

RAR

ORIGINAL

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
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E. LEON JACOBS, JR.
LILA A. JABER



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

June 19, 2000

Ms. Cheri Stone
J. Strauss Utility
Post Office Box 0953
Bolinas, California 94924

Re: Docket No. 000241-SU - Application for transfer of facilities of J. Strauss Utility to JEA and cancellation of Certificate No. 244-S in Duval County.

Dear Ms. Stone:

I am writing concerning the unapproved transfer of J. Strauss Utility's (J. Strauss or utility) facilities to JEA. We still have not received a completed application or anything which would suffice as such. It is our understanding that the unapproved transfer took place in March of 1997.

As you are aware, the Commission has tried on several occasions to get a completed application. I have enclosed a partially completed application which needs to be completed by you or your representative. Please review Part I (Applicant Information) to make sure that all of the information is accurate. Please provide the information requested in Part II (Financial Information) for sub-parts A-E. If you are unable to provide any of the required information, please include a statement explaining why you are unable to provide the information. Part III of the application is not applicable because all of J. Strauss's facilities are being transferred to JEA. Please complete Part IV (Affidavit) and return the application by July 14, 2000.

Pursuant to Section 367.145, Florida Statutes, a regulated utility is required to pay a regulatory assessment fee once a year in conjunction with filing its annual financial report. However, our records indicate that J. Strauss has not paid its 1998 or 1999 regulatory assessment fees. Rule 25-30.120(1), Florida Administrative Code, states that "A minimum annual regulatory assessment fee of \$25 shall be imposed if there are no revenues or if revenues are insufficient to generate a minimum fee." Thus, you owe the following regulatory assessment fees: \$25 for 1998 and \$25 for 1999. Furthermore, as a result of your failure to timely remit regulatory assessment fees, statutory penalties and interest are due in the amount of \$10 (\$6.25 penalty and \$3.75 interest) for 1998 and \$7 (\$6.25 penalty and \$.75 interest) for 1999. Therefore, please remit regulatory assessment fees, penalties, and interest in the following amounts: \$35 for 1998 and \$32 for 1999.

In addition, our records indicate that J. Strauss has not filed an annual report for 1996, 1997, 1998, and 1999. Rule 25-30.110(7)(b), Florida Administrative Code, states that Class C utilities

- APP _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- LEG _____
- OPC _____
- PAI _____
- RGO _____
- SEC _____
- SER _____
- OTH _____

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FPSC-RECORDS/REPORTING

Ms. Cheri Stone
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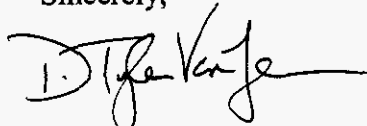
shall be penalized \$3 per day for delinquent reports. Thus, as of the date of this letter, J. Strauss's failure to file annual reports has resulted in the accrual of the following penalties: \$ 3,510 (1,170 days x \$3 per day) for 1996, \$2,415 (805 days x \$3 per day) for 1997, \$1,320 (440 days x \$3 per day) for 1998, and \$222 (74 days x \$3 per day) for 1999, which totals \$7,467.

Pursuant to Section 367.161, Florida Statutes, "If a utility, by an authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each offense of not more than \$5,000." It should be noted that each day constitutes a separate offense and that the Commission's penalties are enforceable as statutory liens under Chapter 85, Florida Statutes. If penalties and interest are assessed by the Commission and J. Strauss fails to remit the proper funds, this matter may be turned over to the Office of the Comptroller for further collection efforts.

It is imperative that you return a completed application because the penalties and interest continue to accrue until the transfer has been completed. Additionally, please remit the appropriate regulatory assessment fees (including penalties and interest) with the completed application. As to the penalties for failure to file an annual report, you will need to file annual reports for the years in question and pay the appropriate penalties if they are assessed by the Commission. If you fail to provide the requested information, fees, penalties, and interest as stated above by August 1, 2000, staff will file a recommendation to initiate enforcement proceedings.

