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TIMOTHY DEVLIN, DIRECTOR  
 DIVISION OF ECONOMIC REGULATION  
 (850) 413-6900

Public Service Commission

May 11, 2006

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Ms. Tammy Buchhardt  
 Four Points Utility Corporation  
 3100 Sand Mine Rd.  
 Davenport, Florida 33897

RECEIVED-FPSC  
 MAY 12 AM 9:00  
 COMMISSION  
 CLERK

**Re: Docket No. 050595-WS-Application for Certificates to provide water and wastewater service in Polk County by Four Points Utility Corporation**

Dear Ms. Buchhardt:

I am in receipt of your recently submitted affidavits, water usage data and other requested data. However, your application for certificates of authorization remains deficient due to your response that Resort Management will not provide the financial support for Four Points Utility Corporation (Four Points). As a part of the application for certificate, the applicant must demonstrate financial ability. The owner must submit documentation showing that he or she is willing and able to meet the financial obligations of Four Points. Another deficiency is maps for the utility. One copy of a detailed system map showing the water lines, the wastewater lines, and the territory to be served is required by Rule 25-30.034(1)(i), Florida Administrative Code. A territory map is also required, and must have a reference to section, township and range, and a reference point on that map that shows a corner or quarter corner of the land section. One copy of the official tax assessment map is needed with the territory plotted thereon using quarter sections (since that is how your notice was given), with a defined reference point of beginning, as required by Rule 25-30.034(1)(j), Florida Administrative Code.

In addition, the requested operating expense and investment data has not been provided. Please provide documentation to show whether the costs for the lines are depreciated or written off to the cost of goods sold on the property owners tax returns. If the lines are being depreciated, provide documentation as to the depreciation rate used on the tax return and the cost for the lines. The tax returns that were previously provided did not specifically indicate the depreciated assets of the utility and staff was told to discard the tax return. Provide a cost study and/or support for the proposed rates being charged. Please include a schedule showing the assets, liabilities, and operating expenses of the utility by the National Association of Regulatory Utility Commissioners Uniform system of accounts (NARUC USOA) and a schedule showing the proposed capital structure. For the reasons discussed below, it is important that this deficiency and additional data be resolved and submitted expeditiously.

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC 1
- OTH \_\_\_\_\_

DOCUMENT USE PROHIBITED  
 04159 MAY 12 '06

FPSC-COMMISSION CLERK

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As you are aware, pursuant to Section 367.022(8), Florida Statutes, persons who resell water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater are exempt from Commission regulation. Staff has determined that because Four Points is charging above the actual purchase price for the water and wastewater service that it resells, the reseller exemption does not apply to it. Therefore, it appears that Four Points is currently operating as a utility without a certificate and is charging unapproved rates, in violation of Chapter 367, Florida Statutes, and Commission rules.

Specifically, Section 367.031, Florida Statutes, requires utilities subject to Commission jurisdiction to obtain a certificate of authorization to provide water or wastewater service. Although Four Points has applied for a certificate of authorization in this docket, it has not as yet obtained a certificate authorizing it to provide utility service for compensation. Section 367.081(1), Florida Statutes, provides that a utility may only charge rates and charges that have been approved by the Commission. Section 367.091(3), Florida Statutes, requires that each utility's rates, charges, and customer service policies be contained in a tariff approved by and on file with the Commission. Rule 25-30.034(1)(g), Florida Administrative Code, requires that when an existing utility currently charging for service applies for an initial certificate of authorization, it shall provide a statement specifying on what date and under what authority the current rates and charges were established. Four Points has provided no such statement, nor does staff believe it has obtained the approval of any authority to charge rates and charges. Finally, Rule 25-30.135(1) and (2), Florida Administrative Code, requires utilities to file tariffs and prohibits utilities from modifying or revising their rules, regulations, or schedules of rates and charges until they file and receive approval from the Commission for any such modification or revision. By providing water and wastewater service for compensation prior to obtaining a certificate of authorization and without the approval of the Commission, Four Points is in apparent violation of each of the above-identified provisions of Chapter 367, Florida Statutes, and Commission rules.

Please be advised that pursuant to Section 367.161(2), Florida Statutes,

The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission. . . . Each day that such refusal or violation continues constitutes a separate offense.

In order for the Commission to rule upon the merits of the application filed in this docket, it is imperative that Four Points respond to this deficiency letter by submitting documentation by May 22, 2006, showing that the owner of Four Points is willing and able to meet the financial obligations of the utility. Please also advise us, in writing by May 22, 2006, of any circumstances which Four Points believes would mitigate its apparent violation of Chapter 367, Florida Statutes, and the Commission rules noted above. Failure to respond by May 22, 2006, may result in a recommendation that the Commission require Four Points to show cause as to why it should not be fined pursuant to Section 367.161(2), Florida Statutes, for operating without a certificate and for charging unapproved rates.

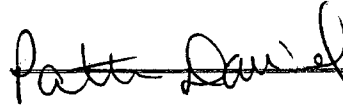
Ms. Tammy Buchardt  
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Please submit the original and five copies of the requested information by the date requested. When filing the response, please be sure to refer to the docket number assigned to this case and to direct the response to:

**Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850**

Should you have any questions concerning the financial information requested by this letter, please contact Tom Walden at 850-413-6950 or Cheryl Johnson at 850-413-6984. Should you have any legal questions, please contact Rosanne Gervasi, the staff attorney assigned to this case, at 850-413-6224.

Sincerely,

A handwritten signature in black ink that reads "Patti Daniel". The signature is written in a cursive style and is positioned above a horizontal line.

Patti Daniel  
Supervisor of Certification

PD:caj

cc: Mr. David Meadows  
Division of Economic Regulation (Johnson, Walden)  
Office of the General Counsel (Gervasi)  
Division of Commission Clerk and Administrative Services (Bayó)