

STATE OF FLORIDA

Commissioners:
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DIVISION OF WATER & WASTEWATER
CHARLES H. HILL
DIRECTOR
(850) 413-6900

Public Service Commission

February 5, 1999

Mr. Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Re: Docket No. 981858-WS, Application for authority to transfer facilities of Rotonda West Utility Corporation and Certificates Nos. 565-W and 493-S in Charlotte County to AquaSource Utility, Inc.

Dear Mr. Friedman:

The application for authority to transfer Rotonda West Utility Corporation's (Rotonda's) facilities and certificates to AquaSource Utility, Inc. (AquaSource) was received by the Commission on December 14, 1998 and assigned the above referenced docket number and name. In addition to the noticing problems, of which staff has already made you aware, staff also needs a response to the following items in order to process the application.

Deficiencies

- 1. Sales Contract: Rule 25-30.037(2)(g), Florida Administrative Code, requires a copy of the contract for sale and all auxiliary or supplemental agreements. Although a copy of the main body of the Agreement For Purchase and Sale of Water and Wastewater Assets (contract) was included with the application, the exhibits to the contract were not. Please provide copies of all exhibits to the contract.
- 2. Proof of Ownership: Rule 25-30.037(2)(q), Florida Administrative Code, requires evidence that the utility owns the land upon which the utility treatment facilities are located. A copy of the deed intending to transfer this property to AquaSource was attached as Exhibit E to the application. However, the description of the land, which was Exhibit A to Exhibit E, was not included nor was the deed executed and recorded. Since the closing has occurred, please provide a copy of the executed and recorded deed including Exhibit A.

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3. Federal Income Tax: Rule 25-30.037(2)(o), Florida Administrative Code, requires a statement from the buyer that it has obtained or will obtain copies of all the federal income tax returns of the seller from the date the utility was first established, or rate base was last established, by the Commission. Such statement was not furnished with the application. Please provide a statement indicating the current location and buyer's access to the utility's federal income tax returns.

4. Closing Date: Section 367.071(1), Florida Statutes, states that no utility shall sell, assign, or transfer its certificate(s) of authorization or facilities without the determination and approval of the Commission. According to Section 10 of the contract, the contract closed on December 15, 1998. However, the contract appears to be subject to the regulatory "undo" clause specified in Section 12. Please provide a supplemental statement verifying the date of closing and an explanation why the transfer occurred prior to the Commission approval.

An original and five copies of the response to the information requested above should be filed with the Director, Division of Records and Reporting on or before March 5, 1999. If you have any questions about the information required, please contact Ms. Patricia Brady at (850) 413-6686.

Sincerely,



John D. Williams

Chief, Bureau of Policy Development
and Industry Structure

JDW:pb

cc: Division of Water and Wastewater (Brady)
Division of Legal Services (McRae, Crosby)
Division of Records and Reporting