

State of Florida



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Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

COMMISSION
CLERK

DATE: February 22, 2011
TO: All Parties of Record & Interested Persons
FROM: Anna Williams, Senior Attorney, Office of the General Counsel *AW*
RE: Docket No. 100400-WU – Investigation of rates of O&S Water Company, Inc. in Osceola County for possible overearnings and Docket No. 100440-WU – Application for transfer of water facilities in Osceola County from O&S Water Company, Inc., to Tohopekaliga Water Authority and cancellation of Certificate No. 510-W.

Please place the attached correspondence in the above-referenced docket files.

Thank you.

DOCUMENT NUMBER-DATE

01175 FEB 22 =

FPSC-COMMISSION CLERK

Anna Williams

From: Martin Friedman [MFriedman@RSBattorneys.com]
Sent: Monday, February 21, 2011 7:52 PM
To: Anna Williams; Andrew Maurey; Bart Fletcher
Cc: John Jenkins; Mark Lawson
Subject: Matters before FPSC tomorrow concerning O and S Water

Ms. Williams,

Please keep in mind that there are two O & S Water Company matters on Tuesday's Agenda. Since TWA is not a party to the overearnings docket, there is no reason that it should even be considered for deferral. Since O & S Water was sold to TWA last December, O & S Water has not owned or operated a water system, so there are no purported overearnings to address.

As to the transfer docket Mr. Lawson does not point out any legitimate reason for a deferral. It appears to be based solely upon a post-closing reconciliation. It is common in utility sales to have such reconciliations. It has nothing to do with the transfer. This sale closed last December and TWA has been operating the water system since that date. If the parties can't come to an agreement on the reconciliation the sale is not unwound...the parties either mediate or litigate who owes who money. The Commission has no jurisdiction over any post-closing matters between the parties. The only Commission resources to be wasted would be to defer this matter and the Staff have to write a new Recommendation, and me having to come to Tallahassee for another agenda conference. There is nothing legitimate to be gained by either party by a deferral. I think that TWA perceives that having this docket open will give it leverage in negotiating who owes who money in the reconciliation. That is not a legitimate reason for a deferral. TWA's assertion that it's reconciliation is "with substantiation" and therefore unquestioned is absurd. There is a substantial history regarding that issue which is not relevant to the deferral issue.

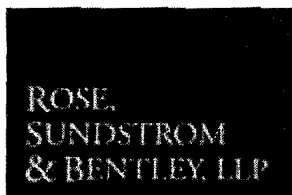
Please assure that we are both afforded an opportunity to present our respective positions to the Commissioners.

Regards, Marty Friedman

Martin S. Friedman

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From: Mark Lawson [mailto:mlawson@bمولaw.com]
Sent: Monday, February 21, 2011 4:10 PM
To: Anna Williams

DOCUMENT NUMBER-DATE

01175 FEB 22 =

FPSC-COMMISSION CLERK

2/22/2011

Cc: Martin Friedman; John Jenkins

Subject: Matters before FPSC tomorrow concerning O and S Water

Importance: High

We represent the Toho Water Authority (TWA), recent purchaser from O and S Water of its water utility assets. We ask that the docketed items before the Commission tomorrow be deferred or continued for at approximately 30 days, based on the following:

1. At the time of closing (in early December) the O and S Water records were incomplete or otherwise insufficient for either party to determine with accuracy the deposits on hand or accounts receivable. The parties agreed to a cooperative post closing reconciliation within 50 days (which through no particular fault of either party has yet to occur) to address estimated deposits and accounts receivable. TWA has tendered (with substantiation) a demand for \$76,853.01 to Jack Olsen, President of O and S Water, which represents overpayment of the agreed purchase price.
2. Regrettably, O and S Water has a history of not timely paying its obligations to TWA, the Osceola Tax Collector, and the Commission, which is evident in the Commission's records. Official State of Florida corporate records reflect O and S Water has recently dissolved its corporate status. Counsel for O and S Water declined earlier this afternoon to participate in a joint request for deferral or continuance. Please accept our regrets in making this request at this point in time.
3. In an attempt to avoid expending resources before the Commission by counsel for both O and S Water and TWA, and consuming resources of the Commission staff and counsel, this request simply asks for these matters to be deferred or continued so that principals and counsel from O and S Water have the opportunity to respond to and fairly resolve with TWA staff and counsel these unpaid amounts (which were to have been addressed within 50 days after closing), prior to the Commission addressing these docketed items which will relinquish all jurisdiction of the Commission over O and S Water.

Ms. Williams, failing a summary determination that a short deferral will not materially affect O and S Water and a continuance for a short period is reasonable under the circumstances, please assist me in appearing by telephone tomorrow as I have to travel for a public meeting in Brooksville and can not appear in person to suggest in person this is a matter in controversy (and should be deferred as requested).

You may reach me by cell at 850 591 5630.

Thank-you so much.

Mark G. Lawson

Bryant Miller Olive

2/22/2011

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