya should not be ordered to show cause for failure to obtain Commission approval prior to transferring its facilities to CWS, but the utility should be placed on notice that it is expected to know and comply with the Commission's rules and regulations.

ISSUE 2: Should Alafaya be ordered to show cause, in writing within 21 days, why it should not be fined up to \$5,000 per day for failure to maintain its accounts and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), in apparent violation of Rule 25-30.115(1), Florida Administrative Code?

RECOMMENDATION: No. Alafaya should not be ordered to show cause at this time. However, the utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001, stating that its books and records are in conformance with NARUC USOA. (VAN LEUVEN)

STAFF ANALYSIS: Rule 25-30.115(1), Florida Administrative Code, states "Water and wastewater utilities shall, effective January 1, 1998, maintain their accounts and records in conformity with the 1996 NARUC Uniform Systems of Accounts adopted by the National Association of Regulatory Utility Commissioners." Accounting Instruction 2, of the NARUC USOA for Class C utilities states:

Each utility shall keep its books of account, and all other books, records, and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit a ready identification, analysis, and verification of all facts relevant thereto. (emphasis added)

Further, Accounting Instruction 4, of the NARUC USOA for Class C utilities states:

Each utility shall keep its books on a monthly basis so that for each month all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Amounts applicable or assignable to specific utility departments shall be segregated monthly. Each utility shall close its books at the end of each calendar year unless otherwise authorized by the Commission. (emphasis added)

Rule 25-30.450, Florida Administrative Code, states:

In each instance, the utility must be able to support any schedule submitted, as well as any adjustments or allocations relied on by the utility. The work sheets, etc., supporting the schedules and data submitted must be organized in a systematic and rational manner so as to enable Commission personnel to verify the schedules in an expedient manner and minimum amount of time. The supporting work sheets, etc., shall list all reference sources necessary to enable Commission personnel to track to original source of entry into the financial and accounting system and, in addition, verify amounts to the appropriate schedules. (emphasis added)

During a staff audit of Alafaya's books and records in May of this year, staff learned that its accounts are comingled with those of the Palm Valley Community. Even though Alafaya's books and records are comingled, staff was able to extract the necessary information for transfer purposes.

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 per day for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to maintain its accounts and records in conformance with the NARUC USOA, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Alafaya's failure to maintain its books and records in accordance with NARUC USOA is in apparent violation of Rule 25-30.115, Florida Administrative Code. However, Alafaya does not operate the utility anymore because CWS has acquired its facilities and is currently operating the utility. In light of these circumstances, staff believes that a show cause proceeding should

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not be initiated at this time because the primary purpose of a show cause proceeding is to bring a utility into compliance with the Commission's orders, rules, and statutes, and to do so in this instance would serve no purpose since the utility was transferred to another party.

If staff's recommendation is approved for Issue 3, then CWS should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA, and submit a statement to the Commission with its 2000 annual report from its accountant by March 31, 2001, stating that its books and records are in conformance with 1996 NARUC USOA. However, if Issue 3 is not approved then Alafaya should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001, stating that its books and records are in conformance with 1996 NARUC USOA. Therefore, staff recommends that Alafaya should not be ordered to show cause at this time, in writing within 21 days, why it should not be fined up to \$5,000 per day for failure to maintain its accounts and records in conformance with the NARUC USOA, in apparent violation of Rule 25-30.115(1), Florida Administrative Code.

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ISSUE 3: Should the transfer of Certificate Nos. 277-W and 223-S from Alafaya to CWS be approved?

