

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-

RECEIVED-FPSC  
00 DEC -7 PM 1:10  
RECORDS AND REPORTING

DATE: DECEMBER 7, 2000

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

FROM: DIVISION OF REGULATORY OVERSIGHT (JOHNSON) REDEMANN  
DIVISION OF LEGAL SERVICES (CROSBY)

RE: DOCKET NO. 001388-WU - APPLICATION FOR TRANSFER OF  
MAJORITY ORGANIZATIONAL CONTROL OF PARK WATER COMPANY  
INC., HOLDER OF CERTIFICATE NO. 583-W IN POLK COUNTY, FROM  
LOUIS STAIANO TO ANTHONY STAIANO.  
COUNTY: POLK

AGENDA: DECEMBER 19, 2000 - REGULAR AGENDA - INTERESTED PERSONS  
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\001388.RCM

CASE BACKGROUND

Park Water Company Inc. (PWC or utility), is a Class C utility which provides water service to single family residences, duplexes, mobile homes, and general service customers in Polk County. According to the application, the utility was established in 1955 under the name of Crooked Lake Park Water Company, Inc. The name was changed to PWC in 1996. The utility currently serves 814 customers. According to the utility's 1999 Annual Report, the utility had annual revenues of \$190,113 and a net operating income of \$4,653. The utility's facilities consist of one water treatment plant and one water transmission and distribution system.

While processing the staff assisted rate case (SARC), Docket No. 991627-WU, staff discovered that the ownership had been transferred from the father to the son. The transfer occurred

DOCUMENT NUMBER-DATE

15725 DEC-78  
15725-00  
FPSC-RECORDS/REPORTING

DOCKET NO. 001388-WU  
DATE: DECEMBER 7, 2000

without Commission approval on July 1, 1999, which was the basis for show cause in that docket. Due to the circumstances surrounding the transfer, in Order No. PSC-00-1774-PAA-WU, issued September 27, 2000, in No. 991627-WU. the Commission declined to show cause the utility. Instead the Commission required the utility to file an application for transfer of majority control within 90 days of the effective date of the Commission Order.

On September 28, 2000, PWC filed an application for approval of the transfer of majority organizational control (TMOC) from Louis Staiano (Sellers) to Anthony Staiano (Buyer). In Order No. PSC-00-1774-PAA-WU, rate base for PWC was established as \$383,388 as of December 31, 1999. It is Commission practice to not establish rate base in TMOC proceedings. The reason behind this approach is the philosophy that stock may be publicly traded and has no regulatory relationship to rate base. Thus, different ownership of stock does not affect a utility's rate base balance. Consequently, stock purchase price and rate base are not considered in making a public interest determination of a TMOC. This same approach is followed even if the stock is privately held rather than publicly traded. The sale of the stock of PWC from Louis Staiano to Anthony Staiano will not alter the utility's asset and liability accounts. Accordingly, the transfer of stock ownership will not change the rate base balance.

In addition, it is Commission practice that acquisition adjustments are not considered in stock transfers. Therefore, staff's recommendation in this case does not include issues regarding the establishment of rate base and an acquisition adjustment.

The following is staff's recommendation regarding the utility's application for a transfer of majority organizational control. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the transfer of majority organizational control of Park Water Company Inc., from Louis Staiano to Anthony Staiano be approved?

**RECOMMENDATION:** Yes, the transfer of majority organizational control of Park Water Company Inc., from Louis Staiano to Anthony Staiano should be approved. The utility is current on its regulatory assessment fees and annual reports. Mr. Anthony Staiano will be responsible for all future regulatory assessment fees and annual reports. (JOHNSON, REDEMANN)

**STAFF ANALYSIS:** On September 28, 2000, an application was filed for approval of the transfer of majority organizational control of Park Water Company, Inc., from Louis Staiano to Anthony Staiano. As stated in the case background, PWC closed on the sale on July 1, 1999, prior to obtaining Commission approval, which was addressed in Order No. PSC-00-1774-PAA-WU.

PWC's TMOOC application, as filed, was deficient. PWC was notified of the deficiencies by letter dated October 12, 2000. These deficiencies were subsequently corrected on November 14, 2000. As filed and modified, the application is in compliance with the governing statute, Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules pertaining to an application for transfer of majority organizational control. 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 application contained evidence of compliance with the noticing requirements pursuant to Rule 25-30.030, Florida Administrative Code. No objections to the notice have been received by the Commission 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.

