

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: September 23, 2004

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

FROM: Division of Economic Regulation (Clapp, Rieger, Romig)
Office of the General Counsel (Brown) MCB, Naut

RE: Docket No. 040276-WU – Application for transfer of majority organizational control of Brendenwood Water System, Inc., holder of Certificate No. 339-W in Lake County, from Paul E. Day to Deborah J. Miller.
County: Lake

AGENDA: 10/05/04 – Regular Agenda – Proposed Agency Action for Issue 2 – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040276.RCM.DOC

Case Background

Brendenwood Water System, Inc. (Brendenwood or utility) is a Class C utility providing water service to approximately 58 customers in Lake County. The water customers are on septic tanks. Brendenwood is located in the St. Johns River Water Management District (SJRWMD). Water use restrictions have been imposed district wide to encourage conservation. The utility is currently in the process of renewing its consumptive use permit with the SJRWMD. Pursuant to Order No. 10184, issued August 5, 1981, in Docket No. 810079-W, In re: Application of Brendenwood Water System for a Certificate to operate a water utility in Lake County, Florida, pursuant to Section 367.041, Florida Statutes, Brendenwood was granted Certificate No. 339-W for its water system. The certificate was amended to add additional territory pursuant to Order No. 22398, issued January 10, 1990, in Docket No. 891122-WU, In re: Application of Brendenwood Water System for amendment of Certificate No. 339-W in Lake County. The utility's 2003 annual report shows gross revenue of \$21,389 and a net operating loss of \$4,088.

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The utility's water treatment plant is composed of a six inch well with a pumping capacity of 160 gallons per minute. Liquid chlorination is used as the primary form of treatment. The average daily flow for the calendar year 2003, was approximately 26,000 gallons per day.

On March 30, 2004, an application for transfer of majority organizational control of Brendenwood was filed on behalf of Deborah J. Miller, daughter of the owner of record, Paul E. Day. According to the application, Mr. Day is in ill health and unable to continue to operate the utility. On March 1, 2004, the utility stock was transferred to Ms. Miller.

The Commission has jurisdiction to consider this matter pursuant to Section 367.071, Florida Statutes.

Discussion of Issues

Issue 1: Should the transfer of majority organizational control of Brendenwood Water System, Inc., holder of water Certificate No. 339-W, from Paul E. Day to Deborah J. Miller be approved?

Recommendation: Yes, the transfer of majority organizational control of Brendenwood Water System, Inc., holder of water Certificate No. 339-W, from Paul E. Day to Deborah J. Miller is in the public interest and should be approved. A description of the territory being transferred is appended to this recommendation as Attachment A. (Clapp, Rieger, Romig)

Staff Analysis: Pursuant to Section 367.071, Florida Statutes, on March 30, 2004, Deborah J. Miller applied for a transfer of majority organizational control of Brendenwood. As stated in the case background, Mr. Day is in ill health and unable to conduct the day to day business of running a utility. The actual transfer of stock occurred on March 1, 2004, contingent on Commission approval.

The application is in compliance with the governing statute, Section 367.071, Florida Statutes, pertaining to an application for transfer of majority organizational control. A description of the territory being transferred is appended to this recommendation as Attachment A. Notice of the application was given as required by Rule 25-30.030, Florida Administrative Code, and no objections were received.

Two of the seller's daughters, Deborah J. Miller and Kristee Mollerup, have been involved in various parts of the utility's management and operation for several years. Ms. Miller was involved in the development of the Brendenwood Subdivision. One of her early responsibilities was to maintain the water system. In early 2002, she took over the responsibility of the plant. The utility will continue to contract with the same licensed plant operator and maintenance/repair company. Ms. Mollerup has handled the reporting and bookkeeping of Brendenwood for several years. Staff has confirmed with the Florida Department of Environmental Protection that the utility is in compliance with all environmental standards.

When it became apparent that Mr. Day would no longer be able to own and operate the utility, the daughters helped with trying to identify possible buyers for the system. They contacted ten companies which were identified as possible buyers. None of them expressed interest. The City of Eustis (the City) was also contacted concerning the system. The City, after having a firm evaluate the system, decided that the system would have no or little value to them. The daughters agreed that they would retain the system and Ms. Miller would acquire the stock.