RECOMMENDATION: Yes, the transfer of Certificate Nos. 277-W and 223-S from Alafaya to CWS should be approved. The utility is current on its regulatory assessment fees and annual reports. CWS will be responsible for all future regulatory assessment fees and annual reports. (JOHNSON, REDEMANN)

STAFF ANALYSIS: As discussed in the case background, on December 21, 1999, CWS filed an application for transfer of Certificate Nos. 277-W and 223-S from Alafaya to CWS. The application was deficient and a request for the required information was sent on January 25, 2000. CWS promptly submitted all requested information and complied with the required renoticing, by February 25, 2000. The application is in substantial compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and rules concerning an application for transfer. The application contains a check in the amount of \$1,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which its facilities are located, as required by Rule 25-30.037(3)(I), Florida Administrative Code

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers of the system to be transferred. A renoticing was issued because of inaccuracies in the legal description of the property. No objections to this notice of application have been received and the time for filing such has expired. A description of the territory served by the utility is appended to this memorandum as Attachment A.

The application states that the transfer is in the public interest because the transfer allows the customers to continue receiving the same water and wastewater service as they have become accustomed to for the past several years without disruption. Additionally, the application contains a statement that the Buyer will fulfill the commitments, obligations and representations of the Sellers with regard to utility matters.

Regarding the Buyer's technical ability, CWS will continue with the management team that has operated the water and wastewater utility for the past ten years. At the present time, Alafaya

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provides safe and reliable water and wastewater service to its customers, according to the application. In addition to more than 10 years of experience in operating water and wastewater utilities, CWS has the financial resources to maintain consistent compliance with environmental regulations.

According to the application the Buyer's financial ability, will not be affected by this transfer. CWS has provided the company's consolidated financial statements. The financial statements disclosed assets of \$367,257,000 and equity of \$303,160,000. CWS has indicated that it will provide the company with the financial stability required to maintain the utility systems in accordance with Commission standards.

According to our records, the utility is current on its regulatory assessment fees and has filed an annual report for 1999 and all prior years. CWS will be responsible for future annual reports and the payment of all regulatory assessment fees for the year 2000. The application states that CWS's representative has performed a reasonable investigation of the utility system. The water plant facilities appear to be in satisfactory condition and in compliance with all applicable standards set by the Florida Department of Environmental Protection (DEP). However, there is one revised consent order with DEP for the wastewater system. The utility is expanding the disposal system and adding additional wastewater capacity to comply with the consent order. According to the DEP, the utility is meeting the time frames outlined in the consent order, and DEP is satisfied with the utility's progress. Based on the above, staff recommends that the transfer of Alafaya to CWS is in the public interest and it should be approved.

ISSUE 4: What is the rate base of Alafaya at the time of transfer?

RECOMMENDATION: The rate bases, which for transfer purposes reflect the net book value, are \$139,173 for the water system and \$564,877 for the wastewater system as of August 30, 1999. (JOHNSON)

STAFF ANALYSIS: According to the application, the utility's net book value of the systems combined is \$396,564. The utility's accountant explained that, because of the consolidated record keeping method, a separate determination of the net book value for each system could not be calculated. The utility has never had a rate proceeding before the Commission.

Staff conducted an audit of the books and records of the utility to determine the rate base (net book value) as of August 30, 1999. The rate base was determined by Staff from company provided historical records and supporting source documentation. The audit report contained four exceptions. In Audit Exception No. 1, the auditor stated that the utility did not maintain its accounts and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA). This Exception is discussed in Issue 2.

Staff notes that the utility did not provide a response to the audit report. The three remaining audit exceptions resulted in the following adjustments by staff as a result of the audit.

UTILITY PLANT-IN-SERVICE

As discussed above, the utility does not maintain a monthly general ledger. The utility recorded water and wastewater infrastructure additions at the off-site corporate office, and replacements and plant expansions are accounted for locally. The plant activity is summarized annually and extracted from the Alafaya Palm Valley Community general ledger to produce the annual report. The utility's 1999 annual report restated back to the August 30, 1999 transfer date, indicated plant-in-service balances of \$285,865 for water and \$1,134,245 for wastewater.

