



February 26, 2024

Florida Public Service Commission
Adam Teitzman, Clerk
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 20230111-SU; Application for Authority to Transfer Wastewater Facilities and Certificate No. 537-S in Okeechobee County from The Vantage Development Corporation to Vantage Oaks Utility, LLC

Dear Clerk Teitzman,

This letter is filed in response to the Notice of Apparent Violation received from Staff Attorney Ryan Sandy by letter dated February 19, 2024 addressed to myself, as counsel for the buyer, and to the seller of the above-referenced utility servicing the Vantage Oaks RV Park. As the counsel and representative for only the buyer of the utility, I can speak only for that party and not for the seller.

First, I should preface my response by noting that this is a utility of approximately 182 connections which services a small RV park in Okeechobee County.

The buyer did not file for transfer of the wastewater utility system within the time period required under the provision of the referenced statute because the buyer was not aware that the system it had acquired as part of an acquisition of the RV park itself was, in fact, a regulated utility. The seller did not make the buyer aware of this during the negotiations or at the time of closing.

The buyer became aware that this was a regulated utility and, as such, that the transfer was required almost one year after the closing of the acquisition of the utility. Therefore, it was not only impossible for the buyer to comply with the statutory requirement concerning the filing of an application within 90 days of that closing date, but also impossible to comply with the statute requiring a provision within the contract noting that the transfer was contingent upon Florida Public Service Commission approval.

It should be noted that the clear wording of the referenced statutes places the responsibility for complying with these requirements on the regulated utility and its certificate holder. That would, therefore, be the seller and not the buyer at the time of transfer.

Adam Teitzman, Clerk
February 26, 2024
Page 2

While the Commission understandably wishes to demand compliance with its governing statutes and rules, its primary function with regard to transfers of utilities is in assuring that such transfers are in the public interest and in the interest of their customers. This is clearly a case where the public interest and customer interest was best served by the transfer of the wastewater system to the buyer at the time that entity acquired the RV park serviced by the utility.

Based upon these facts, we believe it is wholly inappropriate for the FPSC to consider a fine in these circumstances. In fact, the buyer should be commended for its diligence in ultimately determining that this extremely small system was a regulated utility and that the transaction required FPSC approval, and therefore undertaking the transfer application on its own and without the significant assistance from the seller in order to try and correct the oversights that occurred at the time of closing. This is especially true in light of the fact that the buyer has already expended more than it generates in annual revenues on attempting to comply with the FSPC requirements concerning this transfer.

Should you have any further questions in this regard, please let me know.

Sincerely,

SUNDSTROM & MINDLIN, LLP

F. Marshall Deterding / brf

F. Marshall Deterding
Of Counsel

FMD/brf

cc: Ryan Sandy, Senior Attorney
Melinda Watts
Zach Schwartz