

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
JOHN R. ELLIS
KENNETH A. HOFFMAN
THOMAS W. KONRAD
MICHAEL G. MAIDA
J. STEPHEN MENTON
R. DAVID PRESCOTT
HAROLD F. X. PURNELL
GARY R. RUTLEDGE

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

OF COUNSEL:
CHARLES F. DUDLEY

GOVERNMENTAL CONSULTANTS:
PATRICK R. MALOY
AMY J. YOUNG

January 26, 2000

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

RECEIVED-FPSC
JAN 26 AM 11:59
RECORDS AND REPORTING

Re: Docket No. 980242-SU

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Lindrick Service Corporation ("Lindrick") are the original and fifteen copies of Lindrick's Motion for Abatement and Continuance and Request for Expedited Ruling.


Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,


Kenneth A. Hoffman

AFA 1
APP
CAF
CMU
CTR Trib.3
EAG
LEG 1
MAS 3
OPC
RRR
SEC
WAW chu
OTH

RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

01154 JAN 26 8

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Amended Petition of Lindrick)	
Service Corporation for a Limited)	Docket No. 980242-SU
Proceeding to Implement a Two-Step)	
Increase in Wastewater Rates.)	Filed: January 26, 2000
<hr/>		

**LINDRICK SERVICE CORPORATION'S
MOTION FOR ABATEMENT AND CONTINUANCE
AND REQUEST FOR EXPEDITED RULING**

Lindrick Service Corporation ("Lindrick"), by and through its undersigned counsel, hereby moves for an abatement and continuance of this proceeding, and as grounds therefor, states as follows:

1. This docket was opened in response to a Petition for a Limited Proceeding to Implement a Two-Step Increase in Wastewater Rates filed by Lindrick on February 12, 1998. Since the filing of the initial petition, Lindrick has amended its Petition twice. Lindrick's Second Amended Petition for a Limited Proceeding to Implement a Two-Step Increase in Wastewater Rates remains pending before the Commission.

2. The Commission has granted Lindrick two increases in wastewater rates in this docket. By Order issued May 20, 1999, the Commission granted Lindrick an emergency rate increase in wastewater rates. See Order No. PSC-99-1010-PCO-SU. Subsequently, by Order issued September 21, 1999, the Commission granted Lindrick increased temporary wastewater rates. See Order No. PSC-99-1883-PAA-SU. Both of these rate increases were made subject to refund. Lindrick has filed an Amended Irrevocable Letter of Credit with the Commission securing both of the rate increases in the event any refunds are ordered by the Commission.

DOCUMENT NUMBER-DATE

01154 JAN 26 8

FPSC-RECORDS/REPORTING

3. On November 18, 1999, the Office of Public Counsel ("OPC") served its First Set of Interrogatories and First Request for Production of Documents on Lindrick. Subsequently, on December 14, 1999, the Commission Staff served its First Set of Interrogatories and First Request for Production of Documents on Lindrick.

4. Lindrick filed motions for extensions of time to file objections and serve responses to the above-referenced discovery requests based, in part, on Lindrick's belief that the City of Port Richey, Florida ("City") would pass a resolution to purchase the assets of Lindrick. As Lindrick stated in these motions for extension of time, a decision by the City to purchase Lindrick could eliminate the need for a final hearing and it appeared prudent to avoid the expenditure of costs by Lindrick to file objections and serve responses to OPC/Staff pending discovery requests until the City made a decision on whether it intended to purchase Lindrick.¹

5. By Order December 30, 1999, the prehearing officer granted Lindrick's motions for extensions of time and ordered Lindrick to serve objections to all outstanding discovery no later than January 15, 2000 and responses not subject to objections no later than February 4, 2000. See Order No. PSC-99-2555-PCO-SU.

6. On January 11, 2000, the City unanimously passed a resolution to acquire the assets of Lindrick. See copy of City of Port Richey Resolution No. 00-01 attached hereto as Exhibit A. The City and Lindrick anticipate that all actions necessary to consummate the transaction will be concluded by May 31, 2000.

¹See Lindrick's Motion for Extension of Time for filing Objections and Serving Responses to OPC's First Set of Interrogatories and First Request for Production of Documents filed December 1, 1999 and Lindrick's Second Motion for Extension of Time for Filing Objections and Serving Responses to Pending Discovery Requests filed December 22, 1999.

7. In light of the City's decision to acquire Lindrick, Lindrick requests a full abatement and continuance of all scheduled proceedings, including abatement of discovery, pending the consummation and closing of the purchase of Lindrick's assets by the City. With the impending sale of Lindrick to the City, it is now clear that a final hearing in this matter is highly unlikely, and therefore, the interests of Lindrick, Lindrick's customers and the Commission would be best served by deferring the unnecessary expenditure of time and resources on preparing for and proceeding through final hearing. In the meantime, pending the closure of the sale of Lindrick to the City, Lindrick's customers will remain fully protected for any refund requirement by the Amended Irrevocable Letter of Credit on file with the Commission.