Staff calculated the plant balances by using the plant balances established in Order No. 16360, issued July 16, 1986, in docket 860583-WS. Staff examined the utility additions and retirements and found that the utility had understated plant by \$98,240 for water and by \$105,256 for wastewater. Therefore, staff is recommending that the water plant-in-service account be increased by \$98,240 and the wastewater plant-in-service account be

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increased by \$105,256, which results in a water balance of \$384,105 and wastewater balance of \$1,239,501.

LAND

The utility indicated that it added land to its wastewater plant that cost \$113,866 in 1990. The documentation provided to support this cost revealed that a total cost of \$208,000 was paid for an 11.6 acre parcel. The cost per acre was \$17,931. The 11.6 acre parcel included 5.241 acres as the wastewater utility land. The documented cost of the 5.241 acres of wastewater land results in a total cost of \$93,977 ($\$17,931 * 5.241$ acres). Therefore, staff recommends a decrease of \$19,889 to the wastewater land account to reflect the actual cost of the land addition which is \$93,977. Therefore, staff recommends a wastewater land balance of \$96,409 and a water land balance of \$2,433.

ACCUMULATED DEPRECIATION

The utility has not used the depreciation rates pursuant to Rule 25-30.140, Florida Administrative Code. The utility's 1999 annual report restated back to August 30, 1999, indicated an accumulated depreciation balance of \$204,503 for water and a wastewater balance of \$334,013. Staff recalculated the depreciation expense using the rates pursuant to Rule 25-30.140, Florida Administrative Code, for the audit period. The adjustments to accumulated depreciation are due to the utility missing major plant additions, retirements and using the incorrect depreciation rates for plant. Therefore, staff has decreased accumulated depreciation for water by \$7,968, to reflect a balance of \$196,535. Staff has increased the wastewater accumulated depreciation account by \$170,721, to reflect a balance of \$504,734.

CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION (CIAC) AND AMORTIZATION OF CIAC

The utility's 1999 annual report restated back to the August 30, 1999 transfer date, indicated that the utility's water CIAC and accumulated amortization balances are \$89,509 and \$45,717, respectively. The utility's wastewater CIAC balance is \$390,046 and the accumulated amortization balance is \$99,513. The utility used amortization rates of 3.12 percent for water and 2.5 percent for wastewater, instead of annual composite rates.

Staff calculated the CIAC and accumulated amortization of CIAC balances by using the balances established in Order No. 16360, issued July 16, 1986, in Docket No. 860583-WS. Staff verified all CIAC additions and recalculated the accumulated amortization of CIAC balances based on the annual composite rate from January 1, 1986 to August 30, 1999. Based on staff's calculation the CIAC water balance should be increased by \$3,230 to reflect a balance of \$92,739. The CIAC wastewater balance should be increased by \$34,867, to reflect a balance of \$424,913. Therefore, the corresponding accumulated amortization of CIAC water balance should be decreased by \$3,808, to reflect a balance of \$41,909 and the accumulated amortization of CIAC wastewater balance should be increased by \$59,101 to reflect a balance of \$158,614.

RATE BASE

Staff's calculation of rate base for water and wastewater is shown on Schedules Nos. 1 and 2, respectively. Adjustments to rate base are itemized on Schedule No. 3, for water and wastewater. Based on the adjustments set forth herein, staff recommends that rate base for Alafaya be established as \$139,173 for the water system and \$564,877 for the wastewater system as of August 30, 1999. This rate base calculation is used solely to establish the net book value of the property being transferred and does not include the normal rate making adjustments of working capital calculations and used and useful adjustments.

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ATTACHMENT A

CWS COMMUNITIES LP D/B/A PALM VALLEY

SEMINOLE COUNTY

Description of Territory Served for Water and Sewer

Order No. 7518

In Township 21 South, Range 31 East, Seminole County
Sections 34 and 35

Portions of said Sections 34 and 35 known as Palm Valley Mobile Home Park and more particularly described as follows:

Lots 7 and 15 according to the plat thereof as recorded in Plat Book 11, Page 43, of the Public Records of Seminole County, Florida.

