

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: December 12, 2023

TO: Adam Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Timothy Sparks, Senior Attorney, Office of the General Counsel *TPS*

RE: Docket No. 20230144-WS – Application for certificate to provide water and wastewater service in Volusia County, by Applegate Utility, LLC

Please place the attached correspondence from Adria Harper to F. Marshall Deterding, Esq., Sundstrom & Mindlin, LLP, in the above referenced docket file on the Correspondence side.

Thank you.

TPS

COMMISSIONERS:
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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

November 29, 2023

F. Marshall Deterding, Esq.
Sundstrom & Mindlin, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301
mdeterding@sfflaw.com

Re: Docket No. 20230114-WS – Application for certificate to provide water and wastewater service in Volusia County, by Applegate Utility, LLC

Dear Mr. Deterding,

This letter is in response to your October 25, 2023 e-mail inquiry regarding Applegate Utility, LLC's (Applegate) submission of an application for a Staff Assisted Rate Case (SARC). As you are aware, Applegate has been providing water and wastewater services without a certificate of authorization as required by Section 367.031, Florida Statutes (F.S.). On October 10, 2023, an application for a water and wastewater certificate to provide services in Volusia County, Florida, was received by the Public Service Commission (PSC or the Commission). Additional materials including late-filed exhibits were subsequently submitted in the following weeks.

On November 13, 2023, a letter was issued to you listing deficiencies in the application and requesting corrections to be submitted no later than December 13, 2023. The application is currently on hold pending the receipt of these corrections.

While we understand your position that this is a rare and novel set of circumstances, technical and legal staff are in agreement that it would be inappropriate for a SARC application to be reviewed prior to the completion of the processing of the application for certificate of authorization to provide water and wastewater service.

The Commission has established rules governing the SARC process which presume that a certificate of authority has already been issued to the utility in question, and that the utility is otherwise in compliance with all of the rules and statutes governing water and wastewater facilities. Specifically, Rule 25-30.455, Florida Administrative Code (F.A.C.), sets out eligibility requirements for staff assistance in rate proceedings. These include compliance with the required regulatory assessment fee payments as well as compliance with the annual report requirements under Rule 25-30.110(3), F.A.C. Specifically, this rule states:

Each utility shall file with the Commission annual reports on forms prescribed by the Commission. The obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate.

Furthermore, the two applications are processed under dissimilar timelines and constraints, with each having different notice and hearing requirements as well. Regarding certificates of authorization, the Commission must grant or deny the application within 90 days under Section 367.031, F.S. Meanwhile, when dealing with SARCs, under Section 367.0814, F.S., the Commission must issue an order within 15 months of the official filing date of an application.

Ultimately, a certificate of authority is considered a prerequisite to the processing of a SARC application. Once Applegate has obtained its certificate of authorization, a SARC application may be submitted for consideration by the commission. If I can further assist you in this matter or if you have any questions, please contact me by phone at (850) 413-6082 or by e-mail Aharper@psc.state.fl.us.

Sincerely,

/s/ *Adria Harper*

Adria Harper
Attorney Supervisor