Please be aware that the opinions contained in this letter are those of the Commission staff and in no way bind the Commission. Should you have any questions, please contact me at (850) 413-6185.

Sincerely,



D. Tyler Van Leuven
Staff Attorney

DTV/dm
Enclosure.

cc: Division of Regulatory Oversight (Daniel, Messer, Clapp)
Division of Economic Regulation (McCaskill, Peacock)
Division of Records and Reporting
JEA (Ms. Brenda Staggs-Forbes)
Mr. Mark Norton

FLORIDA PUBLIC SERVICE COMMISSION

INSTRUCTIONS FOR COMPLETING APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY (Section 367.071, Florida Statutes)

General Information

The attached form has been prepared by the Florida Public Service Commission to aid utilities under its jurisdiction to file information required by Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code. Any questions regarding this form should be directed to the Division of Water and Wastewater, Bureau of Industry Structure and Policy Development (850) 413-6900.

Note that, pursuant to Section 367.071(4)(a), Florida Statutes, a governmental authority, prior to taking any official action, shall request from the utility or the Commission the most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

Instructions

1. Fill out the attached application form completely and accurately.
2. Complete all the items that apply to your utility. If an item is not applicable, mark it "N.A.". Do not leave any items blank.
3. Notarize the completed application form.
4. Return applicable regulatory assessment fee and form with the application.
5. Return utility's original certificate(s) with the application for transfer.
6. The **original and five copies** of the completed application and attached exhibits; **one copy** of each territory and system map (if applicable); the **original and two copies** of the proposed tariff sheet(s) (if applicable); the appropriate regulatory assessment form(s) and fee(s); and the original certificate(s) should be mailed to:

**Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850**

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APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY

(Pursuant to Section 367.071(4)(a), Florida Statutes)

**TO: Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850**

The undersigned hereby makes application for the approval of the transfer of (all ~~XXXX~~) of the facilities operated under Water Certificate No. N/A and/or Wastewater Certificate No. 244-S located in Duval County, Florida, and submits the following:

PART I APPLICANT INFORMATION

- A) The full name (as it appears on the certificate), address and telephone number of the seller (utility):

J. Strauss Utility
Name of utility

(415) 868-2975 (415) 868-1329
Phone No. Fax No.

N/A
Office street address

Bolinas California 94924
City State Zip Code

Mailing address if different from street address

Internet address if applicable

B) The name, address and telephone number of a representative of the utility to contact concerning this application:

Ms. Cheri Stone (415) 868-2975
Name Phone No.

P.O. Box 953
Street address

Bolinas California 94924
City State Zip Code

C) The full name, address and telephone number of the governmental authority:

JEA
Name of utility

(904) 665-6530 (904) 665-7366
Phone No. Fax No.

21 West Church Street
Office street address

Jacksonville Florida 32202
City State Zip Code

Mailing address if different from street address

Internet address if applicable

D) The name, address and telephone number of a representative of the governmental authority to contact concerning this application:

Ms. Brenda Staffs-Forbes (904) 665-6530
Name Phone No.

21 West Church Street
Street address

Jacksonville Florida 32202
City State Zip Code

PART II FINANCIAL INFORMATION

- A) Exhibit _____ - A copy of the contract pursuant to Rules 25-30.037(4)(c) and (d), Florida Administrative Code.
- B) Exhibit _____ - A statement regarding the disposition of customer deposits and the accumulated interest thereon.
- C) Exhibit _____ - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.
- D) Exhibit _____ - A statement that the buyer (governmental authority) obtained from the utility or the Commission the utility's most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.
- E) Indicate the date on which the buyer proposes to take official action to acquire the utility:

If only a portion of the utility's facilities is being transferred, a revised territory description and map of the utility's remaining territory must be provided, as discussed in PART III, below.

IF THE UTILITY'S ENTIRE FACILITIES ARE BEING TRANSFERRED, PLEASE DISREGARD PART III OF THIS APPLICATION FORM.

PART III CERTIFICATION

A) **TERRITORY DESCRIPTION**

Exhibit N/A - An accurate description of the utility's revised territory. If the water and wastewater territory is different, provide separate descriptions.