Order No. 9626

Township 21 South, Range 31 East
Section 24

Begin at the East 1/4 Corner of said Section 34, thence North 00 degrees 18 minutes 03 seconds East, a distance of 1333.33 feet; thence North 89 degrees 23 minutes 00 seconds West, a distance of 257.38 feet; thence South 00 degrees 18 minutes 03 seconds West, a distance of 228.21 feet, thence South 88 degrees 35 minutes 41 seconds West, a distance of 541.44 feet; thence South 00 degrees 18 minutes 03 seconds West, a distance of 720.49 feet to an iron pipe on the South right-of-way of park Road; said point being on a curve with a radius of 2625.65 feet, thence continue Easterly along said South right-of-way a distance of 334.71 feet to a concrete monument, said point being the point of curve of said curve; thence South 89 degrees 13 minutes 35 seconds East, a distance of 225.0 feet more or less to the Northeast corner of Lot 7 as recorded in Plat Book 11, page 43 of the Public Records of Seminole County, Florida, thence South 00 degrees 02 minutes, 08 seconds West, a distance of 1485.0 feet more or less; thence South 00 degrees 02 minutes 08 seconds West, a distance of 560.00 feet; thence South 89 degrees 37 minutes 00 seconds East a distance of 235 feet more or less to a point on the East boundary of said Section 34; thence

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North 00 degrees 18 minutes 03 seconds East, a distance of 1100 feet to the POINT OF BEGINNING.

ALSO

Beginning at a point on the East right-of-way line of Alafaya Trail 279.01 feet South of the South right-of-way line of Park Road running thence South 89 degrees 27 minutes 05 seconds East 613.86 feet to a point; thence North 00 degrees 03 minutes 18 seconds North 300.31 feet to a point on the South right-of-way line of Park Road; thence along the South right-of-way line of Park Road, following the arc of 1156.78 feet radius curve 315.38 feet to a point; thence continuing along said South right-of-way line of Park Road North 63 degrees 49 minutes 52 seconds East, a distance of 1152.76 feet to a point; thence South 00 degrees 02 minutes 08 seconds West, a distance of 1670 feet more or less to a point; thence North 89 degrees 37 minutes 00 seconds West, a distance of 670 feet to a point, thence North 00 degrees 02 minutes, 05 seconds East, a distance of 381.05 feet to a point; thence North 89 degrees, 27 minutes, 05 seconds West a distance of 1275.70 feet to the Westerly right-of-way line of Alafaya Trail; thence North along said right-of-way line North 00 degrees 03 minutes 18 seconds West, 350.02 feet to the POINT OF BEGINNING.

ALSO

Begin at the Southwest corner of Lot 19, Orlando Industrial Park, run West 00 degrees 02 minutes 08 seconds East, 921 feet; thence North 89 degrees 57 minutes 05 seconds East 105 feet, thence North 00 degrees 02 minutes 08 seconds East, 25 feet; thence North 63 degrees 04 minutes 52 seconds East, 807.00 feet; thence South 60 degrees 02 minutes 08 seconds West, 889.52 to the Northerly right-of-way of Park Road; thence South 63 degrees 49 minutes 53 seconds West along said right-of-way 935.93 feet to the POINT OF BEGINNING. Said parcel known as Fox Run Subdivision.

Section 35

Begin at the West 1/4 corner of said Section 35; thence North 00 degrees 18 minutes 03 seconds East, a distance of 1333.33 feet; thence South 89 degrees 34 minutes 49 seconds East, a distance of 332.63 feet; thence South 00 degrees 14 minutes 18 seconds West 1333.71 feet; thence South 00 degrees 30 minutes 22 seconds East 1087.76 feet; thence North 89 degrees 37 minutes 00 seconds West 340 feet more or less to a point on the West boundary line of said Section 35; thence North 00 degrees 18 minutes 03 seconds East, a distance of 1100 feet more or less to the POINT OF BEGINNING.