Staff verified that the utility has filed its Annual Reports for 2003 and prior years, in accordance with Rule 25-30.110, Florida Administrative Code. Further, no penalties are outstanding for delinquent reports. Staff also verified that the utility has paid its Regulatory Assessment Fees for 2003 and prior years, in accordance with Rule 25-30.120, Florida Administrative Code, and no penalties or interest are outstanding for delinquent payments.

Based on all of the above, staff recommends that the buyer has demonstrated the financial and technical ability to operate the utility. Therefore, staff recommends the transfer of majority organizational control of Brendenwood Water System, Inc., holder of water Certificate No.

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339-W, from Paul E. Day to Deborah J. Miller is in the public interest and should be approved. A description of the territory being transferred is appended to this recommendation as Attachment A.

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Issue 2: What is the rate base of Brendenwood at the time of transfer?

Recommendation: The rate base, which for transfer purposes reflects the net book value at the time of transfer, is \$7,191 for the Brendenwood water system as of March 1, 2004. (Clapp, Brown)

Staff Analysis: Rate base was last set for the utility, pursuant to Order No. PSC-00-0807-PAA-WU, issued April 25, 2000, in Docket No. 991290-WU, In Re: Application for staff-assisted rate case in Lake County by Brendenwood Water System., at \$7,430 as of June 30, 1999. According to the utility, the rate base for the water system as of March 1, 2004, is \$7,261.

The staff audit contained only one audit exception regarding the utility's failure to update accumulated depreciation and amortization of contributions in aid of construction (CIAC) from December 31, 2003 to March 1, 2004. The recommended adjustments are shown on Schedule Nos. 1 and 2. The recommended utility plant in service account balances and accumulated depreciation balances as of March 1, 2004 are shown on Schedule No. 3.

Since the last rate case, the .35 acre lot on which the treatment plant is located was deeded to the utility. The lot, which was previously leased, was recorded at the original cost when first dedicated to public service in 1980.

Staff recommends that, as of March 1, 2004, rate base for the Brendenwood water system is \$7,191. Rate base is set to establish the net book value of the property being transferred and does not include ratemaking adjustments for working capital and used and useful.

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Issue 3: Should the rates and charges approved for this utility be continued?

Recommendation: Yes, the buyer should continue charging the rates and charges approved for Brendenwood until authorized to change by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective for services provided or connections made on or after the stamped approval date on the tariff sheets. (Clapp)

Staff Analysis: The current rates for water service were approved by the Commission in an administrative price index proceeding effective June 21, 2004. The late payment charge was approved pursuant to Order No. PSC-98-0172-FOF-WU, issued January 28, 1998, in Docket No. 971465-WU, In re: Request for approval to establish a late payment charge for Brendenwood Water System in Lake County. Other rates and service availability charges were approved pursuant to Order No. PSC-00-0807-PAA-WU. The utility's approved rates and charges are as indicated on Schedule 4.

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).

Brendenwood has not requested a change in the rates and charges of the utility. Accordingly, staff recommends that, pursuant to Rule 25-9.044(1), Florida Administrative Code, the utility should continue charging the rates and charges approved for Brendenwood until authorized to change by the Commission in a subsequent proceeding. The utility has filed a revised tariff which should be effective for services rendered or connections made on or after the stamped approval date.

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Issue 4: Should this docket be closed?

Recommendation: Yes. If no timely protest by a substantially affected person is received to the proposed agency action issue, a Consummating Order should be issued upon the expiration of the protest period and the docket should be closed. (Brown)

Staff Analysis: If no timely protest by a substantially affected person is received to the proposed agency action issue, a Consummating Order should be issued upon the expiration of the protest period and the docket should be closed.

BRENDENWOOD WATER SYSTEM, INC.
LAKE COUNTY

Service Territory Description
(Original Territory, Jeremy Estates and Grand Island Post Office)

Township 18 South, Range 26 East
In Section 32

Original Territory

The North 660 feet of the East 924 feet of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East, Lake County, Florida. Also described as: Begin at the Northeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East, Lake County, Florida, run thence S 89°53'07" W along the North line of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East a distance of 924.00 feet, thence S 00°36'29" E parallel to the East line of said Northwest 1/4 of the Southeast 1/4 of Section 32 a distance of 660.00 feet, thence N 89°53'07" E parallel to the aforesaid North line of the Northwest 1/4 of the Southeast 1/4 of Section 32 a distance of 924.00 feet, thence N 00°36'29" W 660.00 feet to the point of beginning.