Note: Use the Survey of Public Lands method (township, range, section, and quarter section), if possible, or a metes and bounds description. Give the subdivision or project name. The description should NOT refer to land grants or plat books, but may use geographic boundaries (i.e., road right-of-ways, railroads, rivers, creeks, etc). The object is to make the description as brief, but as accurate as possible.

B) **TERRITORY MAPS**

Exhibit N/A - One copy of an official county tax assessment map or other map showing township, range and section with a scale such as 1"=200' or 1"=400' on which the remaining territory is plotted by use of metes and bounds or quarter sections and with a defined reference point of beginning. If the water and wastewater territory is different, provide separate maps.

C) **TARIFF SHEETS**

Exhibit N/A - The original and two copies of tariff sheet(s) revised to show correct service territory. Please refer to Rules 25-9.009 and 25-9.010, Florida Administrative Code, regarding page numbering of tariff sheets before preparing the tariff revisions. (Pages 11-12.) Sample tariff sheets are attached. (Pages 13-16.)

PART IV AFFIDAVIT

I Ms. Cheri Stone (applicant) do solemnly swear or affirm that the facts stated in the forgoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitutes a complete statement of the matter to which it relates.

BY: _____
Applicant's Signature
Ms. Cheri Stone
Applicant's Name (Typed)

Applicant's Title *

Subscribed and sworn to before me this _____ day of _____, _____ by _____ who is personally known to me _____ or produced identification _____.
(Type of Identification Produced)

Notary Public's Signature

Print, Type or Stamp Commissioned
Name of Notary Public

* If applicant is a corporation, the affidavit must be made by the president or other officer authorized by the by-laws of the corporation to act for it. If applicant is a partnership or association, a member of the organization authorized to make such affidavit shall execute same.

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Wastewater System Regulatory Assessment Fee Return

Florida Public Service Commission

(See Filing Instructions on Back of Form)

STATUS:

_____ Actual Return
 _____ Estimated Return

PERIOD COVERED:

3 -

1 - J. Strauss Utility
 c/o Cheri Stone
 P.O. Box 953
 Bolinas, California 94924

FOR PSC USE ONLY

Check# _____

\$ _____ 0604002
 000000

\$ _____ P
 0604002
 000000

\$ _____ I

Postmark Date _____

Initials of Preparer _____

Please Complete Below If Address Has Changed

(System's Name)	(Address)	(City/State)	(Zip)
Florida Public Service Commission Certificate			
WASTEWATER OPERATING REVENUES			
FLAT-RATE REVENUES			
1. Residential Revenues (521.1)	\$ _____	\$ _____	\$ _____
2. Commercial Revenues (521.2)	_____	_____	_____
3. Industrial Revenues (521.3)	_____	_____	_____
4. Revenues from Public Authorities (521.4)	_____	_____	_____
5. Multiple Family Dwelling Revenues (521.5)	_____	_____	_____
6. Other Revenues (521.6)	_____	_____	_____
7. TOTAL FLAT-RATE REVENUES	\$ _____	\$ _____	\$ _____
MEASURED REVENUES			
8. Residential Revenues (522.1)	_____	_____	_____
9. Commercial Revenues (522.2)	_____	_____	_____
10. Industrial Revenues (522.3)	_____	_____	_____
11. Revenues from Public Authorities (522.4)	_____	_____	_____
12. Multiple Family Dwelling Revenues (522.5)	_____	_____	_____
13. TOTAL MEASURED REVENUES	\$ _____	\$ _____	\$ _____
14. Revenues from Public Authorities (523)	_____	_____	_____
15. Revenues from Other Systems (524)	_____	_____	_____
16. Interdepartmental Revenues (525)	_____	_____	_____
17. TOTAL (Lines 7+13+14+15+16)	\$ _____	\$ _____	\$ _____
OTHER WASTEWATER REVENUES			
18. Guaranteed Revenues (include Revenues from A.F.P.I.Charges (530)	_____	_____	_____
19. Sales of Sludge (531)	_____	_____	_____
20. Forfeited Discounts (532)	_____	_____	_____
21. Rents From Wastewater Property (534)	_____	_____	_____
22. Interdepartmental Rents (535)	_____	_____	_____
23. Other Wastewater Revenues (536) Describe:	_____	_____	_____
24. TOTAL OTHER WASTEWATER REVENUES	\$ _____	\$ _____	\$ _____
<i>(Lines 18+19+20+21+22+23)</i>			
25. TOTAL WASTEWATER OPERATING REVENUES* (Lines 17+24)	\$ _____	\$ _____	\$ _____
26. LESS: Expense for Purchased Wastewater Treatment from FPSC-Regulated Utility	(_____)	(_____)	(_____)
27. NET WASTEWATER OPERATING REVENUES (Line 25 less Line 26)	_____	_____	_____
28. Regulatory Assessment Fee Due -- (Multiply Line 27 by 0.045)	_____	_____	_____
29. LESS: Approved Prior-Period Credit	_____	_____	_____
30. NET REGULATORY ASSESSMENT FEE (Line 28 less Line 29)	_____	_____	_____
31. Penalty for Late Payment	_____	_____	_____
32. Interest for Late Payment	_____	_____	_____
33. TOTAL AMOUNT DUE	\$ _____	\$ _____	\$ _____

