

STATE OF FLORIDA

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DIVISION OF WATER & WASTEWATER
DANIEL M. HOPPE, DIRECTOR
(850) 413-6900

Public Service Commission

November 4, 1999

Mr. Thomas B. Hart, Esquire
1625 Hendry Street, Suite 301
Post Office Box 2449
Fort Myers, Florida 33902-2449

Re: Docket No. 991494-SU Application for Authority to Transfer the Sewer Facilities of Forest Park Certificate No. 175-S in Lee County, Florida to North Ft. Myers Certificate No. 247-S; Cancellation of Certificate No. 175-S and Amendment of Certificate No. 247-S

Dear Mr. Hart:

Upon review, our staff has determined that the following deficiencies exist in the application to transfer the above-referenced utility's facilities and operating certificate to North Ft. Myers. These deficiencies are discussed in more detail below.

First, pursuant to Rule 25-30.037(2)(g) 2, Florida Administrative Code (F.A.C.), the application must contain "a copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, ... a list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of non-regulated operations or entities." While the application included a copy of a 1992 Wastewater Agreement between Forest Park and North Ft. Myers, "the dollar amount of the assets purchased and liabilities assumed" is not clear and appears to be outdated. Please provide a current dollar amount of the assets being purchased and the liabilities being assumed or not assumed.

Second, pursuant to Rule 25-30.037(2)(g) 3, F.A.C., the application must include "a description of all consideration between the parties, for example promised salaries, retainer fees, stock, stock options, assumption of obligation." The application refers to the wastewater agreement mentioned above for satisfaction of this requirement. However, the wastewater agreement and its amendment do not address the required information. Please provide a statement regarding any consideration between the parties as stated above.

Third, pursuant to Rule 25-30.037(2)(l), F.A.C., the application must include "the proposed net book value of the system as of the date of the proposed transfer. If rate base has been established by this Commission, state the order number and date issued and identify all adjustments made to update this rate base to the date of transfer." The application states that this is not applicable. This

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information is a requirement. However, if a calculation of the net book value is not available, please provide a statement to that fact.

Fourth, pursuant to Rule 25-30.037(2)(q), F.A.C., the application must include evidence that "the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative." The application included a copy of a Warranty Deed which was not legible. Please provide a legible copy of the warranty deed submitted as exhibit "H." Also, please provide proof of the necessary easement(s) and/ or Right of Way(s) which demonstrate a legal right to continuous use of the land.

Fifth, pursuant to Rule 25-30.037(2)(r), F.A.C., the application must include "a statement regarding the disposition of any outstanding regulatory assessment fees, fines, or refunds owed." The application does not include any statement regarding this requirement. Please provide information as to how any outstanding regulatory assessment fees, fines, or refunds owed will be disposed.

Last, pursuant to Rule 25-30.037(2)(s), F.A.C., the application must include "the original and two copies of sample tariff sheets reflecting the change in ownership." The application included a copy of Sheet No. 3.0, only. Any Forest Park tariff sheets which reflect different policy or charges from the North Ft. Myers tariff sheets should also be revised to reflect the new name. Please provide these tariff sheets.

As discussed, the application remains deficient in several important respects. Accordingly, your application will not be deemed complete until these deficiencies are corrected. Should you have any questions, please call the staff analyst, Cecilia Rehwinkel, or the staff attorney, Patricia Christensen at (850)413-6972 or (850)413-6220. Our staff will be happy to assist you in any way. Please file an original and five copies of the requested information no later than December 4, 1999, with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. Thank you for your assistance in this matter.

Sincerely,



John D. Williams
Bureau Chief

JDW:ccg

cc: Division of Records and Reporting
Division of Legal Services (Christensen)
Division of Water and Wastewater (Messer, Williams, Lowe, Hoppe)