

# UTILITIES, INC.

2335 Sanders Road  
Northbrook, Illinois 60062-6196  
Telephone 847 498-6440  
Facsimile 847 498-2066

February 28, 2001

Ms. Blanco S. Bayo  
Director, Division of records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32299-0850

**Re: Docket No. 001820-SU, application for transfer of wastewater utility facility in Lee County, from Cross Creek of Fort Myers Community Association, Inc., a not-for-profit Florida corporation to Utilities, Inc. of Eagle Ridge, holder of Certificate No. 369-S. and for amendment of Certificate No. 369-S to include additional territory.**

Dear Ms. Bayo:

Listed below is the information requested by Patti Daniel in her letter dated January 19, 2001.

## **REQUIRED INFORMATION:**

1. **System Map:** Rule 25-30.036(3)(f), Florida Administrative Code, requires one copy of a detailed system map showing the lines, the treatment facilities, and the territory proposed to be served. The map must be of sufficient scale and detail to enable correlation with the description of the territory.

Please provide a copy of such a system map for Cross Creek's wastewater systems.

*Attached is the system map.*

2. **Territory Map:** Rule 25-30.036(3)(i), Florida Administrative Code, requires 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', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

Please provide a copy of such a map for Cross Creek's service territory. The territory should conform to the legal description provided with the notice of filing.

*Attached is the Lee County Tax map.*

DOCUMENT NUMBER-DATE

02778 MAR-16

FPSC-RECORDS/REPORTING

3. **Effluent Disposal:** Rules 25-30.036(3)(g) and (h), Florida Administrative Code, require a description of proposed or existing effluent disposal methodology. Article VI(1) of the Purchase Agreement indicates that UIER agrees to provide, at no cost to the seller, reclaimed water for irrigation purposes and that the seller agrees to accept this reclaimed water for irrigation purposes to the maximum extent possible.

Please provide the following information with respect to the effluent disposal systems:

- 3.a. A statement verifying the type of existing facilities, capacities, and relative conditions. In particular, please explain why the 375,000 gallons storage tank is considered substandard.

*The wastewater treatment facility at Cross Creek consists of a 0.249 MGD extended aeration treatment train which includes one flow equalization tank, (4) aeration basins with a combined aeration volume of 0.249 million gallons, (1) clarifier tank, (2) tertiary filters, (2) chlorine contact tanks, (2) digester tanks, (2) reuse holding tanks with a total capacity of 0.925 million gallons, and (1) sub-standard tank with a capacity of 0.375 million gallons.*

*The term "sub-standard" is used to describe the quality of the water stored in the 0.375 MG tank, not the present condition of the tank. Treated wastewater that fails to meet the discharge limits set in the operating permit is stored and later retreated prior to disposal. Typically, wastewater with an elevated turbidity or depressed residual chlorine concentration will be diverted automatically to the sub-standard tank and stored until such time as the plant returns to normal.*

- 3.b. A description of how UIER intends to dispose of any effluent not able to be utilized by Cross Creek.

*The historical record for this treatment facility indicates that the volume of reuse water produced during the peak occupancy period and during wet weather conditions provides only a fraction of the irrigation water required by the golf course. Since there is no customer growth projected within the service area, the annualized plant flow is not likely to increase. Therefore, historical data can and should be used to predict with some accuracy the amount of reuse water produced on a daily basis. During extended wet weather periods, there is ample storage capacity in the existing tanks to buffer against the daily irrigation requirements of the golf course.*

- 3.c. A statement justifying the proposed zero reclaimed water rate for Cross Creek and whether such a rate is consistent with UIER's existing tariff.

*Pursuant to Article IV of the October 12, 2000 Asset Purchase Agreement, Purchaser agreed to request approval of the existing rates. The proposed zero reclaimed water rate is consistent with the rate charged by the Seller.*

- 3.d. A tariff reflecting the proposed zero reclaimed water rate for inclusion in UIER's wastewater tariff.

*Attached is a proposed tariff reflecting the zero rate for reclaimed water.*

4. **Capacity to Serve:** Rules 25-30.036(3)(j), (k), (l), (m), and (n), Florida Administrative Code, require specific information regarding the ability of the utility to serve the additional territory. While it appears that UIER intends to serve Cross Creek from Cross Creek's existing facilities, Article II(2) of the Purchase Agreement indicates that additional plant upgrades will be required in the future to meet reasonable utility needs of Cross Creek.

- 4.a. Please indicate the Florida Department of Environmental Protection (FDEP) wastewater permit number, and last date of issuance, for Cross Creek's wastewater systems as well as for UIER's Eagle Ridge wastewater systems.

*For Cross Creek, the FDEP operating permit number is FLA014505, last issued on May 13, 1998 and expiring on May 12, 2003. For Eagle Ridge, the FDEP operating permit number is FLA014498, last issued on January 15, 1998 and expiring on January 14, 2003.*

- 4.b. Please describe the current and proposed capacity of Cross Creek's existing lines and treatment facilities, including the maximum peak month, and the additional system upgrades required to meet reasonable utility needs of Cross Creek as indicated in Article I(4) of the Purchase Agreement.

