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DIVISION OF WATER & WASTEWATER
CHARLES H. HILL
DIRECTOR
(850) 413-6900

Public Service Commission

January 8, 1999

Mr. F. Marshall Deterding
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

Docket No. 981288-WU - Application for Certificate to operate a water utility in Charlotte and Lee Counties by Town & Country Utilities Company

Dear Mr. Deterding:

Please find enclosed a copy of a letter received from the Department of Community Affairs in response to your application of certification of Town & County Utilities Company. A staff analyst, Mr. Walker (413-6924) has been assigned to assist with this case. Please call if you have additional questions.

Respectfully,

John Williams
Bureau Chief
Division of Policy Development & Industry
Structure

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG Attachment
- LEG _____
- LIN cc: Division of Records and Reporting
Division of Legal Services (Reyes)
- OPC _____
- RCH JW:ndw
- SEC _____
- WAS _____
- OTH _____

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FPSC-RECORDS/REPORTING



J. Hill

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Helping Floridians create safe, vibrant, sustainable communities"

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Secretary

December 4, 1998

Mr. Charles H. Hill
Division Director
Division of Water and Wastewater
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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DEC 07 1998

Florida Public Service Commission
Division of Water and Wastewater

Re: PSC Docket No. 981288-WU: Application by Town and County Utility Company for an Original Certificate in Charlotte and Lee Counties, Florida

Dear Mr. Hill:

We have completed the review of the application for original utility certification for Town and County Utility Company received on October 15, 1998. The Board of County Commissioner's of Charlotte County, Florida, has raised objections to the proposed Town and Country Utility certification. The County believes that the certification of this area for water services will promote a sprawling development pattern in the County, a process the County is trying to control by requiring that new developments be consistent with the Urban Service Area strategy and the policies of Charlotte County's comprehensive plan.

In support of Charlotte County, the Department of Community Affairs hereby objects to the proposed water service certification because it will negate the purpose of Charlotte County's Urban Service Area strategy and be inconsistent with the policies of the comprehensive plan adopted pursuant to Chapter 163, Part II, Florida Statute.

The Future Land Use Map designation in Charlotte County, where about 90 percent of the subject area occupies, is mostly Agriculture/Conservation (maximum of 1 dwelling unit per 40 acres). The portion in Lee County is in Rural designation as well. This subject area is outside the Urban Service Area of Charlotte County, extremely rural and not projected to grow within the planning timeframe. According to Charlotte County staff, only 62 people lived in the 90,000-acre area during the 1990 US Census.

It is the objective of Charlotte County's comprehensive plan to direct intense development to the Urban Service Area, and discourage development within rural and agricultural areas, in order to promote a coherent and systematic growth of the county. Objective

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1.1 of Charlotte County's Future Land Use Element specifically requires the county to direct the timing, location, density and intensity of development and infrastructure to the Urban Service Area. The proposed utility certification is not supported by Charlotte County's Comprehensive Plan Infrastructure Element policies. For example, Policy 9.1.1 encourages utility services to occur in a manner that supports the Urban Service Area strategy of the County, i.e., be directed toward the infill areas. Similarly, Policy 9.1.4 specifies that certificated areas will not be extended or expanded for potable water or sewer service outside Infill Area boundaries of the Urban Service Area. The proposed utility certification area is not supported by the Urban Service Area strategy of the County and will be inconsistent with the policies of Charlotte County's comprehensive plan. Furthermore, the utility certification has the potential to promote intense development in a rural area, premature conversion of agricultural land to urban use and the sprawling of development.

These very concerns were addressed by the Governor and Cabinet approximately eight years ago when Charlotte County adopted its original comprehensive plan under the 1985 Growth Management Act. The Department issued a Notice of Intent to find that comprehensive plan not in compliance with state law and presented its case to an Administrative Law Judge. The Judge concurred with the position taken by the Department, and forwarded his Recommended Order that the plan be found not in compliance to the Governor and Cabinet who, sitting as the Administration Commission, ordered the County to amend its comprehensive plan to prohibit the public provision of water and sewer outside the Urban Service Area, to reduce densities in the outlying areas to one dwelling unit per forty acres (the County had proposed one unit per acre), and to direct the provision of infrastructure within the Urban Service Area in order to combat urban sprawl. The County complied with that mandate by amending its original plan.

Importantly and quite commendably, the County has furthered these principles by adopting into its current plan policies that further and, in fact, strengthen the principles to which it was directed by the Governor and Cabinet. It is also worthy of note that 1000 Friends of Florida bestowed upon the County an award for outstanding achievement based upon the significant measures in the current comprehensive plan to direct orderly and well-timed growth.

The current proposal by Town and Country is contrary to the important principles embodied in the original Charlotte County comprehensive plan, as amended, and in the newly-adopted plan. These directives came from the Governor and Cabinet, sitting as the state's supreme land planning decision-making body, and should be afforded significant weight.

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Thus, for the reasons stated above, the Department recommends that this request for water certification be denied. If you have any questions on this matter, please call Bernard O. Piawah, Planning manager, Bureau of Local Planning at (850) 487-4545.

Sincerely,



J. Thomas Beck, Chief
Bureau of Local Planning

JTB/bp

cc: David Smith, Charlotte County Planning Department
Wayne Daltry, Southwest Florida Regional Planning Council
Ms. Burton, Charlotte County Attorney