**Ownership and Environmental Compliance**

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. The warranty deed submitted by the utility shows that the land upon which the utility facilities are located is owned by Crooked Lake Park Water Company. A representative of the utility informed staff that the utility was previously operated under that name, but changed its name to Park Water Company, Inc. on September 6, 1996. The utility submitted a

copy of the amendment to its Articles of Incorporation as filed with the Secretary of State's Office as proof of its name change.

In consideration that Crooked Lake Park Water Company and Park Water Company are one and the same, staff believes the warranty deed submitted by the utility is sufficient evidence of the utility's land ownership. Moreover, pursuant to Rule 25-30.037(3)(h), Florida Administrative Code, the buyer has provided a statement that, upon reasonable investigation, the systems being acquired appear to be in satisfactory condition and in compliance with all applicable standards set by the Polk County Health Department (PCHD). Staff has confirmed with the PCHD that the utility is in satisfactory working condition and in June, 2000 a sanitary survey was completed for the system and it was found in compliance with all applicable environmental standards.

### **Public Interest**

Pursuant to Rules 25-30.037(3)(d) and (f), Florida Administrative Code, the application states that the transfer is in the public interest because the Buyer has the experience of operating the water utility. The Buyer has been the President of PWC for the last two years, the Vice President for the past five years and has a Class C Florida Water Operators Licence. The Buyer has the financial resources to make the future improvements to the utility system as deemed necessary. Additionally, the application contains a statement that the Buyer will fulfill the commitments, obligations and representations of the Seller with regard to utility matters.

### **Financing**

Rule 25-30.037(3)(e) and (g), Florida Administrative Code, requires a statement of the financing and a disclosure of all entities that have provided, or will provide, funding to the buyer. According to the "Agreement For Sale of Stock" (Stock Agreement), Anthony Staiano purchased all of the Seller's shares of stock that the Seller owned in the Florida corporation known as Park Water Company Inc. in a \$150,000 cash transaction. There is no debt outstanding in regards to the purchase of the utility. The Stock Agreement was entered into on January 1, 1999.

### **Regulatory Assessment Fees and Date of Transfer**

Staff has confirmed that the utility is current through 1999 on annual reports and regulatory assessment fees (RAFs) and that there are no penalties, fees or refunds due. As already noted, the Stock Agreement provides that the stock transfer took place without

DOCKET NO. 001388-WU  
DATE: DECEMBER 7, 2000

prior approval by the Commission. The date of closing on the transfer was July 1, 1999. Therefore, the buyer, Mr. Anthony Staiano, will be responsible for all future RAFs and annual reports.

Based on the above, staff recommends that the transfer of majority organizational control of PWC from Louis Staiano to Anthony Staiano is in the public interest and therefore, should be approved.

DOCKET NO. 001388-WU  
DATE: DECEMBER 7, 2000

ATTACHMENT A

PARK WATER COMPANY, INC.

POLK COUNTY

TERRITORY DESCRIPTION

SECTIONS: 23, 26, 27, 28, 29, 32, 33, 34, 35, and 36 of  
Township 30 South, Range 27 East, all located in  
Polk County, Florida.

**ISSUE 2:** Should the rates and charges approved for this utility be continued?

**RECOMMENDATION:** Yes, the rates and charges approved for the utility should be continued until authorized to change by the Commission in a subsequent proceeding. The tariff reflecting the change in majority organizational control should be approved and effective for services rendered or connections made on or after the stamped approval date on the tariff sheets. (JOHNSON)

**STAFF ANALYSIS:** The utility's current rates and charges were approved effective October 23, 2000, as established by Order No. PSC-00-1957-CO-WU, in Docket No. 991627-WU, which granted the utility a rate increase.

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

In 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)...

The Buyer has not requested a change in the rates and charges of the utility and staff sees no reason to change them at this time. Accordingly, staff recommends that the utility continue operations under the existing tariff and apply the approved rates and charges until authorized to change... The utility has filed a revised tariff reflecting the change in issuing officer due to the transfer of majority organizational control. The tariff reflecting the change in majority organizational control should be approved and effective for services rendered or connections made on or after the stamped approval date on the tariff sheets.

DOCKET NO. 001388-WU  
DATE: DECEMBER 7, 2000

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed. (CROSBY)

STAFF ANALYSIS: No further action is required in this docket.  
Therefore, staff recommends that this docket be closed.