And

Township 18 South, Range 26 East
In Section 32

Jeremy Estates

From the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East, Lake County, Florida, run N 00°35'29" W along the East line of said Northwest 1/4 of the Southeast 1/4 a distance of 369.20 feet, thence S 89°58'23" W, 25.00 feet to a point on the westerly right-of-way line of Fish Camp Road and the Point of Beginning of this description; from said Point of Beginning, run S 89°58'23" W, 508.92 feet; thence N 00°37'31" W, 297.73 feet; thence N 89°53'07" E, 509.40 feet to a point on the westerly right-of-way line of Fish Camp Road; thence S 00°05'29" E along said westerly right-of-way line, 298.51 feet to the Point of Beginning.

Grand Island Post Office

The East 275 feet of the Southwest 1/4 of the Northeast 1/4 all lying South of Highway No. 44 and West of Fish Camp Road.

BRENDENWOOD WATER SYSTEM, INC. SCHEDULE OF WATER RATE BASE AS OF MARCH 1, 2004				SCHEDULE NO. 1
<u>DESCRIPTION</u>	<u>BALANCE PER UTILITY</u>	<u>STAFF'S ADJUSTMENTS</u>		<u>BALANCE PER STAFF</u>
Utility Plant in Service	\$9,222	0		\$9,222
Land	1,100	0		1,100
Accumulated Depreciation	(2,293)	(77)	A	(2,370)
Contributions in Aid of Construction (CIAC)	(1,577)	0		(1,577)
Amortization of CIAC	<u>809</u>	<u>7</u>	B	<u>816</u>
WATER RATE BASE	<u>\$ 7,261</u>	<u>(\$70)</u>		<u>\$7,191</u>

BRENDENWOOD WATER SYSTEM, INC. SCHEDULE OF WATER RATE BASE ADJUSTMENTS			SCHEDULE NO. 2
<u>EXPLANATION</u>		<u>STAFF RECOMMENDED ADJUSTMENT</u>	
A Accumulated Depreciation To increase depreciation for December 31, 2003, through March 1, 2004		(\$77)	
B Accumulated Amortization of CIAC To increase amortization for December 31, 2003, through March 1, 2004		7	
Total Adjustments		<u>(\$70)</u>	

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ACCT NO.		ACCUMULATED	
		BALANCE	BALANCE
304	Structures and Improvements	\$ 1,431	\$ 312
311	Pumping Equipment	5,652	1,057
320	Water Treatment Plant	2,139	1,787
340	Office Furniture and Equipment	0	(665)
345	Power Operated Equipment	<u>0</u>	<u>(120)</u>
Total Water Plant		<u>\$ 9,222</u>	<u>\$2,370</u>

BRENDENWOOD WATER SYSTEM, INC. SCHEDULE OF WATER RATES Water Monthly Service Rates Residential and General Service		SCHEDULE NO. 4
Meter Sizes:	Base Facility Charge	
5/8" x 3/4"	\$ 10.42	
3/4"	15.62	
1"*	26.04	
1 1/2"	52.07	
2"	83.32	
3"	166.61	
4"	260.35	
6"	520.70	
General Service Charge Per 1,000 gallons	\$ 1.74	
Residential Service Charge Per 1,000 Gallons		
0-10,000 Gallons	\$1.48	
Over 10,000 Gallons	\$2.11	

*The existing residential customers having a 1" meter shall be charged the same rate as the 5/8" x 3/4" until the 1" meter is replace, then the appropriate rate should be charged based on meter size.

Miscellaneous Service Charges	
Description	Charges
Initial Connection	\$15.00
Normal Reconnection	15.00
Violation Reconnection	15.00
Premises Visit (In lieu of disconnection)	10.00
Late Payment Charge	3.00

Service Availability Charges
This utility does not have an approved service availability policy or fees and charges.