8. Lindrick maintains that the time and resources of the parties, the Commission staff and the Commission will be appropriately and prudently conserved by an abatement and continuance of this proceeding pending the disposition and closure of the sale of Lindrick to the City. Lindrick requests that all current controlling dates reflected in the Order Establishing Procedure (Order No. PSC-99-2137-PCO-SU) issued October 29, 1999 and the current Case Assignment and Scheduling Record dated October 15, 1999 be cancelled and subject to possible reestablishment following the filing of a report by Lindrick on or before May 31, 2000 regarding the status of the sale of Lindrick to the City.

9. Counsel for Lindrick has conferred with counsel for OPC and is authorized to represent that OPC does not acquiesce to the relief requested by Lindrick in this Motion. In addition, as reflected by the copy of the letter from the City Manager of the City of Port Richey attached hereto as Exhibit B, the City supports an abatement and continuance of the proceedings as outlined in this Motion. In order to maximize the efficiencies which Lindrick maintains will be brought by

an abatement and continuance, Lindrick requests a ruling on this Motion on an expedited basis.

WHEREFORE, for the foregoing reasons, Lindrick respectfully requests that the prehearing officer enter an Order:

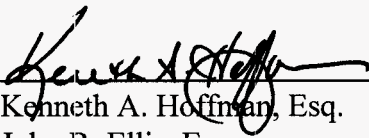
A. Granting an abatement and continuance of this proceeding, including an abatement of all pending obligations to file objections and/or responses to pending discovery requests;

B. Cancelling the controlling dates, including the final hearing dates, reflected in the Order Establishing Procedure and the current Case Assignment and Scheduling Record;

C. Requiring Lindrick to file a report on or before May 31, 2000 reflecting the progress made by the parties toward or completion of the sale of Lindrick to the City of Port Richey (in response to which the prehearing officer may desire to hold a status conference addressing, among other things, the possible reestablishment of new controlling dates for proceeding to final hearing); and

D. Granting the above-described relief on an expedited basis.

Respectfully submitted,



Kenneth A. Hoffman, Esq.

John R. Ellis, Esq.

Rutledge, Ecenia, Purnell & Hoffman, P.A.

P. O. Box 551

Tallahassee, FL 32302

(850) 681-6788 (Telephone)

(850) 681-6515 (Telecopier)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following this 26th day of January, 2000:

Ralph Jaeger, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, Florida 32399-0850

Stephen Burgess, Esq.
Office of Public Counsel
111 West Madison Street
Suite 812
Tallahassee, Florida 32399-1400



Kenneth A. Hoffman, Esq.

Borda/cont

A RESOLUTION OF THE CITY COUNCIL OF CITY OF PORT RICHEY, FLORIDA, PROVIDING FOR THE APPROVAL OF A FEASIBLE STUDY ON THE ACQUISITION OF THE WATER AND WASTEWATER ASSETS OF LINDRICK SERVICE COMPANY TO BE IN THE PUBLIC INTEREST; PROVIDING FOR THE AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE LINDRICK SERVICES CORPORATION UTILITY ASSETS; PROVIDING FOR THE ESTABLISHMENT OF A PURCHASE PRICE AND GENERAL TERMS AND CONDITIONS FOR A FORMAL CONTRACT; PROVIDING FOR FURTHER ACTION BY STAFF TO DESIGNATE CONSULTANTS FOR REVIEW AND APPROVAL OF THE ACQUISITION, ACQUISITION DOCUMENTS AND REMOVAL OF ALL LIABILITIES, LIENS, ASSESSMENTS, ORDERS, DECREES TO PROCEED TO FUNDING AND CLOSING; AND PROVIDING FOR FINAL APPROVAL OF ALL ASPECTS OF THE ACQUISITION AND FUNDING BY THE PORT RICHEY CITY COUNCIL

WHEREAS, the City of Port Richey ("City") has determined that the City's acquisition, ownership, maintenance and operation of the water and wastewater utility assets owned by Lindrick Service Corporation ("Utility") is necessary and desirable to maintain and improve the quality of public water supply and sanitary wastewater utility service as provided to residents within and outside the Port Richey utility service area; and,

Whereas, the City has, through its staff and qualified consultant, undertaken certain due diligence investigation into the Utility acquisition, and has determined that acquisition of the Utility's assets to be feasible; and,

Whereas, the acquisition can be accomplished through a pledge of utility revenues, without a commitment of City tax dollars or other general funds of the City, with the rates paid by Utility's customers will be the same as those of other similar City utility customers; and,

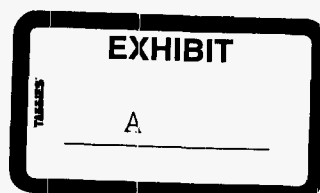
Whereas, the City has determined to acquire the assets of Utility by direct purchase, ownership, and the incorporation of the assets into the City's utility system; and,