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Order No. 12714

Township 21 South, Range 31 East

Section 34

From the South 1/4 corner of said Section 34, run South 89 degrees 37 minutes 00 seconds East a distance of 740 feet along the South line of said Section; thence North 00 degrees 02 minutes 08 seconds East a distance of 2040 feet more or less, along the East R-O-W line of Seminole Avenue to a point at the intersection of said East line with the South R-O-W line of Jessup Street for a Point of Beginning. From said Point of Beginning thence run South 89 degrees 37 minutes 00 seconds East a distance of 800 feet along said South R-O-W line of Jessup Street, thence South 00 degrees 02 minutes 08 seconds West a distance of 500 feet parallel with said Seminole Avenue, thence North 89 degrees 37 minutes 00 seconds West a distance of 800 feet to said Seminole Avenue, thence North 00 degrees 02 minutes 08 seconds East a distance of 500 feet to the Point of Beginning.

Order No. 14480

Township 21 South, Range 31 East

Section 34

That portion of said Section 34 and all of Lot 8 and a portion of Lot 13, Orlando Industrial Park as recorded in Plat Book 10, Page 100 of the Public Records of Seminole County, Florida described as follows:

Commencing at the Southeast corner of said section, thence run North 89 degrees 37'00" West along the South line of said section and the centerline of an 80 foot R-O-W for a distance of 799.25 feet to a Southerly projection of the East line of Lot 11, Orlando Industrial Park; thence run North 00 degrees 02'08" East along said project line and the East line of Lot 11 for a distance of 840 feet to the Easterly most corner of Lot 13 of said Orlando Industrial Park for the Point of Beginning; thence run South 74 degrees 26'00" West along the South line of said Lot 13 a distance of 365.07 (calc) 364.01 (plat) to the Northeast corner of Lot 12 of said industrial park; thence run North 89 degrees 37'00" West along said South line of Lot 13 for a distance of 760.19 feet to the Southwest corner of said Lot 13; thence run North 00 degrees 02'08" East along the West line of said Lot 13 for a distance of 387.76 feet; thence South 89 degrees 37'00" East for a distance of 225 feet;

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thence North 00 degrees 02'08" East a distance of 18.88 feet;
thence South 89 degrees 37'00" East for a distance of 288 feet;
thence North 01 degrees 20'29" West for a distance of 208.09 feet;
thence North 89 degrees 37'00" West for a distance of 508 feet to
the aforementioned West line of said Lot 13; thence run North 00
degrees 02'08" East along said West line a distance of 185.44 feet
to the Northwest corner of said Lot 13; thence run South 89 degrees
37'00" East Along the North line of said Lot 13 for a distance of
800 feet to the Southwest corner of Lot 8 of said industrial park;
thence run North 00 degrees 02'08" East along the West line of said
Lot 8 a distance of 500 feet to the Northwest corner of said Lot 8;
thence run South 89 degrees 37'00" East along the North line of
said Lot 8 a distance of 780 feet to the Northeast corner of said
Lot 8; thence run South 00 degrees 02'08" West along the East line
of said Lot 8 a distance of 500 feet to the Southeast corner of
said Lot 8; thence run North 89 degrees 37'00" West along the South
line of said Lot 8 a distance of 355.63 feet to a point which lies
South 89 degrees 37'00" East a distance of 424.37 feet from the
aforementioned Southwest corner of Lot 8; thence South 00 degrees
29'25" East a distance of 218.33 feet; thence South 01 degrees
39'42" East a distance of 481.67 feet; thence North 89 degrees
37'00" West a distance of 129.01 feet to the Point of Beginning.

Section 35

The West 1/4 of the Northwest 1/4 of the Northwest 1/4 of said
Section 35,

AND the East 1/2 of the West 1/2 of the Northwest 1/4 of the
Southwest 1/4 of said Section 35,

AND the South 453.34 feet of the East 1/2 of the West 1/2 of the
Southwest 1/4 of the Northwest 1/4 of said Section 35.

