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January 26, 1999

Ms. Blanca Bayo
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 981403-WS, Application for Transfer of Certificate Nos. 469-W and
358-S from Bayside Utilities, Inc. to Bayside Utility Services, Inc. in Bay County.

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of the following documents:

1. Utilities, Inc. and Bayside Utility Services, Inc. Motion to Dismiss the Objection and Protest

Thank you for your assistance. If there are any questions, please let me know.

Sincerely yours,



Ben E. Girtman

ACK _____
AFA _____ Encl.
APP _____ cc w/encl: Mr. Carl Wenz
CAF _____
CMU _____
CTR _____
EAG _____
LEG _____ 2
LIN _____ 3
ONG _____
RCH _____
SEC _____ 1
WAS _____ *Carl*
OTH _____

DOCUMENT NUMBER-DATE

01057 JAN 26 99

REGISTRATION UNIT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of)
Certificate Nos. 469-W and 358-S)
from Bayside Utilities, Inc. to)
Bayside Utility Services, Inc. in)
Bay County.)
_____.)

DOCKET NO. 981403-WS

Submitted for Filing:
January 26, 1999

UTILITIES, INC. AND BAYSIDE UTILITY SERVICES, INC.
MOTION TO DISMISS
THE OBJECTION AND PROTEST

COMES NOW, Utilities, Inc. and it's wholly owned subsidiary, Bayside Utility Services, Inc., and in support of the Motion to Dismiss state that:

1. On or about November 12, 1998, an undated letter was filed with the Florida Public Service Commission purporting to be an objection to the transfer of the utility from Bayside Utilities, Inc. to Bayside Utility Services, Inc. The document was signed by only one person, but had the names and addresses of three individuals at the bottom of the letter. It is unclear whether the objection was filed by the three individuals in their individual capacities. A copy of that letter is attached as Exhibit A.
2. The objection also was purported to be made on behalf of Bayside Homeowners Association, although there is no indication that the Association or its Board of Directors represents all or even a majority of the residents in the area. Furthermore, there is no indication that the homeowners were notified of the decision of the individual(s) to file an objection or protest, and there is no indication

whether the purported action was approved by a majority vote of the members of the Association or whether there was a vote of the Board of Directors of the Association, or whether the Association was even lawfully created, if it even exists.

3. The letter of objection to the transfer is insufficient as a protest. Separate and apart from the deficiencies in the identification of the actual protestant(s) and his (their) representative capacity or capacities, the letter does not allege that the acquiring utility lacks the technical expertise and the financial ability to provide the required utility services. In fact, the acquiring utility has both the technical expertise and the financial ability to own and operate this utility system. It already owns and operates several utility systems in Florida subject to the jurisdiction of the Florida Public Service Commission, and has done so for many years.
4. The only thing which the letter (Exhibit A) does is to pose several questions regarding the acquiring utility's plans for the service area. Those are not grounds to protest the transfer.
5. On November 25, 1998, Utilities, Inc. provided a written response to the Commission and to the protestants responding to the questions raised in the protestants' letter (Exhibit A). A copy of that response is attached as Exhibit B.
6. Furthermore, the objection to the transfer (Exhibit A) recites that:

Inasmuch as the recently approved Rate Case is currently under litigation, we believe that it would be improper to transfer ownership and management and operation of the facilities at this time.

7. Of the three individuals whose names appear on the objection to the transfer, two of them (and one other individual) also had filed a protest of the Commission's PAA Order setting rates in the pending staff-assisted rate case. On or about January 20, 1999, these individuals and their Association filed the Notice of Voluntary Dismissal of their Protest of PAA Order in the rate case. A copy of the Notice of Voluntary Dismissal is attached as Exhibit C.
8. In accordance with Section 367.071, Florida Statutes, this transfer is in the public interest, and the buyer has the experience, the technical ability, and the financial ability to provide the utility service. The buyer also will fulfill the commitments, obligations and representations of the selling utility. The transfer also is in accordance with Rule 25-30.037, F.A.C., regarding Applications for Authority to Transfer.

WHEREFORE, Utilities, Inc. and its wholly owned subsidiary, Bayside Utility Services, Inc., file this Motion to Dismiss the objection and/or protest (of the individuals and/or of the neighborhood association) in that the objection and/or protest fails to allege appropriate or sufficient grounds to protest the transfer, and it is frivolous.

FURTHERMORE, Utilities, Inc. and Bayside Utility Services, Inc. reserve the right to seek the inclusion of any attorney fees or other costs or expenses incurred in relation to the objection or protest of this transfer, as a recovery from its utility customers in this service area, and reserve such other rights and remedies for damages, attorney fees or other costs or expenses as may be available to them under the statutes and rules governing

proceedings before the Florida Public Service Commission and before the Circuit Courts or other tribunals of this State, including but not limited to claims under Section 57.105,

Florida Statutes.

