Bayside Utilities, Inc. 6325 Big Daddy Drive Panama City Beach, FL 32407 (850) 234-6669 (850) 234-1813 fax

March 12, 1999

Ms. Blanca Bayo, Director Division of Records and Reporting Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

RE: Docket No. 981403-WS-Application for transfer of Certificate Nos. 469-W and 358-S in Bay County from Bayside Utilities, Inc. to Bayside Utility Service, Inc.

Dear Ms. Bayo,

Please make the attached three documents a part of the record of the above referenced docket and available to each of the commissioners for the hearing scheduled for Tuesday, March 16, 1999 concerning the motion to dismiss the objection and protest of the transfer.

The three documents are as follows:

- 1. Petition from customers of Bayside Utilities, Inc.
- Newspaper article from the Panama City News Herald and answer to that article by the manager of Bayside Utilities, Inc.
- 3. Letter from the manager of Bayaide Utilities, Inc.

AFA APP Contact Jeter CAF General Manager CML CTR	<u></u>
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Bayaide Utilities, Inc. 6325 Big Daddy Drive Panama City Beach, FL 32407 (850) 234-6668 (850) 234-1013 fax

March 12, 1999

Ms. Blanca Bayo, Director Florida Public Service Commission 2540 Shumard Oak Boulevard Taliahassec, Florida 32399-0850

RE: Docket No. 981403-WS

Application for Transfer of Certificate Nos. 469-W and 358-S

PETITION TO COMMISSIONERS:

Joe Garcia, Chairman J. Terry Deason Susan F. Clark Julia L. Johnson E. Leon Jacobs, Jr.

Dear Commissioners:

As utility manager I respectfully request that you consider the following in your deliberations concerning the motion to dismiss to be heard by you on Tuesday, March 16, 1999. Within the last few days, I have made an effort to determine, with the help of my Office Manager Ms. Tammic LaCoste, the real truth concerning the feelings of our customers as to the transfer of ownership of this utility company. What I find it that most of the customers are tired of the intimidation of the three or four people who have filed the protest and most everyone that I have talked to simply wants this situation to be over with.

I have attached and sent several copies of a petition we have circulated over the last few days, and as you can see, one hundred sixty two (162) customers haves signed representing one hundred thirty four (134) connections. Given a few more days, or having starting earlier, I sincerely believe that I probably could have gotten most customers to sign, with the exception of the three or four protestors on Bay Circle. Almost all of the signers want me to indicate to you, in the strongest terms possible, that they do not belong to, or are not aware of, any association known as the flayside Homeowner's Association. They indicated to me, loud and clear, that Mr. Kitchens, Mr. Wharton, Mr. Austin and Mr. Patiblo do not, under any circumstances, speak for them. They want this matter over with and ended and they want the intimidation, and the knocks on their doors nightly to stop. To put it in a more concise term, most of the customers of this utility, by far, are

sick and tired of this community being disrupted and torn apart by the actions of these three or four individuals, who seem to have nothing to do but cause problems for everyone else.

I plead with you not only as a utility customer, but also as a person who has operated this utility for over twenty years, to bring this situation to an end by granting the motion to dismiss filed by Utilities, Inc. and Mr. Ben Girtman, and also by trying to expedite your calendar to have the application for transfer of Certificate Nos. 469-W and 358-S heard at a much earlier date than February 2000.

Thank you very much.

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Sinctrely

Leonard Jeter General Manager Bayride Utilities, Inc. 6325 Big Daddy Drive Panama City Beach, FL 32407 (850) 234-6668 (850) 234-1813 fax

March 1, 1999

Kendali Middlemas Steve Bernhoft, Editor News Herald 501 W. 11th Street Panama City, FL 32401

Dear Ms. Middlemas and Mr. Bomhoft,

I feel a compelling need to write to you to correct the errors contained in an article Ms. Middleman wrote concerning Bayside Utilities, Inc. First, to make you both aware of who I am, my name is Leonard Jeter and I have been associated with the Bayside companies since development began in 1970. I was associated with the company for a short period of time in 1972 and have operated, as General Manger, all of the Bayside companies for the last twenty years.

Beginning with the headline of your article "Bayside Sinking", nothing is further from the truth. With the completion and implementation of the most recent rates authorized by the Florida Public Service Commission, Bayside continues to operate productly, efficiently and pays its bills. It is able to affect repairs to the system as needed. It is able to maintain a stock of the necessary parts and equipment to insure that the system can be brought quickly back into an operating status after an interruption of service due to a break down. The use of the word "sinking" in your headline is unfortunate and gives the wrong impression.

