

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:** September 21, 2023

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Engineering (M. Watts, Ramos) *TB*  
Division of Accounting and Finance (Sewards, Thurmond) *ALM*  
Division of Economics (Bruce, Hudson) *EJD*  
Office of the General Counsel (J. Crawford, Thompson) *JSC*

**RE:** Docket No. 20220064-WS – Application for transfer of water and wastewater facilities of Tymber Creek Utilities, Inc., water Certificate No. 303-W, and wastewater Certificate No. 252-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County.

**AGENDA:** 10/03/23 – Regular Agenda – Motion to Dismiss on Issue 1, Oral Argument Not Requested, Participation is at the Commission’s Discretion – Proposed Agency Action for Issues 3, 4 and 5 - Interested Persons May Participate (Issues 2-6)

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Clark

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

Tymber Creek Utilities, Inc. (Tymber Creek, Utility or Seller) is a Class B utility serving approximately 423 water and wastewater customers in Volusia County. The Utility is located in the St. Johns River Water Management District (SJRWMD), which has permanent water restriction rules in place. Tymber Creek purchases bulk water from the City of Ormond Beach. According to the Utility’s 2022 Annual Report, combined operating revenues were \$500,625 with a total net operating income of \$34,160.

Tymer Creek was granted Certificate Nos. 303-W and 252-S in 1978.<sup>1</sup> The Utility was granted a name change in 2005,<sup>2</sup> and a transfer of majority organizational control and amendment in 2012.<sup>3</sup>

On March 15, 2022, CSWR-Florida Utility Operating Company, LLC (CSWR-Tymer Creek or Buyer) filed an application with the Commission for the transfer of Certificate Nos. 303-W and 252-S from Tymer Creek to CSWR-Tymer Creek in Volusia County. The sale will close after the Commission has voted to approve the transfer. In its application, the Buyer has requested a positive acquisition adjustment, which is discussed in Issue 4.

Intervention by the Office of Public Counsel (OPC) was acknowledged on March 24, 2022. OPC and staff have issued a number of discovery or data requests to CSWR-Tymer Creek in this docket.

CSWR-Tymer Creek provided notice of the application to its customers and twenty-five customers filed objections to the transfer. The customers stated that Tymer Creek failed to repair a road in the subdivision after repairing a leak and that the Utility had not confirmed compliance with a prior settlement agreement. Two customers requested a formal administrative hearing to resolve the issues raised by the objections. In response, CSWR filed a motion to dismiss the objections for being untimely and for being unrelated to the issues addressed in a transfer application proceeding. The customer objections, Motion to Dismiss, and staff's recommendation regarding this matter are further discussed in Issue 1.

On June 1, 2023, staff filed its recommendation for the instant docket. Subsequent to the filing of staff's recommendation, additional information was provided to staff regarding the Utility's warranty deeds on behalf of the Tymer Creek Homeowner's Association.<sup>4</sup> Staff withdrew its recommendation on June 12, 2023, to review this information and also facilitated an informal meeting on September 5, 2023, with the parties. Based on staff's review of the information and discussions with the parties, staff has not changed its ultimate recommendation.

This recommendation addresses the motion to dismiss, the transfer of the water and wastewater systems and Certificate Nos. 303-W and 252-S, the appropriate net book value of the water and wastewater systems for transfer purposes, the request for an acquisition adjustment, and the revision of miscellaneous service charges. The Commission has jurisdiction pursuant to Sections 367.071 and 367.081, Florida Statutes (F.S.).

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<sup>1</sup> Order No. 8242, issued April 6, 1978, in Docket Nos. 19770324-W and 19770325-S, *In re: Application of Tymer Creek Utilities for certificates to operate a water and sewer utility in Volusia County, Florida. Section 367.041, Florida Statutes.*

<sup>2</sup> Order No. PSC-05-0188-FOF-WS, issued February 18, 2005, in Docket No. 20041339-WS, *In re: Application for name change on Certificates Nos. 303-W and 252-S in Volusia County from Tymer Creek Utilities to Tymer Creek Utilities, Incorporated.*

<sup>3</sup> Order No. PSC-12-0571-FOF-WS, issued October 24, 2012, in Docket Nos. 20110317-WS, *In re: Application for transfer of majority organizational control of Tymer Creek Utilities, Incorporated, holder of Certificate Nos. 303-W and 252-S in Volusia County, from Joseph Stanley and Steve P. Shirah to Joseph Stanley Shirah; and 20120191-WS, In re: Application for amendment of Certificate Nos. 303-W and 252-S to add territory in Volusia County by Tymer Creek Utilities, Incorporated.*

<sup>4</sup> Document Nos. 03569-2023, dated June 12, 2023; 03667-2023, dated June 16, 2023; and 03748-2023, dated June 22, 2023.

## Discussion of Issues

**Issue 1:** Should the Commission grant CSWR-Tymber Creek’s motion to dismiss the objections?

**Recommendation:** Yes. The objections to the application for transfer of water and wastewater facilities from Tymber Creek to CSWR-Tymber Creek fail to raise any issue relevant to the application. Consequently, staff recommends the Commission grant the Utility’s motion to dismiss and allow the transfer application to proceed. (Thompson)

**Staff Analysis:** Between August 17, 2022, and August 30, 2022, approximately 25 residents of the Tymber Creek subdivision, plus the Tymber Creek Homeowners’ Association (TCHOA), sent letters to the Commission, which were subsequently placed in the docket file as correspondence, objecting to the proposed certificates transfer. Specifically, Scott Buckwald filed an objection on August 17, 2022, and Anna Hannon filed an objection on August 22, 2022. The customers’ objections were based on two issues: (1) the customers believed that a repair done to a road owned by TCHOA was inadequate; and (2) the customers wanted confirmation of compliance with a 2012 Florida Department of Environmental Protection (DEP) settlement agreement between Tymber Creek and TCHOA (2012 Agreement).

It was unclear whether the letters were intending to request an administrative hearing on CSWR-Tymber Creek’s application or merely wishing to register their disapproval of the application. On November 29, 2022, legal staff sent letters to the Tymber Creek residents and TCHOA who had filed objection letters. These letters, which were posted to the docket file on December 15, 2022, asked the customers “whether you wish to merely state for the record your objection to the transfer, or whether you are requesting that an administrative hearing be held with regard to your objection.” The staff letter gave each customer and TCHOA until December 21, 2022, to respond “regarding your intention with respect to your letter of objection.” Two residents confirmed that they were requesting an administrative hearing: Mr. Buckwald on December 14, 2022, and Ms. Hannon on December 15, 2022.

On March 20, 2023, CSWR-Tymber Creek filed a motion to dismiss the objections from these two customers. In its motion to dismiss, CSWR-Tymber Creek relies on Section 367.045, F.S., to argue that the customers failed to properly raise an objection to the transfer of Certificate Nos. 303-W and 252-S in a timely manner.<sup>5</sup> CSWR-Tymber Creek further argues that even if the customers had properly objected to the transfer in a timely fashion, they failed to raise issues that are relevant to the proceedings in this docket. No request for oral argument was filed by CSWR-Tymber Creek. No response to CSWR-Tymber Creek’s motion to dismiss was filed by the objecting customers and the time for doing so has expired.