Respectfully submitted,



Ben E. Girtman
FL BAR NO. 186039
1020 E. Lafayette St.
Suite 207
Tallahassee, FL 32301

Attorney for Utilities, Inc. and
Bayside Utility Services, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent to Mrs. Dorothy J. Hurton, Bayside Utilities, Inc., 6325 Big Daddy Drive, Panama City Beach, FL 32407; Mr. Traver A. Kitchens, individually and as President of Bayside Homeowners Ass'n., 1045 Bay Circle, Panama City Beach, FL 32407; Mr. Jim Wharton, 1071 Bay Circle, Panama City Beach, FL 32407; Mr. Jerry Austin, 1063 Bay Circle, Panama City Beach, FL 32407; and to Rosanne Gervasi, Esq., Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, by U.S. Mail (or by hand delivery * or by facsimile #) this 26 day of January 1999.



Ben E. Girtman

WAW John
981403-WS

To: Florida Public Service Commission
Director, Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

From: Bayside Homeowners Association
Trevor A. Kitchens, President
1045 Bay Circle
Panama City Beach, Florida 32407-5501

Reference Notice of Application for Transfer of
Certificates Nos. 469-W and 358-S to
Bayside Utility Services, Inc

RECEIVED
NOV 16 1998
Florida Public Service Commission
Division of Water and Wastewater

This letter is to advise the Public Service Commission that
the Bayside Homeowners Association objects to the referenced
Application for Transfer of Certificates.

The Public Service Commission Staff has just completed a full analysis
of the Rate Structure of the current operations. The new rates, approved by
the full commission on September 1, are set to provide a 9.53% rate of return
for the current owner. The new rates were a substantial increase but were
decreased necessary to ensure the profit required by statute.

We believe that Utilities Inc. is a holding company for a number of small
utilities. We have questions as to their plans for our existing area.
These are:

- To improve water and sewer service
- To raise or lower rates—now or in the future
- For expansion
- To eliminate debt burdens—manifested in high base facility charges
- To lower operation and maintenance costs—producing lower rates

Inasmuch as the recently approved Rate Case is currently under litigation, we
believe that it would be improper to transfer ownership and management and
operation of the facilities at this time.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- GMU _____
- DTR _____
- EAC _____
- LEC _____
- LIR _____
- OF _____
- RC _____
- SEC _____
- WAS _____

Respectfully Submitted,

Bayside Homeowners Association

Trevor A. Kitchens, Pres
1045 Bay Circle
Panama City Beach, FL 32407

Jim Wharton
1071 Bay Circle
Panama City Beach, FL 32407

Jerry Austin
1063 Bay Circle
Panama City Beach, FL

mail to Home

DOCUMENT NUMBER-DATE

1264 NOV 12 98

FPSC-RECORDS/REPORTING



7255 Sanders Road
Northbrook, Illinois 60062-5196
Telephone 847 498-6110
Facsimile 847 498-2065

RECEIVED
NOV 30 1998

November 25, 1998

Office of
BEN E. GERTMAN

Ms. Blanco S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 981403-WS
Application for Transfer of Certificate Nos. 469-W and 358-S from Bayside Utilities, Inc. to
Bayside Utility Services, Inc. in Bay County Florida.

Dear Ms. Bayo:

This letter is in response to a letter recently received from Mr. Tarver A. Kitchens, Mr. Jim Wharton and Mr. Jerry Austin, representing the Bayside Homeowners Association. In their letter, Messrs. Kitchens, Wharton and Austin express concerns about several issues regarding the proposed transfer of the Bayside Utilities, Inc. ("Bayside") water and sewer systems. I have outlined their concerns and our responses below:

Improve water and sewer service

Water supply and waste treatment are purchased from the City of Panama City Beach. It is my understanding that DEP has no citations or corrective orders pending against the City of Panama City Beach. Earlier this year however, a public hearing was held in conjunction with Bayside's rate case (Docket No. 971401-WS). The operational concerns expressed by the customers at the hearing were investigated and the Commission concluded that the utility's quality of service was satisfactory.

However, it is our belief that the operation and maintenance of the facility will be improved by applying our ownership philosophy to the Bayside facility. The foundation of our ownership philosophy is to provide excellent utility service in the most efficient manner possible. To achieve this goal, our facilities are operated and maintained with diligent adherence to routine and preventative maintenance practices. Additionally, our certified operating personnel have hands-on experience with the varied types of Utilities, Inc. facilities. This enhances our ability to achieve economies of scale and broadens the base of knowledge of our staff.

Utilities, Inc. personnel would be pleased to meet with the Homeowners Association representatives to discuss these operational or quality of service issues in more detail.

B

Raise or lower rates - now or in the future

Utilities, Inc. has no plans to file a rate case. The rates approved in Docket No. 971401-WS will decrease in approximately four years as the result of fully recovered rate case expenses.

