

STATE OF FLORIDA

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Public Service Commission

May 10, 2002

Mr. Frank J. Seifert
ESAD Enterprises, Inc.
P.O. Box 503
Port St. Joe, Florida 32457

Via Certified Mail

RE: Docket No. 011379-SU - Application for transfer of Certificate No. 422-S in Gulf County from Gulf Aire Properties d/b/a Gulf Aire Wastewater Treatment Plant to ESAD Enterprises, Inc.

Dear Mr. Seifert:

This letter is a follow up to our letter of November 9, 200, and repeated telephone calls, regarding the outstanding deficiencies in the application for a transfer of the Gulf Aire Wastewater Treatment Plant to ESAD Enterprises, Inc. which have prevented the application from being processed. These included:

1. Rule 25-30.037(2)(q), F.A.C. requires a recorded warranty deed evidencing the ownership of the land upon which the treatment facilities are located. In addition, no details have been provided about the status of the dispute over the lift station easement, and a plan for how the utility intends to ensure this lift station will remain in continuous operation.
2. Rule 25-30.037(2)(s), F.A.C. requires Tariff Sheets reflecting the change in ownership.
3. Rule 25-30.030, F.A.C. requires affidavits that actual noticing of the transfer was accomplished. That is, you have not provided affidavits that local utilities, government entities or officials, and customers were noticed. You have also failed to provide the affidavit from the local newspaper that the notice was published as required.
4. Rule 25-30.037(2)(i) and (k), F.A.C. requires details about the financing of the purchase by ESAD. While you have explained the financing in general terms, you have not provided any documentation, such as promissory notes, mortgages, or contracts supporting the purchasing/financing arrangements.

DOCUMENT NUMBER DATE

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5. Rule 25-30.037(2)(1) requires a proposed book value be claimed for the utility. Your application must state some certain amount, rather than "unknown at this time". Additionally, you have failed to indicate whether you seek an acquisition adjustment. An affirmative statement, yes or no, is required to process the application.

In addition to the above deficiencies, your 2001 Annual Report and Regulatory Assessment Fees (RAFs) were due on March 31, 2002. As of today's date, the Annual Report and RAFs have not been filed. As of May 9, 2002, the outstanding penalties on the Annual Report amounts to \$126.00. Also, for the RAFs, penalties will be assessed at 5% per month for up to five months and interest will be accruing at 1% per month from March 31, 2002 until the date of payment. These must be filed immediately in order to avoid further late payment penalties, interest, and additional complications.

As a result of the above, you are operating a regulated utility without a Certificate of Authorization from the Commission, in apparent violation of Section 367.031 and 367.071, Florida Statutes. The Commission takes its responsibilities very seriously, and this matter cannot be ignored. In light of the above, and given staff's repeated, diligent attempts to assist you with the completion of the application, I have no choice but to recommend to the Commission that show cause proceedings be initiated against ESAD Enterprises, Inc. Show cause proceedings can result in the imposition of significant penalties and fines of up to \$5000.00 per day, and in extreme circumstances, the denial of the transfer from the seller to the buyer.

Accordingly, if the above information is not fully provided to the Commission by June 7, 2002, I will be filing a Recommendation to Show Cause. I would also like to note that the staff of the Public Service Commission remains committed to assisting you in processing this application and providing any and all assistance possible. Further, should the utility wish to expand its service territory or begin serving additional customers, timely resolution of the above matters will be a prerequisite to the modification or addition of territory to Certificate No. 422-S.

Sincerely,



Larry D. Harris
Senior Attorney

LDH/dm

cc: Division of the Commission Clerk and Administrative Services
Division of Economic Regulation (Clapp, Rieger, Kaproth)