Whereas, in order to acquire the assets of the Utility, the City will finance through conventional means or authorize the issuance of tax-exempt, Utility Revenue Bonds, Series 2000 ("Bonds"), and pledge as security for the Bonds the revenue of the Utility, as well as additional water transmission facilities as may be necessary in the future ("New Projects"); and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PORT RICHEY:

SECTION 1. TRANSACTION SERVES A PUBLIC PURPOSE. As a result of an independent feasibility study conducted by consulting engineers, Wade-Trim, the City finds the acquisition, ownership, maintenance, and operation of the water and wastewater assets of the Utility, either through direct purchase, ownership, and incorporation into the City's utility system, to serve a public purpose, and be in the public interest. Further, that the acquisition of the Utility is necessary and desirable to maintain and improve the quality of public water supply and sanitary wastewater utility service as provided to utility customers and residents of City of Port Richey;

SECTION 2. TRANSACTION TERMS AND CONDITIONS. The City hereby authorizes and approves the acquisition of the assets of Utility, for a gross purchase price of \$14,500,000.00, to be financed through issuance of the Bonds, or for a gross purchase price of \$13,500,000.00, if financed by a conventional lender, subject to approval of an Agreement of



Purchase and Sale of Utility Assets being reached by the parties within 45 days of the effective date of this Resolution. If feasible, City agrees to purchase two additional deep water wells (6&7) including all easement and other rights thereto five (5) or more years after the acquisition of Utility assets, at a price of \$5,000,000. All assets and Utility acquisition(s), as provided herein, are to be free and clear of any and all liability, liens, asserted or unasserted third party rights or claims, suits in law or equity, all claims known or unknown, orders affecting use by the City of the Utility for the purpose intended from any federal, state, district or county regulatory agency.

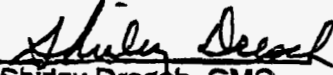
SECTION 3. FURTHER ACTION. The City authorizes and directs City staff to: (a) retain the services of a financial and bond consultant to assist the staff and Council to complete financing arrangements for Bond or Conventional financing and any further negotiations as staff deems necessary and appropriate to acquire the Utility assets and protect the interests of the City; (b) engage the services of consulting engineers, bond underwriters, bond and disclosure counsel and other professionals whose services may be required for such acquisition; (c) prepare, or have prepared a Final Agreement for Purchase and Sale of Utility Assets to acquire unencumbered title to the Utility assets, consistent with the general outline of terms on the exhibited Term Sheet and the provisions of this Resolution; (d) if necessary, prepare or have prepared a Bond Resolution, Preliminary Official Statement, and such other documents as may be necessary to issue the Bonds and otherwise finance the acquisition of the Utility assets; and (e) prepare closing documents and a Public Briefing Document pursuant to section 180.301 Florida Statutes as may be necessary and proper to close on the acquisition of the Utility assets. (f) All actual and direct costs, fees and expenses incurred by the City as a result of this acquisition of the Utility shall be paid by the Utility from the agreed upon purchase price.

SECTION 5. FINAL APPROVAL. City approval to acquire the Utility assets granted herein is subject to final approval of the transaction and documents necessary to finance and purchase the Utility assets by the City Council. The approvals and consents by the City Council herein shall not be construed to obligate the City to pay or incur costs, which shall at all times be paid by the Utility.

SECTION 6. REASONABLE FURTHER ASSURANCES. The City will, upon the request of the seller execute and deliver such other documents and further assurances as may be reasonably required by the seller in order to carry out the intent hereof.

APPROVED AND ADOPTED by the City Council of the City of Port Richey, Florida, this 11th day of January, 2000.

ATTEST


Shirley Dresh, CMC
City Clerk


Eileen Ferdinand, Mayor

CITY OF PORT RICHEY

8624 PORT RICHEY VILLAGE LOOP
PORT RICHEY, FLORIDA 34668
TELEPHONE (727) 845-7800



AND PROGRESS"

Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida
32399-0850

January 13, 2000

Attention: Mr. Ralph Jaeger

Subject: Lindrick Service Corporation
Docket # 980242-su

Dear Mr. Jaeger:

I would like to take this opportunity to inform you of the status of the City of Port Richey's efforts to acquire the Lindrick Service Corporation.


City staff (at the direction of City Council), for some time now, has been conducting negotiations with Lindrick Service Corporation. On Tuesday, January 11th, City Council (by unanimous vote) passed a resolution approving the basic framework for the acquisition of LSC.

We believe that the City of Port Richey will be able to provide LSC's customers with cost effective service, long term rate stability, realistic replacement and reserve strategies coupled to a conservative municipal financing approach.

Given all of the above, and in the best interest of LSC's customers, you may wish to delay any further hearings so that the City and LSC may finalize the financing and other documents for final council approval prior to closing.

If I may provide you with any additional information, or answer any questions that you may have, please do not hesitate to contact me.

Sincerely,


Vincent R. Lupo
City Manager