It is our practice to utilize the PSC's annual inflation index rate adjustment rule. This practice allows rates to keep pace with minor cost increases without having to incur the expense associated with a litigated rate case.

Expansion

Utilities, Inc. has no expansion plans at this time. If and when Utilities, Inc. desires to expand its service area, PSC approval is required. The approval process for expanding includes the opportunity for public input. This provides the customers with a safeguard against improvident expansion.

Eliminate debt burden - manifested in high base facility charges

Based upon a review of the PAA order in Docket No. 971401-WS, it does appear that the Bayside water and sewer system has been financed primarily by debt. It appears that the overall cost of that debt is just under 10%.

Historically, Utilities, Inc. has maintained a capital structure of approximately 55% debt and 45% equity. Currently, our embedded cost of debt is under 9%.

Over time, the Bayside customers will benefit from Utilities, Inc.'s access to lower cost capital funds.

Lower operation and maintenance costs - producing lower rates

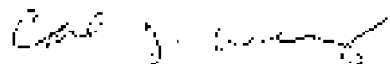
Under the current cost structure, approximately 45% of the operating expenses of the water and sewer system are associated with the purchase of bulk services from Panama City Beach. Consequently, our ability to achieve efficiencies is limited to the remaining 55% of operating expenses.

Our ability to achieve greater economies of scale will result in lower rates than otherwise could be achieved under the current ownership. At this juncture, I am unable to predict if our achieved efficiencies will produce a rate reduction in the future.

Again, we would be pleased to meet with the Bayside Homeowners Association to discuss their concerns.

If you have any questions, please contact me directly.

Respectfully submitted,



Carl J. Weisz
Vice President, Regulatory Matters

cc: Mr. Ben Garman
Mr. Tarver Kitchens

31/12/99 17:05

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PUBLIC COUNCIL

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff
related rate case in Bay County
by Bayside Utilities, Inc.

Docket No. 971401-W5
Filed:

NOTICE OF VOLUNTARY DISMISSAL

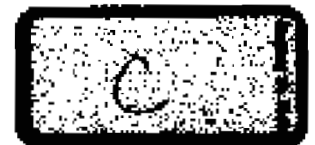
Petitioners Turner Kitchens, Jim Wharton and Bobby J. Pettillo, each individually in his own name, and jointly as representatives of Bayside Homeowners' Association, voluntarily dismiss their Protest of Proposed Agency Action filed on October 15, 1998, and submit:

1. On October 27, 1997, Bayside Utilities, Inc. (Bayside) filed an application for a staff-related rate case. On September 24, 1998, the Public Service Commission issued Proposed Agency Action Order No. PSC-98-1269-FOF-W5, which granted increased rates and charges for Bayside Utilities.

2. On October 15, 1998, the undersigned Petitioners timely protested certain portions of Order No. PSC-98-1269-FOF-W5, and petitioned for a hearing on the controverted issues. The PSC duly established the various dates for an orderly hearing process. The deadline for Bayside's testimony has passed. The utility opted not to file comprehensive testimony on the issues, but rather to allow the PSC staff to defend the substance of the PAA.

3. Notwithstanding that PSC staff will present the entire case for Bayside, Petitioners have been advised that Bayside intends to hire counsel and other consultants, and thereby incur significant rate case expense. Petitioners further have been advised that the Commission routinely passes on this rate case expense to the customers' bills.

4. The fundamental unfairness of this predicament seems self-apparent, and the Petitioners believe the PSC should re-examine its approach to such threats of rate case expense.



Nevertheless, the Petitioners must acknowledge the harsh reality of the present Commission policy.

5. Accordingly, in order to prevent undue rate case expense from being levied on fellow customers, the undersigned Petitioners voluntarily withdrew their Protest.

WHEREFORE, Petitioners Tarver Kitchens, Jim Wharton and Bobby J. Pattiho hereby issue this Notice that they voluntarily withdrew their Protest of PAA Order no. PSC-98-1269-FOU-Ws

Respectfully submitted,


TARVER KITCHENS, PRESIDENT
DAYSIDE HOMEOWNERS ASSOC.


JIM WHARTON


BOBBY J. PATTILLO

001101000 10117 090409000

PUBLIC SERVICE

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**CERTIFICATE OF SERVICE
DOCKET NO. 971493-W3**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing NOTICE OF VOLUNTARY DISMISSAL has been delivered by ^(FAX) (*) hand-delivery or U.S. Mail to the following parties on 22 day of January, 1999

Robert Casey, Esquire
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

BaySide Utilities, Inc.
6125 Big Daddy Drive
Palm Bay Beach, Florida 32909-1306


TARVER KITCHENS, PRESIDENT
BAYSIDE HOMEOWNERS ASSOC.