As regards the body of your article, concerning the selling of Bayside Utilities, Inc. to Utilities, Inc., please be informed that over the years, Bayside Utilities, Inc. has approached the County and the City of Panama City Beach several times about purchasing this utility and we were fiatly turned down. You quote, and I quote you, "The owner of (Bayside Utilities) has indicated that she's not interested in selling to the City' Jackson said." This must be a misunderstanding on your part of what Mr. Jackson actually said, because it is a misrepresentation of the actual facts. The actual fact is, that had the City of Panama City Beach ever showed an interest in purchasing Bayside Utilities, Inc., Ms. Burton would have immediately, without hesitation, entered into an agreement to sell to them.

On several instances, you quote Mr. Wharton and make statements concerning an association known as the Bayeide Homeowner's Association as if there were really such an association. I have checked with every state, county, city and federal agency on more than one occasion and have yet

to find any proof that such an association actually exists. I have even walked the streets of Bayside, asking my customers about the association, and the only ones that seem to know anything about it are the four people on Bay Circle, Mr. Wharton, Mr. Pattillo, Mr. Austin and Mr. Kitchens. It would seem that if such an association actually did exist, that as the developer of the property, we certainly should have knowledge of it and would have been instrumental in forming the association.

You quote Mr. Wharton as indicating that most of our customers are elderly people on fixed incomes. However, most of our customers are working people with families. You also state that the City of Panama City Beach holds an exchaive franchise to supply water and sewer service between Hathaway Bridge and Phillips Inlet and that is not entirely true. They were granted a franchise by the Bay County Commission from bridge to bridge but that franchise does not include the exchange franchise held by Bayeide Utilities, Inc. Many years ago the Bay County Commissioners voted and passed a resolution giving the authority and rights to regulate private utilities in Bay County, to the Florida Public Service Commission. The Florida Public Service Commission subsequently passed a resolution accepting the Bay County resolution and taking control of all jurisdictional utilities in Bay County. Within the authority of the Florida Public Service Commission; allowed by State statute, is the right for the Florida Public Service Commission to grant to a utility company a territory to be served. Throughout the years, there have been many attempts by other companies and municipalities, across the state of Florida, to infringe upon those protected territories granted by the Florida Public Service Commission. The courts have always upheld the right of the utility company holding the franchised territory that had been granted to them by the Florida Public Service Commission and protected them from any municipality or private utility entering into their territory to service customers.

In a recent discussion, with Mr. Jackson of the City of Panama City Beach, concerning rates, he indicated to me that he had himself comducted a survey of several utility companies in the area, based on 6,000 gallons of usage, and that we, Bayside, were in fact not the highest. In fact, I believe that Mr. Jackson indicated that we were either number three or four on the list of the companies he did the comparative study of.

The delution of the "discovered County ordinance that could give the County some say in the transfer" should be cleared up immediately. The County attorney, Nevin Ziamerman, is correct and in my opinion, the ordinance does not apply. The mere wording of the ordinance exampts Bayside Utilities, Inc.

In addition, I would like to address with you the situation concerning our rate structure. Several months ago, when Mr. Wharton purchased his new mobile home and the lot on Bay Circle in Bayside Mobile Home Park, placed the mobile home on the lot, booked it to our water and sewer connections, he did not pay one dime to Bayside Utilities, Inc. in any fices whatsoever. There were no impact fees, there were no hook-up fees, there simply were no fees. That is the problem that exists with Bayside Utilities Inc. No customer of Bayside Utilities, Inc. has ever paid a dime in impact fees. A comparison would be, if you go to the North Lagoon Oaks subdivision and purchase a lot and put a mobile home on that lot, you will pay to the City of Panama City Beach several thousand dollars in impact fees to get water and sewer service. I am told, by a City of Panama City Beach official, that it will range between \$2500 - \$3500 for the average to more