Order No. 16360 (Transfer)

Orders Nos. 19149 and 19149-A (Name Change)

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Order No. 23094

Township 21 South, Range 31 East

In Sections 34 and 35

Parcels 5 and 6: This description is in Order No. 14480, except that is in a different format.

From a Northeast Corner of Section 34, run South along the East line of Section 34 3,250 feet. Thence run west 1,100 feet to the point of beginning. Thence South 00 degrees 30' 26" East 218.31 feet. Thence South 01 degrees 42' 27" East 180.76 feet. Thence South 01 degrees 42' 27" East 300.87 feet. Thence North 89 degrees 36' 50" West 129.82 feet. Thence South 74 degrees 26' 00" West 364.01 feet. Thence North 89 degrees 40' 34" West 68.30 feet. Thence North 89 degrees 40' 34" West 691.70 feet. Thence North 00 degrees 00' 38" West 387.73 feet. Thence South 89 degrees 34' 08" East 224.94 feet. Thence North 00 degrees 54' 35" East 18.92 feet. Thence South 89 degrees 44' 01" East 287.87 feet. Thence North 01 degrees 21' 41" West 208.21 feet. Thence North 89 degrees 40' 28" West 508.25 feet. Thence North 00 degrees 02' 34" West 185.42 feet. Thence South 89 degrees 38' 18" East 800.12 feet. Thence South 89 degrees 37' 25" East 424.39 feet to the point of beginning.

Parcel A-2:

The South 1/2 of the East 3/4 of the Southwest 1/4 of the Northwest 1/4, less the South 453.34 feet of the East 1/2 of the West 1/2 of said Southwest 1/4 of the Northwest 1/4, all in Section 35.

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SCHEDULE NO. 1

ALAFAYA PALM VALLEY ASSOCIATES, LTD.
SCHEDULE OF WATER RATE BASE
As of August 30, 1999

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$ 285,865	\$98,240	\$ 384,105
Land	\$ 2,433		\$ 2,433
Accumulated Depreciation	(\$ 204,503)	7,968	(\$ 196,535)
Contributions-in- aid-of-Construction	(\$ 89,509)	(\$ 3,230)	(\$ 92,739)
Amortization of Accumulated CIAC	<u>\$ 45,717</u>	<u>(\$ 3,808)</u>	<u>\$ 41,909</u>
TOTAL	\$ 40,003 =====	\$99,170 =====	\$ 139,173 =====

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SCHEDULE NO. 2

ALAFAYA PALM VALLEY ASSOCIATES, LTD.
SCHEDULE OF WASTEWATER RATE BASE
As of August 30, 1999

<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$1,134,245	\$105,256	\$1,239,501
Land	\$ 116,298	(\$ 19,889)	\$ 96,409
Accumulated Depreciation	(\$ 334,013)	(\$170,721)	(\$ 504,734)
Contributions-in- aid-of-Construction	(\$390,046)	(\$ 34,867)	(\$ 424,913)
Amortization of Accumulated CIAC	<u>\$ 99,513</u>	<u>\$ 59,101</u>	<u>\$ 158,614</u>
TOTAL	<u>\$ 625,997</u> =====	<u>(\$ 61,120)</u> =====	<u>\$ 564,877</u> =====

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SCHEDULE NO. 3

ALAFAYA PALM VALLEY ASSOCIATES, LTD.
SCHEDULE OF WATER AND WASTEWATER RATE BASE ADJUSTMENTS

EXPLANATION	ADJUSTMENTS	
	<u>Water</u>	<u>Wastewater</u>
<u>Plant In Service</u>		
Increase to plant to reflect additions	\$98,240	\$105,256
<u>Land</u>		
Reduction to reflect actual Land cost		(\$19,889)
<u>Accumulated Depreciation</u>		
Adjustments related to plant additions and retirements	\$7,968	\$170,721
<u>CIAC</u>		
To reflect Commission Order No. 16360 and correct the understatement	(\$3,230)	(\$34,867)
<u>Amortization of CIAC</u>		
Adjustments related to CIAC corrections	(\$3,808)	\$59,101

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ISSUE 5: Should an acquisition adjustment be included in the calculation of rate base?

