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Ms. Ann Cole, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

In re: May 6, 2010 Rule Development Workshop Regarding Rules in Chapter 25-30, F.A.C.,
pertaining to Water and Wastewater Certificates of Authorization

Dear Ms. Cole:

Ni Florida, LLC appreciates the comprehensive materials and helpful discussion provided by Commission Staff at the May 6, 2010 rule development workshop, and offers the following brief post-workshop comments:

Notice requirements:

1. Rule 25-3.030(4)(b) proposes to require certain notices to be provided not only to the utility's customers, but "to each . . . owner of property located within the service area to be served, extended, deleted or transferred. . . ." This requirement would prove extremely burdensome and costly, without benefitting the customers who would pay for it.

Although each utility knows the identity and contact information of its customers, it does not know – and cannot readily determine – the identity and contact information of all non-customers who own property within the utility's current or proposed service territory. Such non-customer owners would include persons or entities that own rental properties, vacant lots, and unimproved acreage as well as banks or other mortgage lenders that own foreclosed properties. In order to meet this requirement, each time the utility was required to provide notice under this rule, it would have to search local property records to identify the name and address of each property owner in the affected territory and either (a) send notice to all property owners as well as all customers; or (b) or sort the list of owners against the utility's customer list to avoid the expense of sending double notices. Either way is burdensome and expensive, and serves only to impose additional costs on current customers without providing any benefit to them.

2. Each rule that requires a utility to provide notice to its customers of transfer or similar applications should specifically permit the utility to include, if applicable, a statement in such notice stating that the utility's rates, terms and conditions of service will remain the same and will not change regardless of whether the Commission approves the application. Customers are understandably concerned about rate increases whenever they receive a formal notice from their utility, and utilities should be able to address those concerns directly in the notice.

Types of transfers:

1. The rules fail to clearly distinguish between different types of transfers. Rule 25-30.037(4) provides application requirements for a "change of majority organizational control of a regulated utility," however this term is never defined, nor is there an explanation of the difference between a change of majority organizational control and a "change of ownership of the utility parent" as referenced in Rule 25-30.037(5). In addition, the phrase "change of ownership of the utility parent" is ambiguous, as it can be understood to mean either a change in the identity of the utility's parent company, or a change in the identity of that parent company's owner.

Further, the reference in Rule 35-30.039 to a "corporate reorganization. . . with no change in the ownership or control of the utility or its assets" is somewhat confusing as the rule specifically anticipates changes of ownership from an individual to a corporation or vice-versa. Given the possible confusion or overlap between these three types of transfers, it is not clear why they are subject to such different application and notice requirements.

2. A utility that proposes a corporate reorganization pursuant to Rule 25-30.039 need not follow the extensive and costly notice procedures required by Rule 25-30.030, even if the reorganization results in a change of ownership such as (for example) a partnership to a corporation. However, a utility that proposes a change of majority organizational control or change in ownership of the utility parent under Rule 25-30.037(4) and (5) must incur these costs even where such transactions will not actually result in a change of ownership of the utility's certificate or assets. The extensive noticing requirements of Rule 25-30.030 should only be imposed where the application would result in a change of the utility's identity, such that the certificate or assets will be owned by a different person or entity. There appears to be no regulatory purpose or customer benefit in other situations.

Ni Florida appreciates the opportunity to provide post-workshop comments, and looks forward to working with Staff toward development of the proposed rules.

Sincerely,



Marsha E. Rule

cc: Mike Ashfield
Patti Daniel