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# Public Service Commission

November 22, 2019

Martin S. Friedman, Esq.  
Dean & Mead Law Firm  
420 South Orange Ave. Suite 700  
Orlando, FL 32801  
mfriedman@deanmead.com

via Email, US Mail, and Certified Mail

## NOTICE OF APPARENT VIOLATION

**Re: Docket No. 20190185-WS, In re: Application for authority to transfer assets of exempt entity in Sumter County by the City of Wildwood to South Sumter Utility Company, LLC.**

Dear Mr. Friedman,

Section 367.011, Florida Statutes (F.S.), states that the Florida Public Service Commission (Commission) has exclusive jurisdiction over each water and wastewater utility with respect to its authority, service, and rates. Section 367.021(12), F.S., defines a water or wastewater utility to include every person, lessee, trustee, or receiver who owns, operates, manages, or controls a system, or proposes construction of a system, that is providing, or proposes to provide, water or wastewater service to the public for compensation. Pursuant to Section 367.022(7), F.S., “[n]onprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives” are not subject to regulation by the Commission.

Pursuant to Section 367.031, F.S., each utility subject to the jurisdiction of the Commission must obtain a certificate of authorization from the Commission to provide water or wastewater service. Rule 25-30.037, Florida Administrative Code (F.A.C.), “applies to any application for the transfer of an existing water or wastewater utility, regardless of whether service is currently being provided.” Pursuant to rule 25-30.037(1)(a), F.A.C., “if a transfer occurs prior to Commission approval, the utility shall submit an application for authority to transfer no later than 90 days after the sale closing date.”

On September 25, 2019, South Sumter Utility Company, LLC (Company) filed, with the Commission, an Application for Transfer of an Exempt Entity to a Regulated Utility, or Transfer for a Utility in a Non-jurisdictional County to a Regulated Utility that Results in a System Whose Service Transverses County Boundaries (Application). Based on the information provided in the Application, the date of agreement for transfer of water and wastewater service from the City of Wildwood Florida to the Company was December 10, 2018. The Application further states that

the closing date occurred on February 19, 2019, some 219 days prior to the filing of the transfer Application.

Based on the information provided in the Application, it appears the Company did not submit an application for Commission approval within 90 days of the closing date. Because of this, it appears that the Company is in violation of Rule 25-30.037, F.A.C.

Section 367.161, F.S., provides:

- (1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. However, any penalty assessed by the commission for a violation of s. 367.111(2) shall be reduced by any penalty assessed by any other state agency for the same violation. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85. The proceeds from the enforcement of any such lien shall be deposited into the General Revenue Fund.
- (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85. The collected penalties shall be deposited into the General Revenue Fund unallocated.

By this letter, I am requesting the Company please submit a response within 30 days to the Office of Commission Clerk providing any mitigating circumstances as to why it should not be fined or otherwise penalized pursuant to Section 367.161, F.S., for its apparent violation of Rule 25-30.037, F.A.C.

Notice of Apparent Violation

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If you have any questions, please contact me at (850) 413-6630 or [BLheriss@psc.state.fl.us](mailto:BLheriss@psc.state.fl.us).

Sincerely,

*/s/ Bianca Y. Lherisson*

Bianca Y. Lherisson  
Senior Attorney

BYL

cc: Division of Engineering (M. Watts, K. Johnson)