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<sup>5</sup> Section 367.045(4), F.S., provides that “If, within 30 days after the last day that notice was mailed or published by the applicant, whichever is later, the commission receives from the Public Counsel, a governmental authority, or a utility or consumer who would be substantially affected by the requested certification or amendment a written objection requesting a proceeding pursuant to ss. 120.569 and 120.57, the commission shall order such proceeding conducted in or near the area for which application is made, if feasible.”

## **Legal Standard**

To sustain a motion to dismiss, the moving party must show that, accepting all allegations as true, the petition fails to state a cause of action for which relief may be granted.<sup>6</sup> The moving party must specify the grounds for the motion to dismiss, and all material allegations must be construed against the moving party in determining if the petitioner has stated the necessary allegations. A sufficiency determination is confined to the petition and documents incorporated therein and the grounds asserted in the motion to dismiss.<sup>7</sup> All allegations in the petition must be viewed as true and in the light most favorable to the petitioner in order to determine whether there is a cause of action upon which relief may be granted.<sup>8</sup>

## **CSWR-Tymer Creek's Motion to Dismiss**

This case involves the proposed transfer of water and wastewater certificates from Tymer Creek to CSWR-Tymer Creek. Therefore, the questions before the Commission are essentially whether CSWR-Tymer Creek has the financial and technical ability to operate the utility and whether the proposed transfer is in the public interest. Relying on this standard, CSWR-Tymer Creek's motion to dismiss challenges both the timeliness of the customers' objections and the sufficiency of the facts the customers allege to demonstrate that they have standing to object to the transfer.

The customers' written objections relate to two issues: an incomplete road repair and a 2012 settlement agreement between Tymer Creek, TCHOA, and DEP. The objectors argue that Tymer Creek should not be allowed to sell the Utility without properly repairing the roadway and without ensuring compliance with the DEP settlement agreement.

### ***Timeliness of Objections***

CSWR-Tymer Creek alleges that the objections of Mr. Buckwald and Ms. Hannon both fail to meet the pleading requirements for a formal hearing because they failed to properly request a formal proceeding pursuant to Sections 120.569 and 120.57, F.S., within 30 days of notice. CSWR-Tymer Creek alleges that the written objections that were filed were not compliant with Rule 28-106.201(1), Florida Administrative Code (F.A.C.). The rule contains a number of pleading requirements for initiating proceedings before administrative agencies. CSWR-Tymer Creek also contends that a strict interpretation of Section 367.045(4), F.S., provides that customers had until August 31, 2022, to file a proper written objection requesting a proceeding.

The Commission has previously held pro se litigants such as Mr. Buckwald and Ms. Hannon to a less stringent compliance standard in order to prevent delay and promote resolution of litigants' claims.<sup>9</sup> There is no dispute that Mr. Buckwald and Ms. Hannon timely filed their objections before August 31, 2022, and renewed those objections in December 2022. Moreover, Mr. Buckwald and Ms. Hannon made clear in their letters that they objected to transfer of the

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<sup>6</sup> See *Varnes v. Dawkins*, 624 So. 2d 349, 350 (Fla. 1st DCA 1993).

<sup>7</sup> *Varnes* at 350.

<sup>8</sup> See, e.g., *Ralph v. City of Daytona Beach*, 471 So. 2d 1173 (Fla. 4th DCA 2000); *Kest v. Nathanson*, 216 So. 2d 233, 235 (Fla. 4th DCA 1986); *Ocala Loan Co. v. Smith*, 155 So. 2d 711, 715 (Fla. 1st DCA 1963).

<sup>9</sup> See Order No. PSC-2020-0469-FOF-EI, issued November 23, 2020, in Docket No. 20200030-EI, *In re: Complaint by Juana L. Del Rosario against Florida Power & Light Company regarding backbilling for alleged meter tampering*.

certificates at issue in this docket. It is not unusual in certification matters for staff to take additional time to contact customers to ascertain whether they are merely asking their objection to be noted or whether they are requesting a formal administrative hearing. Staff believes that both customers materially complied with the requirements of Rule 25-30.031, F.A.C., in objecting to CSWR-Tymber Creek's transfer application, and that their objections should not be dismissed on grounds of timeliness.

### ***Relevance of the Objections to a Transfer Proceeding***

CSWR-Tymber Creek also argues that the objections of Mr. Buckwald and Ms. Hannon fail to raise any issue relevant to this transfer docket. CSWR-Tymber Creek notes that the basis of the objections are the road repair and the DEP settlement related to the water permit. With respect to the road repair, the objecting customers complained about damage done to a road owned by TCHOA as a result of a wastewater pipe failure. The customers believe Tymber Creek made an inadequate repair that continues to collapse. Separately, the customers want to confirm compliance with the 2012 Agreement that resulted from a complaint filed by TCHOA at DEP to require Tymber Creek to repair and upgrade some portions of the infrastructure over a 10-year period.

CSWR-Tymber Creek argues that these are not related to the financial or technical ability of CSWR-Tymber Creek to own and operate the system, nor are they part of the Commission's jurisdiction or authority over the service and rates of water and wastewater systems. CSWR-Tymber Creek further asserts that the Commission has no jurisdiction over any contract dispute between Tymber Creek, TCHOA, or DEP.

On this point, staff believes that the utility's motion has merit. In transfer proceedings, the Commission analyzes a utility's financial and technical ability and then makes a determination as to whether the proposed transfer would be in the public interest. For example, by Order No. PSC-95-0062-FOF-WS, issued January 11, 1995, in Docket No. 19940091-WS, *In re: Application for transfer of facilities to Lake Utilities*, the Commission dismissed objections raised by a municipality that the city would be better able to provide service because the objections raised did not dispute the utility's financial and technical ability. Similarly, the customers' objections in this docket relate to issues that would be outside of the scope of an administrative proceeding.

Standing for an administrative proceeding is defined by the two-part test established in *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So. 2d 478 (Fla. 2d DCA 1981). In *Agrico*, the court held that to demonstrate a substantial interest entitled to a formal hearing in an administrative proceeding, the petitioner must show both an injury in fact of sufficient immediacy as to warrant a hearing and that the alleged injury is of the type or nature that the proceeding is designed to protect. This is a threshold question for any request to initiate or participate in a formal administrative proceeding.

Staff believes that the customers have not alleged facts sufficient to show that they have a substantial interest in the outcome of this certificate transfer proceeding. While the customers certainly have an interest in their roadways and the water quality, those interests are not ones that will be substantially affected by the outcome of this proceeding. For that reason, the objections

have not alleged an injury in fact of sufficient immediacy to warrant a hearing and therefore have not met the first prong of the *Agrico* test.

The customers' objections likewise do not demonstrate that the alleged injury is of the type or nature that the proceeding is designed to protect. The questions before the Commission are whether CSWR-Tymber Creek is financially and technically able to own and operate the system and whether the transfer is in the public interest. The purpose of this proceeding is to ensure that the new certificate holder has the resources and commitment to the financial and operational viability of the utility and that the transfer serves the public interest. This proceeding would not result in the reparation of the road or the enforcement of the DEP settlement agreement. Consequently, the customers' objections also fail the second prong of the *Agrico* test.

The customers' objections do not challenge the financial or technical ability of CSWR-Tymber Creek to operate the water and wastewater facilities nor its ability to provide service. Instead, the customers' objections relate to a prior road repair by Tymber Creek and a DEP settlement agreement involving Tymber Creek. Neither of these matters are relevant to whether CSWR-Tymber Creek is financially and technically competent to operate the Utility, nor do they indicate that a transfer is against the public interest.