claborate mobile homes with two or more bathrooms to be set up on a lot and hooked into sewer and water service from the City of Panama City Beach. The problem with the rate structure of Bayelde Utilities, Inc. is that from 1972 to 1986 Bayelde Utilities, Inc. operated its own sewage treatment plant. It become economically unfeasible for Bayside Utilities, Inc. to continue to operate the sewage treatment plant because of the environmental issues and requirements being raised at the time by the Department of Environmental Regulations. It would have cost, in 1986, over one-half million dollars to meet the requirements set forth by the DER and bring the sewage treatment plant into compliance with the new rules and regulations at that time. I began negotiations with the City of Panama City Beach, the Department of Environmental Regulations and the Florida Public Service Commission concerning the possibilities and cost of shutting down the sowage treatment plant and booking into the City of Panama City Beach. DER was in agreement that hooking into the City of Panama City Beach was the best possible solution to the problems and the Florida Public Service Commission agreed to conduct a staff assisted rate case and place the cost of the change-over into the rates of the customers. By far, the largest part of the cost of the proposed change-over was the impact fees for each customer of Bayside Dilities, Inc. having to be paid to the City of Panama City Beach. I negotiated with the City of Panama City Beach, an impact fee for each of our customers based on flow. We concluded, and the Florida Public Service Commission concurred, that it would be impossible to get each existing customer to come up with a large sum of money, all of a sudden, to pay these impact fees to the City of Panama City Beach. The Florida Public Service Commission also wanted each oustomer to be metered and back-flow preventers and valves installed at each location. The total cost to accomplish the metering and paying of impact fees totaled \$250,000. The Florida Public Service Commission proposed and subsequently ordered Bayside Utilities, Inc. to go borrow the \$250,000 and pay the City of Panama City Beach the impact fees for each customer. They then established a Base Facility Charge in our rates, which is a flat fee each month of \$27.41, for the purpose of paying back, over an extended number of years, the \$250,000 borrowed. For example, Mr. Wharton's average bill for the last year is \$47.71 per month. If he had paid an impact fee on his lot and it was not built into the rate structure, he would not be paying the Base Facility Charge of \$27.41. If you deduct the \$27.41 Base Facility Charge for the impact fee, from the average bill of \$47.71, Mr. Wharton's real monthly water and sewer bill is only \$20.30, which you can see is far below any of our neighbors' bills. The average gallens used per customer of Bayride Utilities, Inc., established by the Florida Public Service Commission during the recent test year, is approximately 4,185 gallons per month per customer and not 6,000 gallons as indicated in your article.

I would say to you that over the years, by far, Bayside Utilities, Inc. has had a good relationship with its customers. In fact, most of the customers of Bayside Utilities, Inc. do not agree with or are not represented by the so-called "Bayside Homeowner's Association", Mr. Wharton, Mr. Pattillo, Mr. Austin or Mr. Kitchens, either jointly or severty.

Frankly, I am hard pressed, after meeting with Mr. Nolan and Mr. Sparks and being told by them that the County was not interested in purchasing our system, that Mr. Nolan now seems to be intent on "holding up" our sale or delaying our sale while he looks for some method to destroy it. After all, Mr. Nolan and the County and the City of Panama City Beach were given first option to purchase this utility and declined to take the opportunity to do so. It was only after we signed the contract with Utilities, Inc., that Mr. Nolan seemed to become so interested in getting involved. I

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would like to hear how Mr. Notan proposes to present to the rest of the Commissioners of Bay County his recommendation for the County to pay impact fees for the customers of Bayside Utilities, Inc. from tax payer dollars while all other residents of Bay County, who purchase a lot and apply for water and sewer service, have to pay the sewer and water impact fees cut of their own pockets. I can just imagine the deluge of tax payers from all over the County, that would approach the Commission immediately, objecting in the strongest terms, to any such recommendation.

In closing, I thank you very much for your interest and your words concerning our business and for the opportunity to set the record straight. I just hope that you will seize upon the opportunity and re-print the article or print another article stating the correct facts.

Leonard Jeter

General Manager

cc: Mark Nolen

Novin Zimmomum. Carol Aikinson

Bayside sinking under weight of utility rates

KENDALL MEDDLEMAS The News Herald

For many months, some customers of Bayside Utilities Inc. have lobbled for a buyout of the struggling private utility. Now they know they should be careful what they wish for

The owner of the water and sewer system has signed a contract to sell the util-

By to another private company.

With that sale pending the customers warry that they'll never feel any railed from the bigh rates they per.

from the high rates they pay.

Jim Wharton, of the Bayeide Homeowners Association, said the group would fight the sale "all the way to the end".

