

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:** April 12, 2007

**TO:** Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Johnson, Kaproth)  
Office of the General Counsel (Jaeger)

**RE:** Docket No. 060636-SU – Application for transfer of majority organizational control of Colony Park Utilities, Inc., holder of Certificate No. 137-S in Brevard County from Eileen Rogow to Michael Abramowitz.

**AGENDA:** 04/24/07 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** McMurrian

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\060636.RCM.DOC

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**Case Background**

Colony Park Utilities, Inc. (CPU or utility) is a Class C utility providing wastewater service in Brevard County to approximately 300 customers in Colony Park Mobile Home Park Community (Colony Park). Colony Park Mobile Home Village (Village) is a rental community within Colony Park. Water service and CPU's wastewater billings are provided by the City of Cocoa. The utility is located in the St. Johns River Water Management District, all of which is considered a water use caution area. The utility's 2005 annual report indicates gross revenues of \$44,121 with a net loss of \$3,320. The utility was granted Certificate No. 137-S by Order No.

6365, issued December 2, 1974.<sup>1</sup> The certificate was transferred pursuant to Order No. 7296, issued June 28, 1976, in Docket No. 750664-S and again in Docket No. 020930-SU, in Order No. PSC-03-0320-FOF-SU, issued March 6, 2003.<sup>2</sup> The utility has had one staff assisted rate case.<sup>3</sup>

On February 19, 2005, Mrs. Eileen G. Rogow (seller) entered into contracts of sale and purchase for all of the common stock in Colony Park Utilities, Inc. and Colony Park Mobile Home Village, Inc. to Michael Abramowitz (buyer). The actual closing of the contracts took place on June 29, 2005, contingent upon Commission approval. The utility filed an application for transfer of majority organizational control (transfer) on September 19, 2006.

The purpose of this recommendation is to address Colony Park's request for a transfer of majority organizational control. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes.

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<sup>1</sup> Order No. 6365, issued December 2, 1974, in Docket No. 73391-S, In Re: Application of Mobile Home Investors, Inc., for a certificate to operate an existing sewer utility in Brevard County, Florida

<sup>2</sup> Order No. 7296, issued June 28, 1976, in Docket No. 750664-S, Application of Mobile Home Investors, Inc., and Colony Park Utilities, Inc., for approval of the transfer of assets and Certificate No. 137-S from the former to the latter and Order No. PSC-03-0320-FOF-SU, issued March 6, 2003, in Docket No. 020930-SU, In Re: Application for transfer of majority organizational control of Colony Park Utilities, Inc. holder of Certificate No. 137-S in Brevard County, from Robert Warren, Lenore Warren, William Warren, and Carol Kendall to Eileen Rogow, Arthur Rogow, and Philip Young.

<sup>3</sup> Order No. PSC-96-1083-FOF-SU, issued August 22, 1996, in Docket No. 951591-SU, In Re: Application for a Staff-Assisted Rate Case in Brevard County by Colony Park Utilities, Inc.

### **Discussion of Issues**

**Issue 1:** Should the transfer of majority organizational control of Colony Park Utilities, Inc. from Eileen G. Rogow to Michael Abramowitz be approved?

**Recommendation:** Yes. The transfer of majority organizational control of Colony Park Utilities, Inc. from Mrs. Eileen G. Rogow to Mr. Michael Abramowitz is in the public interest and should be approved effective the date of the Commission's vote. The subsequent order will serve as the utility's wastewater certificate and should be retained by the utility. Pursuant to Rule 25-9.044(1), Florida Administrative Code, the rates and charges approved for Colony Park should be continued until authorized to change by the Commission in a subsequent proceeding. The buyer is responsible for all regulatory assessment fees and annual reports for 2007 and into the future. In addition, the buyer should be required to update the 2006 annual report and RAFs to reflect actual data by July 2, 2007. A description of the territory being transferred is appended to this recommendation as Attachment A. (Johnson, Kaproth, Jaeger)

**Staff Analysis:** On September 19, 2006, an application was filed for approval of the transfer of majority organizational control of Colony Park Utilities, Inc. The application was completed on February 8, 2007, and it is in compliance with the governing statute, Section 367.071, Florida Statutes, and the requirements of Rule 25-30.037, Florida Administrative Code, pertaining to an application for transfer of majority organizational control. A description of the territory is appended to this memorandum as Attachment A. As stated in the case background, the agreement was executed on February 19, 2005. The purchase was a package deal for both the utility and mobile home park. The closing occurred on June 29, 2005.

The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the application were received, and the time for the filing of such objections has expired.

The application contained a statement that, after reasonable investigation, the utility system appears to be in satisfactory condition and in compliance with all applicable standards set by the Florida Department of Environmental Protection (DEP). Staff has confirmed with the DEP that the utility's wastewater system is currently in environmental compliance with respect to DEP standards.

The application contains a statement describing how the transfer is in the public interest, including a summary of the buyer's experience in wastewater operations and a showing of the buyer's financial ability. Mr. Michael Abramowitz and his partner provided personal financial statements as evidence of their financial ability to operate and maintain the utility. The buyers stated that they have no personal experience in operating a utility; however, the utility's operations personnel have agreed to continue under the new ownership. The buyers have been operating the utility for the past eighteen months with no problems or complaints from the customers. In addition, the buyers provided a statement that they will fulfill all of the utility's commitments, obligations, and representations with regard to utility matters. Proof of ownership of the land upon which the facilities are located in the form of a recorded warranty deed was provided.