RECOMMENDATION: No. Because CWS has not requested an acquisition adjustment, and there are no extraordinary circumstances in this case to warrant the inclusion of an acquisition adjustment. Staff recommends that no acquisition adjustment should be included in the calculation of rate base. (JOHNSON, VAN LEUVEN)

STAFF ANALYSIS: An acquisition adjustment results when the purchase price differs from the original cost calculation. As discussed in the case background and in Issue 1, the Buyer acquired the utility along with six other manufactured communities in a property exchange transaction, valued at \$18,231,000. The Buyer was unable to provide a separate purchase price for the utility assets since they were included in the transaction of the manufactured home community parks. Therefore, an acquisition adjustment cannot be reasonably calculated in this case.

Because the Buyer stated in the application that it was not seeking an acquisition adjustment, staff recommends that a positive acquisition adjustment not be included in the calculation of rate base. Moreover, in the absence of extraordinary circumstances, it has been Commission practice that a subsequent purchase of a utility system at a premium or discount shall not affect the rate base calculation. There are no extraordinary circumstances regarding this purchase that would justify an acquisition adjustment to rate base. Staff's recommendation is consistent with previous Commissions decisions in this regard. See Order No. PSC-00-0913-PAA-WU, issued May 8, 2000, in Docket No. 970201-WU; Order No. PSC-00-0579-PAA-SU, issued March 22, 2000, in Docket No. 990975-SU; Order No. PSC-00-0682-FOF-WU, issued April 12, 2000, in Docket No. 990253-WU; Order No. PSC-00-0758-PAA-SU, issued April 17, 2000, in Docket No. 991056-SU; Order No. PSC-98-1231-FOF-WU, issued on September 21, 1998, in Docket No. 971670-WU; and Order No. PSC-98-0514-FOF-SU, issued on April 15, 1998, in Docket No. 951008-SU.

ISSUE 6: Should the rates and charges approved for this utility be continued?

RECOMMENDATION: Yes, Alafaya should continue charging the rates and charges approved for this utility system until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in ownership 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 current rates for service were approved by the Commission in a administrative price index proceeding effective February 16, 1999. The utility's approved service availability charges were effective April 16, 1991, pursuant to Order No. 24181, issued March 1, 1991, in Docket No. 900402-WS. The utility's approved rates and charges are as follows:

Water Monthly Service Rates

Residential Service

Minimum Charge (Includes 2,000 gallons)	\$	2.69
All usage over 2,000 gallons per thousand gallons	\$	0.54
Minimum bill	\$	2.69

General Service

Gallonage Charge per 1,000 gallons (Charged through master meter for mobile home park only.)	\$	0.54
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Wastewater Monthly Service Rates

Residential Service

Base Facility Charge

Meter Size:

All Meter Sizes \$ 8.77
Flat Rate

Minimum bill \$ 8.77

General Service

Gallonge Charge

per 1,000 gallons \$ 0.56
(For mobile home park only)

Service Availability Charges

Initial Connection Charge - Water:

Residential - per ERC (300 GPD) \$ 170.00

Initial Connection Charge - Wastewater:

Residential - per ERC (170 GPD) \$1,835.00

Rule 25-9.044(1), Florida Administrative Code, provides that:

In case[s] 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)

CWS has not requested a change in the rates and charges of the utility. Accordingly, staff recommends that the utility 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.

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ISSUE 7: Should this docket be closed?

RECOMMENDATION: Yes, if no timely protest is received to the proposed agency action issues, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed. (VAN LEUVEN)

STAFF ANALYSIS: If no timely protest is received to the proposed agency action issues, upon the expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and the docket should be closed.