

State of Florida



Public Service Commission  
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSIONER  
CLERK

DATE: NOVEMBER 07, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK  
ADMINISTRATIVE SERVICES (BAYÓ)

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

RE: DOCKET NO. 001551-WS - APPLICATION FOR TRANSFER OF  
CERTIFICATE NOS. 544-W AND 474-S IN HIGHLANDS COUNTY FROM  
HIGHLANDS RIDGE ASSOCIATES, INC. TO HIGHLANDS RIDGE  
UTILITIES, LLC.  
COUNTY: HIGHLANDS

AGENDA: NOVEMBER 19, 2001 - REGULAR AGENDA - INTERESTED PERSONS  
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\001551.RCM

CASE BACKGROUND

Highlands Ridge Associates, Inc. (HRA, utility, or seller) is a Class "C" water and wastewater utility that provides services to 394 water and 378 wastewater customers in Highlands County. According to the transfer application filed in this docket, HRA has been providing service since October 1990. The utility is located in both the Highlands Ridge Water Use Caution Area and the Southern Water Use Caution Area in the Southwest Florida Water Management District (District).

By Order No. PSC-92-0954-FOF-WS, issued September 9, 1992, in Docket No. 920306-WS, the utility was granted Certificates Nos. 544-W and 474-S, and initial rates and charges were approved. The utility serves a development that consists of site-built

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manufactured homes, single-family detached homes, several golf courses, a pro shop and a clubhouse.

On October 12, 2000, Highlands Ridge Utilities, LLC, (HRU or buyer) and HRA filed a joint application for approval of the transfer of Certificates Nos. 544-W and 474-S currently held by HRA to HRU. By Order No. PSC-01-1917-PAA-WS, issued September 24, 2001, in this docket, the Commission approved the transfer of Certificates Nos. 544-W and 474-S, and declined to include an acquisition adjustment in the calculation of rate base. The Commission also required HRU to provide proof that it owns or has continued use of the land upon which the utility's facilities are located by October 29, 2001. The Order was consummated by Order No. PSC-01-2089-CO-WS, issued October 19, 2001.

On October 24, 2001, HRU filed a Motion for Extension of Time to file the requisite proof of ownership. The following is staff's recommendation regarding HRU's Motion. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should HRU's request for an extension of time to file proof of ownership of the land upon which the utility's facilities are located be granted?

**RECOMMENDATION:** Yes, HRU's request for an extension of time to file proof of ownership of the land upon which the utility's facilities are located should be granted. HRU should be required to file proof that it owns or has continued use of the land within 30 days of closing of the transfer. (CROSBY, JOHNSON)

**STAFF ANALYSIS:** As discussed in the case background, a joint application for approval of the transfer of Certificates Nos. 544-W and 474-S from HRA to HRU was filed on October 12, 2000. The application stated that a warranty deed transferring the land upon which the plant facilities are located would be executed by HRA at the closing and a copy would be provided to the Commission. The transfer of the utility and the land was scheduled to take place 30 days after Commission approval of the transfer application.

By Order No. PSC-01-1917-PAA-WS, issued September 24, 2001, in this docket, the Commission approved the transfer of Certificates Nos. 544-W and 474-S from HRA to HRU. The Commission also required HRU to provide proof that it owns or has continued use of the land upon which the utility's facilities are located by October 29, 2001.

On October 24, 2001, HRU filed a Motion for Extension of Time to file proof of ownership of the land upon which the utility's facilities are located. In support of the Motion, HRU states that, pursuant to HRA and HRU's agreement, the closing of the purchase was scheduled to occur 30 days after this Commission's approval of the transfer. Because the Consummating Order, Order No. PSC-01-2089-CO-WS, was issued on October 19, 2001, closing would have been scheduled to occur on November 19, 2001. According to HRU, Order No. PSC-01-1917-PAA-WS, in effect, required the utility to file proof of ownership of the land prior to the closing. Pursuant to the Motion, the parties have agreed to delay the closing until December 31, 2001. HRU has requested that it be given until 30 days after closing in which to file proof of ownership.

Staff does not agree with the utility's argument that Order No. PSC-01-1917-PAA-WS required proof of ownership prior to the

closing. The Order stated that the transfer was scheduled to occur 30 days after the Commission approved the application. The application was approved at the September 4, 2001 agenda conference. Therefore, based on the utility's representations, the closing should have occurred on or about October 4, 2001. The Order allowed the utility until October 29, 2001 to file the requisite documentation.

In spite of this misunderstanding by the utility, staff agrees that it is necessary to change the date that the warranty deed is submitted, because the closing has not occurred. According to HRU's Motion, the parties have agreed to delay the closing until December 21, 2001. HRU has requested an extension of time until 30 days after the closing in which to file proof of ownership of the land upon which the utility's facilities are located.

Based upon staff's review of the Motion, the utility's request for an extension of time is reasonable. The only parties to this docket are HRA and HRU. Because both parties have agreed to the delay, staff recommends that HRU be given an extension of time until 30 days after closing in which to file proof of ownership of the land upon which the utility's facilities are located.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. The docket should remain open pending receipt of proof that HRU owns the land upon which the utility's facilities are located or that the utility has continued use of the land. Upon receipt and verification of such proof, the docket should be administratively closed. (CROSBY)

**STAFF ANALYSIS:** The docket should remain open pending receipt of proof that HRU owns the land upon which the utility's facilities are located or that the utility has continued use of the land. Upon receipt and verification of such proof, the docket should be administratively closed.