Staff's recommendation is consistent with the Commission's prior decisions. In addition to the Lake Utilities case discussed above, the Commission rejected a customer objection for failing to meet the *Agrico* standard in Order No. PSC-06-0094-FOF-WS, issued February 9, 2006, in Docket No. 20050499-WS, *In re: Application for authority to transfer majority organizational control of Utilities, Inc. from Nuon Global Solutions USA, B.V. to Hydro Star, LLC*. In that case, a customer objected to a stock transfer because his current utility was failing to meet DEP water standards. The objector argued that the utility's failure to fix the water quality standards should prevent the transfer as management would not change. The Commission held that the alleged injury was not able to be resolved by the stock transfer proceeding and consequently dismissed the objection. Staff believes this precedent is convincing.

### **Conclusion**

Even viewing all allegations in customers' objections as true and in the light most favorable to the customers, the objections fail to state a cause of action upon which relief may be granted in a hearing on CSWR-Tymber Creek's transfer application. Therefore, staff recommends that CSWR-Tymber Creek's Motion to Dismiss should be granted and the customers' objections should be dismissed.

**Issue 2:** Should the transfer of Certificate Nos. 303-W and 252-S in Volusia County from Tymber Creek Utilities, Inc. to CSWR-Florida Utility Operating Company, LLC be approved?

**Recommendation:** Yes. The transfer of the water and wastewater systems and Certificate Nos. 303-W and 252-S is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the signed contract for sale and the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates, late payment charges, service availability charges, and initial customer deposits, as shown on Schedule No. 2, should remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. Staff has verified that the Utility is current on the filing of annual reports and regulatory assessment fees (RAFs) through December 31, 2022. The Buyer should be responsible for filing the Utility's annual reports and paying RAFs for all future years. (M. Watts, Thurmond, Bruce)

**Staff Analysis:** On March 15, 2022, CSWR-Tymber Creek filed an application for the transfer of Certificate Nos. 303-W and 252-S from Tymber Creek to CSWR-Tymber Creek in Volusia County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale to CSWR-Tymber Creek will become final after Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

### **Noticing, Territory, and Land Ownership**

CSWR-Tymber Creek provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. Twenty-five customers filed objections to the transfer, two of which requested an administrative hearing. However, as discussed in Issue 1, staff recommends that CSWR-Tymber Creek's Motion to Dismiss should be granted and the customers' objections should be dismissed.

As stated in the case background, staff received information regarding certain warranty deeds filed on behalf of the TCHOA. The two warranty deeds of concern to the TCHOA were for (1) one of the Utility's percolation ponds; and (2) for the land under the wastewater treatment plant (WWTP). The TCHOA contends that the Buyer may not have purchased these assets necessary for the provision of wastewater service to the customers.

Concerning the land for the percolation pond, in a 1990 rate case, the owner of the Utility, Mr. Stanley Shirah, indicated that land he had purchased for a percolation pond would be purchased by the Utility.<sup>10</sup> However, while processing a subsequent rate case in 2010 for Tymber Creek, staff learned that Mr. Shirah had instead been leasing the land to the Utility on a month-to-month

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<sup>10</sup> Order No. 24206, issued March 7, 1991, in Docket No. 19900501-WS, *In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities.*

basis. Order No. PSC-11-0345-PAA-WS, required the Utility to provide a 99-year lease instead of the month-to-month lease, which it did.<sup>11</sup>

As for the land under the WWTP, the TCHOA represents that Mr. Shirah transferred the warranty deed from the Utility to his personal ownership in 2019. The Commission was not notified of this transfer by either the Utility or Mr. Shirah.

Mr. Shirah passed away on August 10, 2020. All of his assets, including the Utility as well as his personal assets, are part of his estate. Staff notes that both the Utility and Mr. Shirah's estate are parties to the contract for sale contained in the Buyer's application for transfer in the instant docket, and all of the assets necessary for provision of wastewater service are included.

The application contains a description of the service territory which is appended to this recommendation as Attachment A. In its response to staff's May 16, 2022, deficiency letter, CSWR-Tymber Creek provided a copy of an unrecorded warranty deed as evidence that the Buyer will have rights to long-term use of the land upon which the treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C. CSWR-Tymber Creek should submit the executed and recorded deed to the Commission within 60 days of the Order.

### **Purchase Agreement and Financing**

Pursuant to Rule 25-30.037(2)(g), (h), and (i), F.A.C., the application contains a statement regarding financing and a copy of the purchase agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no guaranteed revenue contracts, or customer advances of the Seller that must be disposed of with regard to the transfer. CSWR-Tymber Creek will review all leases and developer agreements and will assume or renegotiate those agreements on a case-by-case basis prior to closing. Any customer deposits will be refunded to customers by the Seller prior to the closing. According to the purchase and sale agreement, the total purchase price for the assets is \$1,000,000. According to the Buyer, the closing has not yet taken place and is dependent on Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

### **Facility Description and Compliance**

The Tymber Creek wastewater treatment plant (WWTP) is a 0.131 million gallon per day (MGD) annual average daily flow (AADF) permitted capacity extended aeration domestic wastewater treatment plant consisting of flow equalization, influent screening, aeration, secondary clarification, filtration, chlorination, and aerobic digestion of bio solids. Chlorinated effluent is discharged to one of four percolation ponds. The collection system consists of gravity mains served by three lift stations.

Staff reviewed the most recent DEP compliance evaluation inspection (CEI) for the WWTP. The DEP's April 14, 2021, CEI noted the following violations. First, the Discharge Monitoring Reports (DMR) contained several reporting errors. Second, the DMRs for the review period (May 31, 2020, to March 31, 2021) indicated several exceedances in the total suspended solids (TSS). Finally, an Operation and Maintenance Manual for the collection system with a Sanitary

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<sup>11</sup> Order No. PSC-11-0345-PAA-WS, issued August 16, 2011, in Docket No. 20100359-WS, *In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities, Incorporated.*



Sewer Response Plan was not available on site. The Utility did not provide a response to the DEP regarding the violations. On January 20, 2022, the DEP issued a draft Consent Order (CO) to the Utility. Within 20 days, the Utility was required to either return the signed copy or provide comments and suggested changes. Again, the Utility did not respond. As a result, on July 14, 2022, the DEP issued a Notice of Violation of Florida Statutes and DEP Rules. On July 29, 2022, having received the signed CO from the Utility, the DEP signed and executed the CO.<sup>12</sup> As of April 27, 2023, Tymber Creek has complied with the terms of the CO that have come due since its execution. In Exhibit H of the Buyer's application, CSWR-Tymber Creek provided its assessment of Tymber Creek's water distribution system, wastewater treatment plant, and wastewater collection system. The assessment concludes with a list of several improvements and repairs it recommends be made to the systems. The Buyer's suggested repairs and improvements, only some of which appear to be required by a governmental authority, are discussed further in Issue 4.

