

**Eric Fryson**

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**From:** Dana Rudolf [drudolf@sfflaw.com]  
**Sent:** Monday, July 02, 2012 8:52 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Martin Friedman; minnes.j@gmail.com; Keino Young  
**Subject:** Docket No. 110061-WS; Application for Authority to Transfer the Assets of Service Management Systems, Inc., and Certificate Nos. 517-W and 450-S to Aquarina Utilities, Inc. in Brevard County, Florida

**Attachments:** Response to Minnes' Motion to Compel 7-2-12.pdf

- a) Martin S. Friedman, Esquire  
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- b) Docket No. 110061-WS  
Application for Authority to Transfer the Assets of Service Management Systems, Inc.,  
and Certificate Nos. 517-W and 450-S to Aquarina Utilities, Inc. in Brevard County,  
Florida
- c) Aquarina Utilities, Inc.
- d) 4 pages
- e) Response to James Minnes' Motion to Compel Discovery

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Authority to Transfer )  
the Assets of SERVICE MANAGEMENT )  
SYSTEMS, INC., and Certificate Nos. )  
517-W and 450-S in Brevard County, )  
Florida to AQUARINA UTILITIES, INC. )  
\_\_\_\_\_ )

DOCKET NO. 110061-WS

AQUARINA UTILITIES, INC.'S RESPONSE  
TO JAMES MINNES' MOTION TO COMPEL DISCOVERY

Applicant, AQUARINA UTILITIES, INC. ("AUI" or the "Utility"), by and through its undersigned attorneys, files this Response to James Minnes' Motion to Compel Discovery served on June 26, 2012 (Document No. 04246-12). Through such Motion, Mr. Minnes seeks to obtain a copy of the personal financial statement of Reginald and Lois Burge. Reginald Burge is the owner of the stock of AUI. Lois Burge has no ownership interest in AUI. The personal financial statement has previously been provided to Office of Public Counsel and Staff under confidentiality so OPC could evaluate whether it believed that this Commission would deny the Application of AUI on the basis of financial capability. OPC concluded that "our office does not believe staff would recommend or the Commission would vote to deny this application because of the applicant's failure to have the financial ability or utility experience to provide service, and to fulfill the commitments, obligations and representation of the Seller with regard to utility matters". Based upon that analysis the Community Association withdrew its protest of this Application, but Mr. Minnes' refuses to do so.

AUI does not intend to rely upon the financial statement of Reginald and Lois Burge in this proceeding. Due to the length of time the current owners have owned and

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operated the utility, there is sufficient independent financial basis for this Commission to conclude that AUI has the financial ability to operate the systems in question. The personal financial statement of the Burge's is no longer necessary. Since the financial statement of Reginald and Lois Burge are not going to be relied upon in this proceeding due to Mr. Minnes continued attempts to obtain a copy, there is no relevance to such document. Further, despite Mr. Minnes' comment to the contrary, no confidentiality agreement is sufficient to protect the confidentiality right of Mr. and Ms. Burge. There is no basis for providing confidential information to an individual who suffers no adverse consequences from breaching that confidentiality. Moreover, requiring the disclosure of the Burges' personal financial statement violates the Burge's right to privacy under Article I, Section 23 of the Florida Constitution.

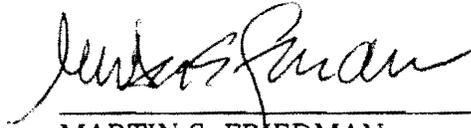
It should be kept in mind that Mr. Minnes was a driving force behind the creation of Aquarina Utility Association, Inc., and was, in fact, the incorporator and director. That entity competed with AUI for the purchase of the utility systems that are the subject of this proceeding and is carrying out the threat by its attorney that if the Burges purchased the system they would make the PSC transfer costly. Mr. Minnes' actions with regard to continuing to pursue this protest is solely in furtherance of that threat.

There is no rational basis for Mr. Minnes to continue to pursue this protest. This Commission on three previous occasions has reviewed Mr. Burge's financial ability to operate regulated utilities in Florida (one of which is still regulated by the Commission) and on each occasion has found he has such financial capability.

WHEREFORE, AQUARINA UTILITIES, INC., respectfully requests this Commission deny James Minnes' Motion to Compel Discovery.

Respectfully submitted on this 2nd day of July,  
2012 by:

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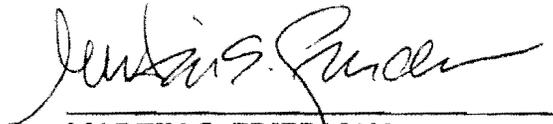
MARTIN S. FRIEDMAN  
For the Firm

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 110061-WS**

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Motion to Compel has been Filed with the PSC Clerk and furnished by U.S. Mail and e-mail to the following parties this 2<sup>nd</sup> day of July, 2012:

Mr. James I. Minnes  
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For the Firm  
*Attorney for Applicant*