"A lot of these people up in the park tre eklerly people, on a fixed income. They're really upset about this," he said. "That more than anything has made us hang is all this time."

The Florida Public Services Commission, which must approve the transfer has scheduled a bearing on the protest for Feb. 2, 2000. The sale cannot go through until after that heaving almost a year away.

"Frankly, Pm appelled," Dorothy Burton, owner of Bayelde Utilities and Bayelde Park, said of the long wait for a hearing.

She said the protest would serve only to delay the utility system's rescue, and that would be confirmed any shed

that won't do customers any good.
"I don't really understand why they're protesting," she said. "It doesn't seem to me to be of salvantage to anyoos."

But the customers who are protesting the transfer believe it's their only chance to see their rates drop to a level more consistent with rates around the county. And they believe logic is on their side.

The went to create " a win-win situation for everybody including Mrs. Burton," Wharton said.

Please see LTTLITY, 28

UTILITY: Homeowners association pleased that it seems to have

From Page 1B

Corrently, Bayelde cuscomore pay \$61.61 per month for 5,000 gallons of water and sower

Other private systems that here hooked up to Panama City Seach's system pay consider-ably less. Bay Point conteneers, lar erampia, pay (36.03 a month for 6,000 gallons. Harbor Yows, a commonly just down the road. trom Bayside, pays \$23.33 a

bomeowner's assectation believes Bayside Utility's rates are especially offensive in light off the fact that Bayside Utilities is simply a "pass-through" system. The utility buys, its water from Passing City Beach and sends its sawage along to the Boach's treatment system.

A Panama City Beach takeover would be relatively simple.

"They don't have to build any thing out here." Wharton said. "The system's in the ground."

If the city or county bought

"We presented a petition to Richard Jackson. signed by 192 customers. If that's just a small number, I don't know what their definition of small is." .

– Jim Wheston, Rayaldo Homoswaers Association

the system, the homeowners. association. said customers would be willing to per higher rates for a few years, until the Bridge and Phillips Inlet.
debt on the utility system was The best solution would be paid off. Then, they believe, for Panama City Beach to buy ratus could en down.

We're trying to not have any body take anything away from nody take anything away from Manager) Richard Jackson is Mrs. Burton. That was the willing to do that."

objective. Wharten said.

Bey Councy Commissioner.

Mare Noise, whose district includes Bayetde, has been talking with some of the homeown.

But the county's shilling by belo is limited.

The city of Panama City

Beach bolds as exclusive freqetrice to supply water and sewer service between Rathaway

for Pensons City Beach to buy that system," Noise said, "But I don't know that (Beach City

Jackson said the peteodial for a city talascent of the system was put to rest when Bayaide Utilities entered into a contract with Utilities Inc., a company based in Northispok, III., that "Cortainly I with that the, has made a custom of laying county could do something," he , out small, struggling utility sys-

the city," Jackson said.

Burkes said she signed a con-tract with Utilities Ins. in October and bolieves the transhe of the water and server aretem to that company is the best والمناط

"The best thing for me and the customers was to sell 2 to bestonals with this kind of ability and said.

erton doesn't believe the bosseweers association can

The PSC, in its decision whether to approve a transfer, omaiders the purchasing ome-omy's flashelal and tachnical qualifications to take over a stilit's She said Utilities loc. would meet the PSC's standards.

They're well-known to the PSC, abe said. They have many utilities in the state of

Finish that they have bought."
Utilities Inc. operates 34 The swater of (Rayside in the state, and has \$3,000 cos-licities) has indicated that tumors in the Fierida counties. the's not interested in selling to "A large company too take water and wastermine systems

gotten the county's attention

advantage of economies of scale," Burton said.

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Bayside littlities does not enjoy such an advantage. With about 285 customers, the utility has struggled to pay its bills and pay off its debt, which is several fundred thousand dollars.

Bayride Utilities opened in the early 1970s to serve the residents of Bayride Park and surrounding homes off U.S. as just west of the Hathaway Bridge. At that time, water and power service was not as widely available as now. Developers customerly built amail sewer and water systems to serve their communities.

Most of those small utilities have closed or book taken over by municipal systems.

Last summer, Sayside Dilities applied to the Florida. Public Service Commission for a rate increase. The PSC approved an increase, but a smaller one than the company special.

seaght.
The Baywide Homeowaers Association filed a protest applies the increase, but later withdraw it upon discovering that the utility's attorney's fees would be passed along to its customers.