The Utility purchases water from the City of Ormond Beach. Therefore, there are no sanitary surveys or secondary water quality tests required. The only testing required in the distribution system are for disinfection byproducts and chlorine residuals. The disinfection byproducts were last tested on August 9, 2021, and were within acceptable limits. The chlorine residuals were tested in two points in the distribution system on August 14 and 19, 2021, and were within required limits.<sup>13</sup>

### **Technical and Financial Ability**

Pursuant to Rule 25-30.037(2)(l) and (m), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. As referenced in the transfer application, the Buyer will fulfill the commitments, obligations, and representation of the Seller with regards to utility matters.

CSWR-Tymber Creek's application states that it owns and operates water/wastewater systems in Missouri, Arkansas, Kentucky, Louisiana, Texas, Mississippi, Arizona, North Carolina, and Tennessee that currently serve more than 73,000 water and 117,000 wastewater customers. The Buyer plans to use qualified and licensed contractors to provide routine operation and maintenance of the systems, as well as to handle billing and customer service. The Commission

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<sup>12</sup> DEP Consent Order, OGC No. 21-1025.

<sup>13</sup> Information obtained from the DEP [Chemical Sample Data for 2021](#) spreadsheet, last modified on January 27, 2022.

has also approved CSWR-Tymer Creek's purchase of eight Florida certificated utilities in prior dockets.<sup>14</sup>

Staff reviewed the financial statements of CSWR-Tymer Creek and believes the Buyer has documented adequate resources to support the Utility's water and wastewater operations. Based on the above, the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

### **Rates and Charges**

Tymer Creek's water and wastewater rates were last approved in 2011.<sup>15</sup> Since the last rate case, the rates were subsequently amended by several price index and two pass-through rate adjustments with the most recent being in 2020. The Utility's current service availability charges were approved in 1991.<sup>16</sup> The initial customer deposits have been in effect since the Utility's certification in the late 1970s. The late payment charge was approved administratively in 2012. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a Utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by the Commission. In addition, the Utility has miscellaneous service charges, which were also approved in 1991. However, the miscellaneous service charges do not conform to Rule 25-30.460, F.A.C., and are discussed in Issue 5. Therefore, staff recommends that the Utility's existing rates, late payment charge, service availability charges, and initial customer deposits as shown on Schedule No. 2, should remain in effect, until a change is authorized by this Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C.

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<sup>14</sup> Order No. PSC-2022-0115-PAA-WS, issued March 15, 2022, in Docket No. 20210093-WS, *In re: Application for transfer of water and wastewater systems of Aquarina Utilities, Inc., water Certificate No. 517-W, and wastewater Certificate No. 450-S to CSWR-Florida Utility Operating Company, LLC, in Brevard County*; Order No. PSC-2022-0120-PAA-WU, issued March 18, 2022, in Docket No. 20210095-WU, *In re: Application for transfer of water facilities of Sunshine Utilities of Central Florida, Inc. and water Certificate No. 363-W to CSWR-Florida Utility Operating Company, LLC, in Marion County*; Order No. PSC-2022-0116-PAA-SU, issued March 17, 2022, in Docket No. 20210133-SU, *In re: Application for transfer of facilities of North Peninsula Utilities Corporation and wastewater Certificate No. 249-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County*; Order No. PSC-2022-0364-PAA-WU, issued October 25, 2022, in Docket No. 20220019-WU, *In re: Application for transfer of water facilities of Neighborhood Utilities, Inc. and water Certificate No. 430-W to CSWR-Florida Utility Operating Company, LLC, in Duval County*; Order No. PSC-2023-0257-PAA-SU, issued August 21, 2023, in Docket No. 20220061-SU, *In re: Application for transfer of wastewater Certificate No. 318-S from BFF Corp to CSWR-Florida utility Operating Company, LLC, in Marion County*; Order No. PSC-2023-0266-PAA-WS, issued August 22, 2023, in Docket No. 20220062-WS, *In re: Application for transfer of water and wastewater facilities of C.F.A.T. H2O, Inc., water Certificate No. 552-W, and wastewater Certificate No. 481-S to CSWR-Florida Utility Operating Company, LLC, in Marion County*; and Order No. PSC-2023-0245-PAA-WS, issued August 17, 2023, in Docket No. 20220063-WS, *In re: Application for transfer of water and wastewater facilities of Tradewinds Utilities, Inc., water Certificate No. 405-W, and wastewater Certificate No. 342-S to CSWR-Florida Utility Operating Company, LLC, in Marion County*.

<sup>15</sup> Order No. PSC-11-0345-PAA-WS, issued August 16, 2011, in Docket No. 20100359-WS, *In re: Application for staff-assisted rate case in Volusia County by Tymer Creek Utilities, Inc.*

<sup>16</sup> Order No. 24206, issued March 7, 1991, in Docket No 19900501-WS, *In re: Application for a staff-assisted rate case in Volusia County by Tymer Creek Utilities.*

### **Regulatory Assessment Fees and Annual Report**

Staff has verified that the Utility is current on the filing of annual reports and RAFs through December 31, 2022. The Buyer will be responsible for filing the Utility's annual reports and paying RAFs for all future years.

### **Conclusion**

Based on the foregoing, staff recommends the transfer of the water and wastewater systems and Certificate Nos. 303-W and 252-S is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the signed contract for sale and the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates, late payment charges, service availability charges, and initial customer deposits, as shown on Schedule No. 2, should remain in effect until a change is authorized by this Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. Staff has verified that the Utility is current on the filing of annual reports and RAFs through December 31, 2022. The Buyer should be responsible for filing the Utility's annual reports and paying RAFs for all future years.

**Issue 3:** What is the appropriate net book value for CSWR-Florida Utility Operating Company, LLC's water and wastewater systems for transfer purposes?

**Recommendation:** For transfer purposes, the net book value (NBV) of the system is \$62,485 for water and \$131,849 for wastewater, as of February 28, 2022. Within 90 days of the date of the Consummating Order, CSWR-Tymber Creek should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2023 Annual Report when filed. (Thurmond)

**Staff Analysis:** Rate base was last established on August 16, 2011, by Order No. PSC-2011-0345-PAA-WS.<sup>17</sup> The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment should be approved. CSWR-Tymber Creek's request for a positive acquisition adjustment is addressed in Issue 4. The NBV does not include normal ratemaking adjustments for used and useful plant or working capital. The Utility's NBV has been updated to reflect balances as of February 28, 2022.<sup>18</sup> Staff's recommended NBV, as described below, is shown on Schedule No. 1.

### **Utility Plant in Service (UPIS)**

According to the Utility's general ledger, the total UPIS balance was \$335,032 for water and \$1,037,526 for wastewater, as of February 28, 2022. Staff auditors compiled the plant additions and retirements to UPIS from June 30, 2010, to February 28, 2022, and traced supporting documentation. As a result, staff recommends a decrease to UPIS of \$48,765 for water and \$154,586 for wastewater as of February 28, 2022. Accordingly, staff recommends a total UPIS balance of \$286,268 for water and \$882,940 as of February 28, 2022.

### **Land**

The Utility's general ledger reflected a land balance of \$1,131 for water and \$4,524 for wastewater, as of February 28, 2022. There have been no additions to land since June 30, 2010. Therefore, staff recommends no adjustments to its land balance.

