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**VIA HAND DELIVERY**

December 15, 2003

Ms. Blanca Bayo  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

Re: Docket No.: 030986-WS; Application for Acknowledgment of Sale of Land and Facilities of Little Sumter Utility Company to Village Center Community Development District, and for Cancellation of Certificate Nos. 580-W and 500-S in Marion and Sumter Counties.  
Our File No.: 30059.03

Dear Ms. Bayo:

The Public Service Commission Staff has asked that I expand upon Little Sumter Utility Company's position that the Village Center Community Development District is a governmental authority, entitling it to approval of the purchase of Little Sumter Utility Company as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes.

Section 367.021(7), Florida Statutes, defines a governmental authority as "a political subdivision, as defined by s.1.01(a), a regional water supply authority created pursuant to s.373.1962, or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility." Thus, the inquiry begins with the definition in Section 1.01(a), Florida Statutes. That definition defines political subdivision to include "counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state." (e.s.) Thus, the question is whether a community development district created pursuant to Chapter 190, Florida Statutes, is an "other district in this state". We believe that it clearly is such a district. A Community Development District created pursuant to Chapter 190, Florida Statutes, as defined in Section 190.003(6), Florida Statutes, is a local unit of special-

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purpose government, exercising specialized functions. It is created as a method to manage and finance basic services for community development. Section 190.002(3), Florida Statutes. The powers of a Community Development District resemble those of local governments and specifically include providing for water and wastewater service. Sections 190.011 and 190.012, Florida Statutes.

The Second District Court of Appeal in Sun 'N Lake of Sebring Improvement District v. McIntyre, 800 So.2d 715 (Fla. 2d DCA 2001), held that the district in that case was a political subdivision pursuant to Section 1.01(8), Florida Statutes. The court noted that the district was subject to the provisions of Chapter 190, Florida Statutes. My research disclosed only three instances in which the Public Service Commission has addressed the status of a Community Development District. In 1987 in Order No. 18503, this Commission analyzed whether a Community Development District was a governmental agency which would be exempt pursuant to Section 367.022(2), Florida Statutes, from Public Service Commission's jurisdiction over water and wastewater utilities owned by the Community Development District. This Commission stated:

Section 367.022(2), Florida Statutes, exempts systems owned, operated, managed or controlled by governmental agencies from the regulation of this Commission. Section 367.021(5), Florida Statutes, defines a governmental agency as a "political subdivision authorized to provide water or sewer service." Section 190.003(6), Florida Statutes, defines a community development district as "a local unit of special-purpose government." The district is, therefore, a political subdivision of the State of Florida.

Similarly, a Community Development District was determined exempt from Public Service Commission regulation pursuant to Section 367.022(2), Florida Statutes, in Order No. PSC 96-0110-FOF-WS. If a Community Development District is a governmental authority pursuant to Section 367.022(2), Florida Statutes, then it must also be a governmental authority pursuant to Section 367.07(4)(a), Florida Statutes. As set forth in the Application, this Commission acknowledged that the Village Center Community Development District was a governmental agency which was entitled to approval of a transfer of a water and wastewater system as a matter of right.


Nothing in Commissioner Davidson's dissent in Order No. PSC 03-1284-FOF-WS conflicts with the above analysis. Commissioner Davidson's dissent addressed only whether the Florida Governmental Utility Authority was a governmental authority under the aforementioned Statutes. Commissioner Davidson was addressing an entity created pursuant to Section 163.01(7)(g)(1), Florida Statutes. Commissioner Davidson expressed the believe that an entity created pursuant to that Section was not a district of the state, as that term is defined in Section 1.01(8), Florida Statutes. A Community Development

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District created pursuant to Chapter 190, Florida Statutes, bears no resemblance to that created pursuant to Section 163.01(7)(g)(1), Florida Statutes.

In conclusion, we believe that clearly the Village Center Community Development District is a governmental authority to which the approval of its purchase of a water and wastewater system must be approved as a matter of right.

Very truly yours,

  
MARTIN S. FRIEDMAN  
For the Firm

MSF/lm

cc: Mr. John Wise (Via regular mail)  
Rosanne Gervasi, Esq. (Via hand delivery)