*These amounts must agree with Annual Report Schedule F-3

If service was purchased from a regulated utility, please insert its name: _____

AS PROVIDED IN SECTION 350.113, FLORIDA STATUTES, THE MINIMUM ANNUAL FEE IS \$25

I, the undersigned owner/officer of the above-named system, have read the foregoing. Under penalties of perjury, I declare that, to the best of my knowledge and belief, the above is a true and correct statement of gross revenues derived from intrastate business for the period indicated.

 (Signature of System Official) (Title) (Date)

 (Please Print Name) Telephone Number (_____)

F.E.I. No. _____

FLORIDA PUBLIC SERVICE COMMISSION
Instructions For Filing Regulatory Assessment Fee Return
(Wastewater System)

1. **WHO MUST FILE:** Each regulated system under the jurisdiction of the Florida Public Service Commission (Commission) must file for any part of a 12-month period which preceded either of the due dates reflected in the following paragraph.
2. **WHEN TO FILE:** To avoid payment of penalties and interest, this Regulatory Assessment Fee Return form must be filed or postmarked before March 31 for the report period January 1 through December 31. (When March 31 falls on a Sunday, remittance may be made on April 1 without penalty.)
3. **FEES:** Each Commission-regulated system shall pay the presently established percentage of its gross operating revenues derived from intrastate business as indicated on Line 28 on the reverse side. (Gross Operating Revenues are defined as the total revenues before expenses.) To assure an accurate recording of your fee payment, it is most important that you identify each certificate number in the appropriate space.
4. **FAILURE TO FILE BY DUE DATE:** Failure to file a return by the established due date will result in a penalty being added to the amount of fee due, 5% for each 30 days or fraction thereof, not to exceed a total penalty of 25% (Line 31). In addition, interest shall be added in the amount of 1% for each 30 days or fraction thereof, not to exceed a total of 12% per year (Line 32).
5. **EXTENSION:** A utility, for good cause shown in a written request, may be granted an extension for a period not to exceed 30 days. Such request should be made by filing the enclosed *Request for Extension to File Regulatory Assessment Fee Return* form (PSC/ADM-124), in sufficient time to allow Commission action prior to the normal due date. If an extension is granted, a charge shall be added to the amount due:

0.75% of the fee to be remitted for an extension of 15 days or less, or
1.5% of the fee for an extension of 16 to 30 days.

In lieu of paying the charges outlined above, a utility may file a return and remit payment based upon estimated gross operating revenues. If such return is filed by the normal due date, the utility shall be granted a 30-day extension period in which to file and remit the actual fee due without paying the above charges, provided the estimated fee payment remitted is at least 90% of the actual fee due for the period. An automatic 30-day extension to file an actual return may be obtained by checking the "Estimated Return" space in the top left-hand corner on the reverse side.