### **Accumulated Depreciation**

According to the Utility's general ledger, the total accumulated depreciation balance was \$262,455 for water and \$804,078 for wastewater, as of February 28, 2022. Staff auditors recalculated depreciation accruals for all wastewater accounts since the last rate case through February 28, 2022, using audited UPIS balances and the depreciation rates established by Rule 25-30.140, F.A.C. As a result, staff recommends that the accumulated depreciation balance be decreased by \$37,541 for water and \$48,464 for wastewater, as of February 28, 2022. Accordingly, staff recommends total accumulated depreciation balances of \$224,914 for water and \$755,614 for wastewater, as of February 28, 2022.

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<sup>17</sup> Order No. PSC-11-0345-PAA-WS, issued August 16, 2011, in Docket No. 20100359-WS, *In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities, Incorporated.*

<sup>18</sup> Net book value is calculated through the date of the closing. According to the Utility's application, the closing will not occur until after the transaction receives Commission approval. Therefore, staff is relying on the most current information provided to staff auditors at the time of the filing.

### **Contributions-in-Aid-of-Construction (CIAC) and Accumulated Amortization of CIAC**

According to the Utility's general ledger, the CIAC balances were \$155,893 for water and \$380,306 for wastewater, as of February 28, 2022. Also, the accumulated amortization of CIAC balances were \$155,893 for water and \$380,306 for wastewater, as of February 28, 2022. Staff auditors traced CIAC and accumulated amortization of CIAC balances from June 30, 2010, to February 28, 2022, using supporting documentation. As a result, staff recommends that the CIAC balance be decreased by \$2,510 for water as of February 28, 2022. Staff also recommends that the accumulated amortization of CIAC balance be decreased by \$2,510 for water as of February 28, 2022. Accordingly, staff recommends total CIAC and Accumulated Amortization of CIAC balances of \$153,383 and \$153,383 for water and \$380,306 and \$380,306 for wastewater, respectively, as of February 28, 2022.

### **Net Book Value**

The Utility's general ledger reflected a NBV of \$73,708 for water and \$237,972 for wastewater as of February 28, 2022. Based on the adjustments described above, staff recommends a NBV of \$62,485 for water and \$131,849 for wastewater as of February 28, 2022. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation are shown on Schedule No. 1 as of February 28, 2022. As addressed in Issue 4, a positive acquisition adjustment should not be recognized for ratemaking purposes.

### **Conclusion**

Based on the above, staff recommends a NBV of \$62,485 for water and \$131,849 for wastewater as of February 28, 2022, for transfer purposes. Within 90 days of the date of the Consummating Order, the Buyer should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2023 Annual Report when filed.

**Issue 4:** Should a positive acquisition adjustment be recognized for ratemaking purposes?

**Recommendation:** No. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment should not be granted as the Buyer failed to demonstrate extraordinary circumstances. (Thurmond, M. Watts)

**Staff Analysis:** In its filing, the Buyer requested a positive acquisition adjustment be included in the calculation of CSWR-Tymber Creek's rate base. An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of acquisition. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment results when the purchase price is greater than the NBV and a negative acquisition adjustment results when the purchase price is less than the NBV. A positive acquisition adjustment, if approved, increases rate base.

According to the purchase agreement, the Buyer will purchase the Utility for \$1,000,000. As discussed in Issue 3, staff is recommending a combined NBV for the two systems of \$194,334. This would result in a positive acquisition adjustment of \$805,666.

Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Rule 25-30.0371(2), F.A.C., states:

In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.

If a purchase price above depreciated original cost is used to determine rate base, without the requirement for extraordinary circumstances, it could encourage utilities to "swap assets" and inappropriately increase cost to customers.

### **Deferral**

In discovery, CSWR-Tymber Creek stated that it intends to ask for deferral of a decision regarding the requested acquisition adjustment. In its application, the Buyer laid out factors such as improvements to quality of service, cost efficiencies, and rate stability. These are discussed below and staff finds these factors do not constitute extraordinary circumstances.

In response to discovery, the Buyer agreed that after rate base is set, if a company provides support in a separate and subsequent case that there are utility assets that were not previously recorded, then the company can prospectively recover the unrecorded amount of that investment. Therefore, if the Buyer finds assets were incorrectly recorded on the Seller's balance sheet, the Buyer can support those costs and recover them in a future rate case. That is normal Commission practice and are not considered extraordinary circumstances.

Pursuant to Commission practice, the Buyer has the burden to prove extraordinary circumstances at the time of transfer. Staff believes in the instant case the Buyer has failed to provide proof of extraordinary circumstances. Further, the Buyer had multiple opportunities to provide pertinent

information needed to determine if a positive acquisition adjustment is appropriate. As such, staff recommends the Commission deny the request to defer a decision on the positive acquisition adjustment.

Finally, it is long-standing Commission practice to address the disposition of any positive or negative acquisition adjustment at the time of transfer. Pursuant to Section 120.68(7)(e)3., F.S., when agencies change their established policies, practices and procedures, they must give an explanation for the deviation. Staff does not believe the facts in this case warrant such a deviation. As such, staff believes the deferral of a positive acquisition adjustment decision in this docket would result in an unnecessary deviation from Commission practice.

### **Improvements in Quality of Service and Compliance with Regulatory Mandates**

In its application, CSWR-Tymer Creek listed six business practices that it believes will improve the quality of service to its customers: (1) provision of 24-hour emergency service phone numbers; (2) on-call emergency service personnel who are required to respond to emergency service calls within prescribed time limits; (3) a computerized maintenance management system; (4) access to resources not usually available to comparably sized systems and the ability to supplement local personnel with resources owned by the parent and sister companies; (5) online bill payment options; and (6) an updated website for customer communication, bulletins, procedures, etc.

Staff reviewed the complaints filed with the Commission for the five-year period prior to the application, March 2017 to March 2022. The Commission recorded a total of three complaints during this period, all of which pertained to billing. There were no complaints involving the water quality or the water distribution system, the wastewater treatment system or the wastewater collection system.

In addition to reviewing the Utility's most recent inspection reports, staff also reviewed the DEP inspection reports and enforcement actions for the three years prior to the Utility's transfer application. As discussed in Issue 2, the Utility is currently under a DEP CO for violation of its rules and regulations. As noted in the CO, the Utility's WWTP appears to have had ongoing issues with nitrate and total suspended solids (TSS) exceedances, as well as maintaining required on-site documentation. Documentation from the DEP database indicates that the Utility is on schedule with complying with the terms of the CO.

In Exhibit H of its application, CSWR-Tymer Creek noted the WWTP issues described above, as well as some minor leaks in the facility tanks, notable rust on the blowers and blower motors, and a build-up of fine solids in the sand filter. The Buyer noted that the lift stations appear to be in good condition, but it was unable to inspect the interior. Based on its inspection of the WWTP, CSWR-Tymer Creek proposed improvements it plans to make to ensure the longevity of the system. These plans include installing a sieve screen at the plant headworks for automated removal of nuisance solids, cleaning the sand filter, adding a polymer feed to the clarifier, patching leaks on the sand filter tank, replacing the blowers and blower motors, and installing a remote monitoring system.

Staff's review of the DEP water quality tests and the Commission's Consumer Activity Tracking System did not reveal any indication of problems with the water distribution system. Despite the apparent absence of problems, CSWR-Tymber Creek proposed improvements to the water system as well. These improvements include making master meter pit renovations, installing remote monitoring with a chlorine analyzer, as well as anticipating distribution system repairs and valve replacements.

