



ORIGINAL
Public Service Commission

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

DATE: June 9, 2000
TO: Division of Records and Reporting
FROM: Division of Legal Services (Van Leuven) DTV
RE: Docket No. 990975-SU - Application for transfer of Certificate No. 281-S in Lee County from Bonita Country Club Utilities, Inc. to RealNor Hallandale, Inc.

Please file the attached letter dated June 6, 2000, in the docket file for the above-referenced docket.

DTV/dm

cc: Division of Regulatory Oversight (Johnson, Redemann, Welch)

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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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June 6, 2000

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**Re: Docket No. 990975-SU-Application for Transfer of Certificate No. 281-S
in Lee County from Bonita Country Club Utilities, Inc. to RealNor Hallandale, Inc.**

Dear Mr. VanLeuven:

Pursuant to your letter dated May 30, 2000, you requested that we advise you of any reliance that RealNor Hallandale has placed on the Commission's Final Order No. PSC-00-0755-CO-SU. Please be advised that RealNor Hallandale has done the following in reliance on the order:

- a. Placed into effect, approved revised tariff sheets reflecting change in ownership.
- b. Obtained current customer list from BCCU.
- c. Sent notices to customers informing them of change in ownership and change in address and customer service contact.
- d. Remitted estimated regulatory assessment fees for 1999.
- e. Initiated action to file the annual report for 1999.
- f. Assumed all commitments, obligations and representations of the prior owner with respect to utility matters.

I assume that with respect to our client's reliance on the Order, you also mean reliance on the portion of the Order concerning the escrow account since this appears to be the issue to which Mr. Miceli is objecting. RealNor Hallandale has acted in reliance of obtaining monies from the escrow account since the day of its inception. Our client has already invested more than \$162,000 in the Utility, maintaining and repairing the system in accordance with Florida law and without reimbursement therefor, expecting that when the Application for Transfer was finally

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granted, RealNor would be reimbursed for some of these expenses through the escrow account monies. In addition, our client has proceeded to fulfill the remaining requirements of the Order such as preparing the appropriate reports and paying amounts due as directed by the Order.

Further, Mr. Miceli had an opportunity to object to the PSC's Order. He apparently failed to do so in a timely manner since the PSC has no record of any such objection and Mr. Miceli cannot prove that he made any timely objection. There does not appear to be any good faith reason or any extraordinary circumstance to make an exception for Mr. Miceli at this time. Further, the expenses for which Mr. Miceli wishes to be reimbursed are expenses occurring prior to the date of the institution of the escrow and are not covered under the Escrow Agreement. There is no reason to waste the time of the PSC or anyone else for a hearing that would be fruitless for Mr. Miceli even if he were heard.

RealNor Hallandale has fulfilled its responsibilities under the law to maintain the utility during the period of time when it was waiting for the Certificate of Transfer and has expended large sums of money to do so in reliance upon being partially reimbursed from the escrow proceeds. There is no good faith reason at this time that the PSC should revisit any of the issues which it has previously decided.

Please call if you have any questions.

Very truly yours,



David B. Erwin

DBE:jm

cc: Mr. Lloyd Liggett
G. Helen Athan
Roy C. Young, Esq.
Jeffrey D. Fridkin, Esq.
D. Keith Wickenden, Esq.
Michael Miceli