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**Management & Regulatory Consultants, Inc.**

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May 16, 2006

Blanca S. Bayo, Director  
Division of the Commission Clerk & Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Docket No. 050820-WS Application for amendment of  
Certificates 611-W and 527-S  
Comments on Preliminary Staff Report dated May 5, 2006

Dear Ms. Bayo:

The following comments on the May 5, 2006 Staff Preliminary Report are provided on behalf of the Applicant, MSM Utilities, LLC

Rate Structure

The Applicant strongly disagrees with the Staff proposed rate structure for water service. The structure proposed by Staff (Report at p.28) will recover only 25% of the water revenue requirement through the Base Facility Charge with the remaining 75% to be recovered through the gallonage charge. During the development of its Report, Staff had discussions with the Applicant regarding ways to mitigate the impact of the any rate increase. As a part of those discussions, the rate structure was considered; especially the potentially high gallonage charges. In its discussions with the Applicant, Staff indicated that the water BFC would be approximately \$28.21/month and the average gallonage rate approximately \$5.38/kgal range. This produced an approximate split in the recovery of the revenue requirement of 40% through the BFC and 60% through the gallonage charge. The Applicant agreed that this was an acceptable compromise that provided the Applicant with a steady revenue stream without imposing a repressive base monthly charge on seasonal customers. Staff did make Applicant aware that there would be refinements. However, the Applicant had no reason to suspect that (1) the final proposed revenue recovery ratio would go from 40/60 to

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25/75, (2) the BFC would be \$15.81 or some 56% lower than discussed or (3) the average gallonage rate closer to \$8.00/kgal or 49% higher than discussed. These changes are more than refinements; they are substantive. The 40/60 recovery split is certainly in keeping with the conservation goals of the water management districts and the previous goals of this Commission. A 25/75 split surely is not. The community served and to be served is highly seasonal in nature. Approximately 30% of the bills are for zero consumption. The maximum and minimum monthly usage vary by 25-30% from the average month usage and there is more than 75% variation between the maximum and minimum month. The proposed rate structure is a recipe for financial instability.

### Used and Useful

Applicant would like to point out that it believes the proposed evaluation of the water treatment and storage plant understates used and useful. Staff points out (Report at p. 11) that since raw water from the wells is first pumped through a R/O treatment process rather than just aeration or disinfection including storage, the used and usefulness of the storage and treatment would be determined separately. The Applicant agrees that is a valid approach. However, the Applicant believes the wells and pumps should also be evaluated separately and not with the treatment process. The Recommended Standard for Water Works recommends a minimum of two sources of groundwater. This water system has only two wells, neither of which is oversized. The wells and pumps should be separately evaluated and found to be 100% used and useful.

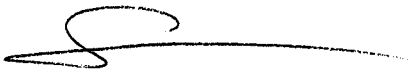
The Applicant also believes that the Staff should set fire flow requirements at 500 gpm for two hours rather than one hour. The Staff references the Charlotte County Fire Code as requiring a minimum of 500 gpm for one hour. In requiring only one hour duration the Charlotte County Code has adopted a standard less than the two hours recommended by the Insurance Services Office (ISO) standard. In the interest of safety and the affect on the consumer's insurance rates, the Staff should only defer to the local government requirements when it is more stringent than that set by the ISO. This does not change the 100% used and useful determined for the storage tank but it is cause to reevaluate used and useful for the treatment system. Staff excluded fire capacity demand in evaluating the treatment system capacity requirements on the basis that fire demand would be met directly from storage. Assuming the 30,000 gallons of storage was adequate when fire demand was 30,000 gallons at an hour duration (which it is not), it certainly is not adequate for a two hour duration which translates into a 60,000 gallon demand.

Fire demand will have to be met by the continuous flow through the R/O system. The result is that the R/O system is also 100% used and useful. Even if the Staff should defer to the County one hour duration, the 30,000 gallons storage provides only 27,000 gallons of useable storage (90%) to provide for 30,000 gallons of fire flow. It has no capacity for equalization to meet the difference between maximum day demand and maximum hour demand. This all falls back on the ability of the R/O system to meet those flows. The Applicant is not requesting a change in the proposed revenue requirements for setting rates; only a recognition that used and useful for the water system is being understated in this case and that these factors be considered in future cases.

### Conclusion

The Applicant is aware that in requesting staff assistance it has waived its rights to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. Therefore, it is the Applicant's hope that the staff will consider the merits of the Applicant's concerns in these preliminary stages. This is especially true with regard to rate design. Revenue stability is of great concern to the Applicant. The rate design previously agreed upon as reasonable is in keeping with rate designs previously found reasonable by the Commission. The Applicant hopes the staff will acknowledge the Applicant's concern and defer to the Applicant's preference.

Very truly yours,



Frank Seidman

Cc:

Mr. Ben Maltese, MSM Utilities, LLC  
Mr. Marshall Willis, FPSC  
Mr. Troy Rendell, FPSC  
Ms. Frances J. Lingo, FPSC  
Ms. Mahnaz Massoudi, FPSC