Based on the above, it appears that Tymber Creek has had issues with respect to regulatory compliance leading to a CO for its wastewater treatment system, but is on-schedule with its compliance with the current CO. Tymber Creek does not appear to have issues with respect to regulatory compliance regarding its water treatment system. While the Buyer identified several improvements it intends to implement in an effort to rectify the WWTP problems, and some that it believes need to be addressed with the water system, staff does not believe the Buyer has demonstrated extraordinary circumstances in support of its requested positive acquisition adjustment. Instead, staff believes that the proposed anticipated improvements in quality of service and compliance with regulatory mandates demonstrates CSWR-Tymber Creek's intention to responsibly execute its obligations as a utility owner. While staff does not believe the Utility's anticipated improvements justify its requested positive acquisition adjustment, these improvements may be considered for prudence and cost recovery in a future rate proceeding.

### **Anticipated Cost Efficiencies**

In its application, the Buyer stated that based on its size and anticipated consolidation of many small systems under one financial and managerial entity would result in operational cost efficiencies particularly in the areas of:

- PSC and environmental regulatory reporting
- Managerial and operational oversight
- Utility asset planning
- Engineering planning
- Ongoing utility maintenance
- Utility record keeping
- Customer service responsiveness
- Improved access to capital necessary to repair and upgrade Tymber Creek to ensure compliance with all health and environmental requirements and ensure service to customers remains safe and reliable

In response to discovery, the Buyer provided an estimated annual reduction of operations and maintenance (O&M) expense of approximately \$51,000. However, with a requested acquisition adjustment of \$805,666, the requested amount is over four times greater than the Utility's current NBV of \$194,334. Even if the Buyer was able to achieve these savings in O&M expense, the inclusion of the requested acquisition adjustment in rate base and the inclusion of the annual



amortization expense in the NOI calculation would result in an increased revenue requirement. By operation of math, the overall impact would be a net increase to customer rates.

The Buyer also stated that CSWR-Tymber Creek would bring long-term rate stability to the Utility, should the transfer be approved. Staff agrees that economies of scale and potential consolidation of several systems in Florida, as proposed by CSWR-Tymber Creek, could bring some amount of long-term rate stability. However, absent specific and detailed support for these assertions, the Buyer has failed to meet its burden of demonstrating extraordinary circumstances. Moreover, Tymber Creek has exhibited rate stability. The Utility has had only two staff-assisted rate cases since 2004.

Staff's recommendation is consistent with the Commission's decision in Order No. PSC-2020-0458-PAA-WS.<sup>19</sup> In that docket, the Buyer identified estimates of anticipated cost efficiencies, including a reduction in O&M expense and a reduction of cost of capital that would result from the transfer. Additionally, the Buyer cited several improvements it made to the water treatment plant and wastewater lift station since acquisition to improve the quality of service and compliance with regulatory mandates. While the Commission acknowledged that the Buyer accomplished cost savings, it did not believe the actions performed demonstrated extraordinary circumstances that would justify approval of a positive acquisition adjustment.

Staff's recommendation is also consistent with the Commission's decisions to deny CSWR-Florida Utility Operating Company, LLC a positive acquisition adjustment in its previous transfer dockets (see footnote 14). In each of those cases, the Commission determined CSWR-Florida Utility Operating Company, LLC failed to provide sufficient evidence of extraordinary circumstances and denied a positive acquisition adjustment. In those cases, CSWR-Florida Utility Operating Company, LLC also requested a deferral of the decision regarding the positive acquisition adjustments which was denied by the Commission. Staff believes the facts of this case are similar to the eight cases discussed above.

## **Conclusion**

Pursuant to Rule 25-30.0371, F.A.C., staff recommends a positive acquisition adjustment not be granted as the Buyer did not demonstrate extraordinary circumstances. Staff believes the Buyer's anticipated improvements in quality of service and compliance with regulatory mandates do not indicate extraordinary circumstances and instead demonstrates CSWR-Tymber Creek's intentions to responsibly provide utility service.

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<sup>19</sup> Order No. PSC-2020-0458-PAA-WS, issued November, 23, 2020, in Docket No. 20190170-WS, *In re: Application for transfer of facilities and Certificate Nos. 259-W and 199-S in Broward County from Royal Utility Company to Royal Waterworks, Inc.*

**Issue 5:** Should CSWR-Florida Utility Operating Company, LLC’s miscellaneous service charges be revised to conform to amended Rule 25-30.460, F.A.C.?

**Recommendation:** Yes. The miscellaneous service charges should be revised to conform to the recent amendment to Rule 25-30.460, F.A.C. The tariff should be revised to reflect the removal of initial connection and normal reconnection charges. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. The Utility should be required to charge the approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding. (Bruce)

**Staff Analysis:** Effective June 24, 2021, Rule 25-30.460, F.A.C., was amended to remove initial connection and normal reconnection charges.<sup>20</sup> The definitions for initial connection charges and normal reconnection charges were subsumed in the definition of the premises visit charge. The Utility’s miscellaneous service charges consist of initial connection and normal reconnection charges. The normal reconnection charge is more than the premises visit charge. Since the premises visit entails a broader range of tasks, staff believes the premises visit should reflect the amount of the normal reconnection charge of \$15 for normal hours. Therefore, staff recommends that the initial connection and normal reconnection charges be removed, the premises visit should be revised to \$15 for normal hours, and the definition for the premises visit charge be updated to comply with amended Rule 25-30.460, F.A.C. The Utility’s existing and staff’s recommended miscellaneous service charges are shown below in Tables 5-1 and 5-2.

**Table 5-1  
 Utility’s Existing Miscellaneous Service Charges**

	<u>Normal Hours</u>
Initial Connection Charge	\$15.00
Normal Reconnection Charge	\$15.00
Violation Reconnection Charge - Water	\$15.00
Violation Reconnection Charge - Wastewater	Actual Cost
Premises Visit Charge (in lieu of disconnection)	\$10.00

**Table 5-2  
 Staff Recommended Miscellaneous Service Charges**

	<u>Normal Hours</u>
Violation Reconnection Charge - Water	\$15.00
Violation Reconnection Charge – Wastewater	Actual Cost
Premise Visit Charge	\$15.00

<sup>20</sup> Order No. PSC-2021-0201-FOF-WS, issued June 4, 2021, in Docket No. 20200240-WS, *In re: Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

### **Conclusion**

Based on the above, staff recommends the miscellaneous service charges be revised to conform to the recent amendment to Rule 25-30.460, F.A.C. The tariff should be revised to reflect the removal of initial connection and normal reconnection charges. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. The Utility should be required to charge the approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding.

**Issue 6:** Should this docket be closed?

**Recommendation:** Yes. If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the Order, a Consummating Order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted copies of its applications for permit transfers to the DEP and the SJRWMD, within 60 days of the Commission's Order approving the transfer. (Thompson)

**Staff Analysis:** If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the Order, a Consummating Order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted copies of its applications for permit transfers to the DEP and the SJRWMD, within 60 days of the Commission's Order approving the transfer.

**TERRITORY DESCRIPTION**  
**CSWR-Florida Utility Operating Company, LLC**  
**Volusia County**  
**Water and Wastewater Service**

ALL OF TYMBER CREEK SUBDIVISION AND LOST CREEK SUBDIVISION, DEVELOPED OR UNDEVELOPED, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Parcel #1 – The South 1/4 of the East 1/2 of the Northwest 1/4 except the West 25 feet in Hull Road, and the Northeast 1/4 of the Southwest 1/4 North of the creek (Little Tomoka River) except the West 25 feet in Hull Road, Section 25, Township 14 South, Range 31 East, Volusia County, Florida, containing 41 Acres, more or less.