Staff has verified that the utility is current on annual reports and regulatory assessment fees (RAFs) through 2005. Because the relationship between the parties has deteriorated, the seller paid the 2006 RAFs based on estimated revenues and was granted an extension to file the 2006 annual report by April 30, 2007. Since the 2006 RAFs and annual report were based on estimated data, staff recommends that the buyers be required to update the 2006 annual report and RAF payment to reflect the actual 2006 data by July 2, 2007.

Colony Park's rates and charges were established pursuant to Order No. PSC-96-1083-FOF-SU. Rule 25-9.044(1), Florida Administrative Code, provides that in the case of change of ownership or control of a utility, the rates, classification, and regulations of the former owner must continue unless authorized to change by the Commission. The buyer has not requested a change; therefore, the existing rates and charges should be continued until authorized to change by the Commission in a subsequent proceeding. The existing rates and charges are listed in Attachment B.

Based on all of the above, staff recommends the transfer of majority organizational control of Colony Park from Mrs. Eileen G. Rogow to Mr. Michael Abramowitz is in the public interest and should be approved effective the date of the Commission's vote. The subsequent order will serve as the utility's wastewater certificate and should be retained by the utility. Pursuant to Rule 25-9.044(1), Florida Administrative Code, the rates and charges approved for Colony Park should be continued until authorized to change by the Commission in a subsequent proceeding. The buyer is responsible for all regulatory assessment fees and annual reports for 2007 and into the future. In addition, the buyer should be required to update the 2006 annual report and RAFs to reflect actual data by July 2, 2007. A description of the territory being transferred is appended to this recommendation as Attachment A.

Docket No. 060636-SU

Date: April 12, 2007

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

**Recommendation:** No, this docket should remain open until the updated 2006 annual report and RAFs are filed. The docket should be closed administratively upon receipt of the updated annual report and RAFs. (Jaeger)

**Staff Analysis:** This docket should remain open until the updated 2006 annual report and RAFs are filed. The docket should be closed administratively upon receipt of the updated annual report and RAFs.

**COLONY PARK UTILITIES, INC.  
WASTEWATER TERRITORY  
BREVARD COUNTY**

Order No. 6365

In Township 23 South, Range 36 East, Brevard County, Florida

Section 15

Commence at the Southeast corner of said Section 15 for a Point of Beginning. Thence run North 0°39'04" West along the East line of said Section 15, 1236.97 feet; thence North 89°35'04" West, 477.46 feet; thence South 00°38'31" West, 25.00 feet; thence South 68°21'32" West, 84.30 feet; thence South 76°38'12" West, 83.63 feet; thence South 89°20'56" West, 234.00 feet; thence South 00°39'04" East, 150.00 feet; thence North 89°20'56" East, 5.00 feet; thence South 00°39'04" West, 489.79 feet; thence South 87°45'45" West, 358.30 feet; thence South 2°14'15" East, 150 feet to a point on the South boundary of St. Charles Avenue; thence Westerly 30 feet, more or less; thence South 2°14'15" East, 400 feet, more or less, to a point on the South boundary of said Section 15, thence North 87°45'45" East along the South boundary of said Section 15, 1250 feet, more or less, to the Point of Beginning.

Section 14

Commence at the Southwest corner of said Section 14; thence run North 0°39'04" West along the West boundary of Section 14, 320 feet, more or less, to the Point of Beginning which is also the Southwest corner of the aforesaid parcel; thence North 0°39'04" West along the West line of said parcel, a distance of 947.98 feet; thence North 87°05'16" East, a distance of 710.58 feet; thence North 0°48'54" West, a distance of 10 feet to the North line of said parcel; thence North 89°11'06" East along the North line of said parcel, a distance of 569.57 feet; thence South 2°00'25" East, a distance of 985.11 feet to a point on the South line of said parcel; thence South 89°13'32" West along the South line of said parcel, a distance of 1302.88 feet to the Point of Beginning.

**FLORIDA PUBLIC SERVICE COMMISSION**

Authorizes

**Colony Park Utilities, Inc.**  
pursuant to  
**Certificate Number 137-S**

to provide wastewater service in Brevard County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

Order Number	Date Issued	Docket Number	Filing Type
6365	12/02/74	73391-S	Original Certificate
7296	06/28/76	750664-S	Transfer
PSC-03-0320-FOF-SU	03/06/03	020930-SU	Transfer of Majority Organizational Control
*		060636-SU	Transfer of Majority Organizational Control

**\*Order Numbers and dates to be provided at time of issuance.**

**WASTEWATER**  
**Residential and General Service**  
**Monthly Service Rates**

Meter Size	Base Facility Charge
5/8" x 3/4"	\$ 6.14
1"	\$ 15.36
1-1/2"	\$ 30.71
2"	\$ 49.14
3"	\$ 98.26
4"	\$154.53
6"	\$309.07
Residential charge per 1,000 gallons	\$ 1.80*
General Service charge per 1,000 gallons	\$ 2.16
*10,000 gallon maximum	

**Multi-Residential Service**  
**Colony Park Mobile Home Park**

All Meter Sizes	Base Facility Charge \$921.22
Charge per 1,000 Gallons	\$ 1.80**
**1,500,000 gallon Maximum	