Burton said the cost of Bayride's defense against the protest of the sain to Utilities inc. Showise would be passed along

"The worst thing of all, when you go to a hearing it's illes a trial and you have to hire attorneys," she said.

The customers can turn to the state's Office of Public Counsel to represent them, but the utility does not have that privilege.

The utility's legal costs would be talled up and divided among customers over a period of sevaral years.

"Mapte when they find out they'll drop this protest, too," Buston said.

But Wharlon and that's just one of the disadvantages the bomoowners association has to contend with.

"It would be passed on to us whether they prevailed or not," he said. "So you can see that the deck is kind of stacked."

Burton said a representative of Utilities Inc. traveled to Bay County recently and haid two meetings — one with the three protesting customers and another with other customers.

She said the company discussed its operating plans and legistics luck as billing procedures.

Burton said rates couldn't go

up for two years after Utilities Inc. bought the system.

"This utility will have to take over the same rates existing now," she said.

But after two years, Utilities Inc. could petition for a change in rates. And Wharton said that as long as a private company owns the system, there's nowhere for rates to go but up.

The PSC, when it considers petitions for rate increases from private utility owners, figures in a 18 percent return. Private companies are in the business to care a profit.

"It doesn't malter what you do with it. It makes money." Wharton said. "If a gusther cash flow."

Burton believes the sale of the utility is being held up by a few Bayside sustances, who don't necessarily represent the wishes of other sustances.

But the homeowner's association points out that hat musmer, nearly 200 emitomers signed a petition apporting a lakeower of the utility system by Paramon City Beach.

"We presented a petition to Richard Jurisco signed by 180 customers," Wharton said. "If that's just a small number, I oget know what their definition of small is."

The homeowners accoration is planted that if seems to have setten the county's attention.

gotten the county's attention.

Noten is booking for ways to help the Baywide customers. He hopes the delay of the rule will buy time to look at other options.

"Basically what I'm trying to do right now is try to held it up to see if we can come up with some solution," he said.

He has discovered a county ordinance that could give the county some say in the transfer.

That ordinance, adopted in 1962, grants the county ownership of utility lines that run under county roads and rightsof-way.

County attorney Nevin Zimmerman is not sure whether the county could apply that ardinance to the Bayelde case, or whether the County Commission as a whole would even want to get involved.

"I don't know what the ralevance of that ordinance is to whether the county has standing," Zimmarman said.

But the possibility alone is a ray of hope for the homeowners association.

"We feel that the county's listening to us know," Wharton raid. "Of course, we'll keep reminding them." March 1, 1999

Ms. Blanca Bayo, Director Division of Records and Reporting Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassec, Florida 32399-0850

RE: Docket No. 981403-WS

Application for Transfer of Certificate Nos. 469-W and 358-S

Dear Ms. Bayo,

We are customers of Bayside Utilities, Inc. who have not spoken out before. We do NOT object to the proposed sale of Bayside Utilities, Inc., and we strongly disagree with the protest filed by the three customers who do. They do not speak for us.

We believe that the sale of the utility is in the best interests of all of the customers of Bayside Utilities, Inc. Eleven of us met with Mr. Don Rasmussen, a Vice President of the purchasing company. He answered our questions about billing and service, and we believe that Utilities, Inc. can provide a level of service and cost savings through economies of scale that Bayside Utilities, Inc. cannot, because of it's small customer base.

The fees for the lawyers who will fight the protest could altimately be passed on to the customers in the form of higher rates. The three protesting customers are placing an unfair burden on all of the other customers who are not objecting to the transfer.

Sincerety,

CUSTOMERS of BAYSIDE UTILITIES, INC.

NAME ADDRESS 800 Linda Lowe 1047 Bay Wiele 68238: a Dady 846 Sinds Lane 6723 Bic Dudge 1055 BRY CICCLE 7104 BIG DADDY DR. C-1 1047 BAY Circle 1025 BA Circle 829 linder le 1813 Bay Cucke 1013 Day aide 6502 Sunrice Dr. 6819 Survine De 10919 Survise Sive 7104 Big Daddy Dr. Lot Bb 7/03 Juarise D 7103 Sunrias Dr

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Paula Witon	6609 Surise Dir
Inne Dawarski	668 Sanus Dr.
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Judy 7. Black	-6608 5~~RBEDE
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Lyn Deprec	6532 Suncise Dr.
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