Parcel #2 – The North 1/2 of the South 1/2 of the East 1/2 of the Northwest 1/4 except the West 25 feet in Hull Road, Section 25, Township 14 South, Range 31 East, Volusia County, Florida, containing 19.462 Acres.

Parcel #3 – The Northeast 1/4 of the Northwest 1/4 except the West 25 feet in Hull Road, Section 25, Township 14 South, Range 31 East, Volusia County, Florida, being 39.021 Acres.

Parcel #4 – A portion of the Northeast 1/4 of Section 25, Township 14 South, Range 31 East, described as follows:

As a point of reference, commence at the Northeast corner of Section 25, Township 14 South, Range 31 East; thence South 88°03'10" West a distance of 1,306.37 feet to a point in the Westerly right-of-way line of Interstate 95 (a 300 foot right-of-way as used) which is the Point of Beginning of the following described parcel: thence South 16°57'20" East along the Westerly right-of-way line of said Interstate 95 a distance of 1,333.37 feet to a point; thence South 86°26'21" West a distance of 2,034.63 feet to a point; thence North 0°44'20" West a distance of 1,296.89 feet to a point; thence North 86°22'40" East a distance of 1,661.89 feet to the Point of Beginning. Said parcel contains 55.0 Acres.

Parcel #5- A portion of the Southeast 1/4 of Section 24, Township 14 South, Range 31 East, described as follows:

As a point of reference, commence at the Southeast corner of said Section 24, Township 14 South, Range 31 East; thence South 88°3'10" West a distance of 1,306.37 feet to a point in the Westerly right-of-way line of Interstate 95 (a 300 foot right-of-way as used) which is the Point of Beginning of the following described parcel: thence South 86°22'40" West a distance of 1,661.89 feet to a point; thence North 0°58'06" West a distance of 1,383.16 feet to a point; thence North 88°29'30" East a distance of 1,282.47 feet to a point in the Westerly right-of-way line of said Interstate 95; thence South 16°57'20" East along said Westerly right-of-way line of Interstate 95 a distance of 1,371.34 feet to the Point of Beginning. Said parcel contains 45.8 Acres.

Parcel #6 – That part of the following described parcel that lies Westerly of Interstate 95 (a 300 foot right-of-way). The Easterly 264 feet of the Northwest 1/4 of the Southeast 1/4 and the Westerly 792 feet of the Northeast 1/4 of the Southeast 1/4 of Section 24, Township 14 South,

Range 31 East, Volusia County, Florida, excepting therefrom those portions used for Hull Road and for Interstate "I-95" Highway. Said parcel contains 2.10 Acres.

Parcel #7 – (Lost Creek) A part of the Southwest 1/4 of the Northeast 1/4 of Section 25, Township 14 South, Range 31 East, lying North of the Tomoka River and East of Groover Branch Creek, in Volusia County, Florida.

**Lost Creek Legal Description**

That portion of the Southwest 1/4 of the Northeast 1/4 of Section 25, Township 14 South, Range 31 East, lying North of the Northerly top of bank of the Tomoka River and Easterly of Groover Branch Creek, in Volusia County, Florida, being more particularly described as follows:

Commence at the Southwest corner of lot 326, after lot 326 as measured along the West line of the NE 1/4 of Section 25 1,319.05 feet South from the NW corner of the NE 1/4 of Section 25, Township 14 South, Range 31 East, Tymber Creek Phase II subdivision, as recorded in map book 35, pages 116 thru 136 of the public records of Volusia County, Florida. Said point being the Point of Beginning; thence North 87°26'54" East along the Southerly line of said Tymber Creek Phase II Subdivision, 1,330.09 feet to the East line of the said SW 1/4 of the NE 1/4 of Section 25; thence South 01°25'04" East along the said East line a distance of 516.82 feet to a meander line along the Northerly top of bank of the Tomoka River; thence along the said top of bank of the Tomoka River the following courses and distances: South 56°53'33" West 163.94 feet; South 58°00'47" West 100.98 feet; South 41°45'18" West 109.66 feet; South 63°07'13" West 100.12 feet; South 82°40'55" West 104.40 feet; South 46°41'34" West 105.94 feet; South 76°08'56" West 32.10 feet; South 44°55' 10" West 107.70 feet; South 32°45' 58" West 101.43 feet; South 20°15'20" West 100.12 feet; South 28°52' 54" West 81.18 feet; South 71°09' 07" West 40.26 feet to a meander line along the Easterly top of bank of said Groover Branch Creek; thence along said top of bank of Groover Branch Creek the following courses and distances: North 81°16'40" West 57.20 feet; North 18°23'19" West 34.56 feet; North 17°18' 38" West 38.01 feet; North 04°51'59" West 56.40 feet; North 23°33'35" West 23.18 feet; North 03°39'21" West 52.53 feet; North 13°17'07" East 45.99 feet; South 83°41' 27" East 38.88 feet; North. 39°20'57" East 56.10 feet; North 29°00'26" West 36.31 feet; North 55°22'42" West 47.25 feet; North 56°00'28" West 51.45 feet; North 15°18'09" West 72.15 feet; North 29°53'10" West 69.49 feet; South 66°30'02" West 33.57 feet; South 08°08'31" West 36.56 feet; South 43°31'28" West 41.66 feet; South 84°11'30" West 65.49 feet; North 80°37'26" West 40.34 feet; North 48°25'21" West 61.62 feet; North 12°00'14" West 26.80 feet; North 28°07'04" East 80.59 feet; North 15°29'07" E. 85.50 feet; North 27°46'29" West 19.83 feet; South 72°57'24" West 70.77 feet; South 46°51'09" West 64.30 feet; South 29°10'55" West 42.53 feet; South 51°45'35" West 22.87 feet to the West line of the said SW 1/4 of the NE 1/4 of Section 25; thence North 01°20'57" West 610.00 feet to the Point of Beginning.

Said parcel containing 23.7 acres, more or less.

**FLORIDA PUBLIC SERVICE COMMISSION  
authorizes  
CSWR-Florida Utility Operating Company, LLC  
pursuant to  
Certificate Number 303-W**

to provide water service in Volusia 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.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
Order No. 8242	04/06/78	19770324-W	Original Certificate
Order No. 8242	04/06/78	19770325-S	Original Certificate
PSC-05-0188-FOF-WS	02/18/05	20041339-WS	Name Change
PSC-12-0571-FOF-WS	10/24/12	20110317-WS	TMOC
PSC-12-0571-FOF-WS	10/24/12	20120191-WS	Amendment
*	*	20220064-WS	Transfer

**\*Order Number and date to be provided at time of issuance**

**FLORIDA PUBLIC SERVICE COMMISSION  
authorizes  
CSWR-Florida Utility Operating Company, LLC  
pursuant to  
Certificate Number 252-S**

to provide wastewater service in Volusia 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.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
Order No. 8242	04/06/78	19770324-W	Original Certificate
Order No. 8242	04/06/78	19770325-S	Original Certificate
PSC-05-0188-FOF-WS	02/18/05	20041339-WS	Name Change
PSC-12-0571-FOF-WS	10/24/12	20110317-WS	TMOC
PSC-12-0571-FOF-WS	10/24/12	20120191-WS	Amendment
*	*	20220064-WS	Transfer