6. **AUTHORITY:** The authority to collect regulatory assessment fees is granted to the Commission by Section 350.113 and 367.145, Florida Statutes.
7. **REGULATORY ASSESSMENT FEE DUE:** Amounts are due and payable to the Commission by March 31. If there are no revenues *OR* if revenues are insufficient to generate a minimum annual fee, remit the minimum fee. A Regulatory Assessment Fee Return must be completed, signed, and filed even if there are no revenues to report or if the minimum amount is due.
8. **FEE ADJUSTMENTS:** Computation errors and/or differences in gross operating revenues reported for regulatory assessment fee purposes and those reported in the annual report may cause adjustments to amounts paid to the Commission. You will be notified as to the amount and reason for any adjustment. Penalty and interest charges may be applicable to additional amounts owed the Commission by reason of the adjustment.
9. **MAILING INSTRUCTIONS:** Please complete this form, make a copy for your files, and return the original in the enclosed preaddressed envelope. Use of this envelope should assure a more accurate and expeditious recording of your payment. However, if you are unable to use the envelope, please address your remittance as follows:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

ATTENTION: Fiscal Services

10. **ADDITIONAL ASSISTANCE:** If you need additional information or assistance in preparing your Regulatory Assessment Fee Return, please contact the Division of Water & Wastewater at (904) 413-6900 or at the above-referenced address, changing the Attention Line.

**SECTION 367.071, FLORIDA STATUTES
SALE, ASSIGNMENT, OR TRANSFER OF CERTIFICATE OF
AUTHORIZATION, FACILITIES, OR CONTROL**

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility.

(2) The commission may impose a penalty pursuant to s. 367.161 when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. 367.145. No fee is required to be paid by a governmental authority that is the buyer, assignee, or transferee.

(4) An application shall be disposed of as provided in s. 367.045, except that:

(a) The sale of facilities, in whole or part, to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission with respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the

system previously dedicated to public use which would impair the ability to provide service, without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction.

History.—

s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 9, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 7, 15, ch. 82-25; ss. 6, 26, 27, ch. 89-353; s. 2, ch. 90-166; s. 4, ch. 91-429.

CHAPTER 25-30.037, F.A.C.
APPLICATION FOR AUTHORITY TO TRANSFER

(4) Each application for transfer of certificate of authorization, facilities, or any portion thereof, or majority organizational control to a governmental authority shall contain the following information:

- (a) the name and address of the utility and its authorized representative;
- (b) the name of the governmental authority and the name and address of its authorized representative;
- (c) a copy of the contract or other document transferring the utility system to the governmental authority;
- (d) a list of any utility assets not transferred to the governmental authority if such remaining assets constitute a system providing or proposing to provide water or wastewater service to the public for compensation;
- (e) a statement that the governmental authority obtained, from the utility or Commission, the most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction;
- (f) the date on which the governmental authority proposes to take official action to acquire the utility;
- (g) a statement describing the disposition of customer deposits and interest thereon; and
- (h) a statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.

(5) If a utility is transferring a portion of its facilities to a governmental agency, it must provide the following additional information:

- (a) a description of the remaining territory using township, range, and section references;
- (b) one copy of the official county tax assessment map, or other map, showing township, range, and section with a scale such as 1"=200' or 1"=400', with the remaining territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

(c) the original and two copies of sample tariff sheets reflecting the remaining territory.

(6) Upon its receipt of items required in (4)(a), (b), (c), (d), (e) and (f), the Commission will issue an order acknowledging that the facilities or any portion thereof have been acquired by the governmental authority.

(7) Upon receipt of the items required in (4)(g) and (h) and, if applicable, (5)(a), (b), and (c), and upon the completion of all pending proceedings before the Commission, the utility's certificate will be amended or cancelled. Amendment or cancellation of the certificate shall not affect the utility's obligation pursuant to Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Specific Authority: 367.121, F.S.

Law Implemented: 367.071 F.S.

History: New 1/27/91, Amended 11/30/93.