**\*Order Number and date to be provided at time of issuance**



**CSWR-Florida Utility Operating Company, LLC  
Tymber Creek Utilities, Inc.**

**Schedule of Water Net Book Value as of  
February 28, 2022**

<u>Description</u>	<u>Balance Per Utility 2/28/22</u>	<u>Adjustments</u>		<u>Staff 2/28/22</u>
Utility Plant in Service	\$335,032	(\$48,765)	A	\$286,268
Land & Land Rights	1,131	-		1,131
Accumulated Depreciation	(262,455)	37,541	B	(224,914)
CIAC	(155,893)	2,510	C	(153,383)
Amortization of CIAC	<u>155,893</u>	<u>(2,510)</u>	D	<u>153,383</u>
Total	<u>\$73,708</u>	<u>(\$11,223)</u>		<u>\$62,485</u>

**CSWR-Florida Utility Operating Company, LLC  
 Tymber Creek Utilities, Inc.**

**Schedule of Wastewater Net Book Value as of  
 February 28, 2022**

<u>Description</u>	<u>Balance Per Utility 2/28/22</u>	<u>Adjustments</u>		<u>Staff 2/28/22</u>
Utility Plant in Service	\$1,037,526	(\$154,586)	A	\$882,940
Land & Land Rights	4,524	-		4,524
Accumulated Depreciation	(804,078)	48,464	B	(755,614)
CIAC	(380,306)	-	C	(380,306)
Amortization of CIAC	<u>380,306</u>	=	D	<u>380,306</u>
Total	<u>\$237,972</u>	<u>(\$106,123)</u>		<u>\$131,849</u>

**CSWR-Florida Utility Operating Company, LLC  
Tymber Creek Utilities, Inc.**

**Explanation of Adjustments to Water Net Book Value as of  
February 28, 2022**

<b>Explanation</b>	<b>Amount</b>
A. UPIS To reflect the appropriate balance.	(\$48,765)
B. Accumulated Depreciation To reflect the appropriate balance.	37,541
C. CIAC To reflect the appropriate balance.	2,510
D. Accumulated Amortization of CIAC To reflect the appropriate balance.	<u>(2,510)</u>
Total Adjustments to Water Net Book Value as of February 28, 2022	<u>(\$11,223)</u>

**CSWR-Florida Utility Operating Company, LLC  
Tymber Creek Utilities, Inc.**

**Explanation of Adjustments to Wastewater Net Book Value as of  
February 28, 2022**

<b>Explanation</b>	<b>Amount</b>
A. UPIS To reflect the appropriate balance.	(\$154,586)
B. Accumulated Depreciation To reflect the appropriate balance.	<u>48,464</u>
Total Adjustments to Wastewater Net Book Value as of February 28, 2022	<u>(\$106,123)</u>

**CSWR-Florida Utility Operating Company, LLC  
Tymber Creek Utilities, Inc.**

**Schedule of Staff's Recommended Water Account Balances as of  
February 28, 2022**

<b>Account No.</b>	<b>Description</b>	<b>UPIS</b>	<b>Accumulated Depreciation</b>
301	Organization	\$36	(\$33)
304	Structures & Improvements	179	(176)
309	Supply Mains	25,211	(12,473)
310	Power Generation Equipment	15,165	(15,165)
311	Pumping Equipment	3,742	(439)
331	Transmission and Distribution Mains	179,981	(156,222)
333	Services	11,160	(11,160)
334	Meters and Meter Installations	22,868	(5,685)
335	Hydrants	9,185	(8,502)
340	Office Furniture and Equipment	9,325	(9,320)
341	Transportation Equipment	7,812	(4,668)
345	Power Operated Equipment	373	(373)
348	Other Tangible Plant	<u>1,230</u>	<u>(697)</u>
	Total	<u>\$286,268</u>	<u>(\$224,914)</u>

**CSWR-Florida Utility Operating Company, LLC  
Tymber Creek Utilities, Inc.**

**Schedule of Staff's Recommended Wastewater Account Balances as of  
February 28, 2022**

<b>Account No.</b>	<b>Description</b>	<b>UPIS</b>	<b>Accumulated Depreciation</b>
354	Structures & Improvements	\$157,112	(\$135,004)
360	Collection Sewers - Force	12,551	(4,611)
361	Collection Sewers - Gravity	273,086	(273,086)
363	Services to Customers	43,346	(43,346)
364	Flow Measuring Devices	31,553	(13,980)
370	Receiving Wells	83,227	(9,400)
380	Treatment and Disposal Equipment	252,642	(252,642)
382	Outfall Sewer Lines	10,827	(10,827)
389	Other Plant and Misc. Equipment	5,725	(2,312)
390	Office Furniture and Equipment	6,935	(6,935)
391	Transportation Equipment	2,817	(352)
395	Power Operated Equipment	<u>3,120</u>	<u>(3,120)</u>
	Total	<u>\$882,940</u>	<u>(\$755,614)</u>

**CSWR – Florida Utility Operating Company, LLC.  
 Tymber Creek Utilities, Inc.**

**Monthly Water Rates**

**Residential and General Service**

Base Facility Charge by Meter Size

5/8" x 3/4"	\$9.91
3/4"	\$14.87
1"	\$24.78
1 1/2"	\$49.55
2"	\$79.28
3"	\$158.56
4"	\$247.75
6"	\$495.50

Charge Per 1,000 gallons – Residential Service

0-6,000 gallons	\$3.88
6,001-10,000 gallons	\$4.44
Over 10,000 gallons	\$6.59

Charge Per 1,000 gallons – General Service

\$4.19

**Initial Customer Deposits**

	<u>Residential Service</u>	<u>General Service</u>
5/8" x 3/4"	\$20.00	N/A
1"	N/A	\$34.00
1 1/2"	N/A	\$66.00
Over 2"	N/A	\$106.00

**Miscellaneous Service Charges**

Late Payment Charge	\$5.90
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**Service Availability Charges**

Main Extension Charge 5/8" x 3/4"	\$100.00
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**CSWR – Florida Utility Operating Company, LLC.  
 Tymber Creek Utilities, Inc.**

**Monthly Wastewater Rates**

**Residential Service**

Base Facility Charge by Meter Size	
All Meter Sizes	\$34.40
Charge Per 1,000 gallons – Residential Service	
8,000 gallon cap	\$9.20

**General Service**

Base Facility Charge by Meter Size	
5/8" x 3/4"	\$34.40
3/4"	\$51.60
1"	\$86.00
1 1/2"	\$172.00
2"	\$275.20
3"	\$550.40
4"	\$860.00
6"	\$1,720.00
Charge Per 1,000 gallons	\$11.05

**Initial Customer Deposits**

	<u>Residential Service</u>	<u>General Service</u>
5/8" x 3/4"	\$20.00	N/A
1"	N/A	\$34.00
1 1/2"	N/A	\$66.00
Over 2"	N/A	\$106.00

**Miscellaneous Service Charges**

Late Payment Charge	\$5.90
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**Service Availability Charges**

Main Extension Charge	
Residential per ERC	\$600.00
Plant Capacity Charge	
Residential per ERC	\$450.00