*The present collection system, including the gravity sewer mains, lift stations, and force mains, was designed and built for buildout conditions. Wastewater service is provided throughout the service area and no further customer growth is projected. The same is true of the Cross Creek treatment facilities in terms of total treatment capacity. However, an FDEP-issued exemption to the Class I reliability standard as it applies to public access reuse plants will expire in 2010. As a result, FDEP will require the design and construction of additional facilities. At a minimum, this will include the addition of a second clarifier. Other necessary facilities may include additional pumps, piping, valves and instrumentation equipment.*

- 4.c. Please describe the types of additional customers anticipated to be served, and the time frame anticipated to meet the reasonable utility needs of Cross Creek as indicated in Article I(4) of the Purchase Agreement.

*At this time, there is no anticipated growth in customers served by the Cross Creek facilities.*

- 4.d. For any system upgrades, please indicate the proposed method of financing the construction and the projected impact on the utility's capital structure, monthly rates, and/or service availability charges.

*None planned in the immediate future.*

- 4.e. Please indicate whether UIER has any foreseeable plans to interconnect Cross Creek's systems with any other system. If so, please provide details.

*UIER has no foreseeable plan to interconnect with any other system.*

- 4.f. According to the application, the buyer is not aware of any outstanding Notices of Violation or any outstanding FDEP consent orders for Cross Creek's facilities and staff has confirmed this with the FDEP.

However, the FDEP indicated that UIER's Eagle Ridge's facilities were recently cited for a violation and that the penalty was being negotiated. Please provide a copy of UIER's Notice of Violation(s), a description of the corrective action(s) taken, or proposed to be taken, as well as the approximate costs.

*At the Eagle Ridge WWTF, FDEP personnel observed a strong sewage odor emanating from the plant's digesters during a March 2, 2000 field inspection. After the March visit, UIER staff took a number of corrective actions to address the odor problems. This effort was successful in drastically reducing if not eliminating the noxious odors in and around the plant site. As a result, FDEP issued a Short Form Consent Order that was executed on January 4, 2001 and acknowledged on January 19, 2001. As note in my letter of October 6, 2000, the following activities were undertaken:*

- 1. Our electrical contractor completed the installation of a new 800 Amp electric service, a main disconnect, distribution panels and feeders, and conduit. He reconnected the various power loads to the new distribution panels.*
- 2. After two months of delays, Florida Power & Light replaced the original transformer with a larger unit. In doing so, the power company determined that the old transformer's condition might have caused many of the power outages experienced at the plant. The underground cables had also deteriorated over time. The old electric service was poorly grounded which contributed to electric*

problems.

3. *Our electrical contractor installed a new automatic transfer switch and a 250 KW generator with subbase fuel tank to provide emergency power to the plant. The generator is adequately sized to deliver sufficient emergency power to operate and maintain the facility during power outages.*
4. *The three existing 30 Hp process blower motors were replaced with 50 Hp motors. There is now an adequate volume of air available to optimize the treatment process. In addition, the noise level at the blowers has noticeably decreased.*
5. *The three surge tank blowers were replaced and a relief valve installed. There is a minimum amount of odor detectable around the three surge tanks. A deodorizing mister continues to be used at the surge tanks as well as the North and South Plants to mask any stray odors coming from the units.*
6. *The variable frequency drive (VFD) unit at the surge pumps was modified to optimize the hydraulic loading on the plants while maintaining adequate freeboard in the surge tanks. Additionally, the control scheme now provides some operational redundancy so that in the event that one pump fails, the second pump will automatically run without hydraulically overloading the process.*
7. *Due to damage that occurred during a severe storm, we replaced much of the instrumentation equipment. The turbidimeter, chlorine analyzer, alarm panel, chart recorders, and effluent flow meter were replaced. Most of the new equipment was wall mounted inside the field office, which will better protect the equipment from weather and power surges.*
8. *New sample pumps were installed to deliver chlorine and turbidity samples to the analyzers. The existing effluent flow meter was replaced with a properly installed mag meter.*
9. *The chlorine detector located at the chlorine building was replaced.*  
*The cost of the above listed improvements totaled approximately \$200,000.*

*Enclosed is a copy of the DEP Consent Order.*

5. **Return of Certificate:** Both Rules 25-30.036(3)(p) and 25-30.037(2)(t), Florida Administrative Code, require the return of the utility's certificates for modification. This part of the application is marked "N.A." Presumably "N.A." means that Cross Creek does not have a certificate to return for cancellation. However, UIER's Certificate No. 369-S will need to be modified to reflect the Commission's decision on the transfer and amendment of Cross Creek to UIER's service territory.

Please return original Certificate No. 369-S for modification pursuant to Commission vote.

*Enclosed is Certificate 369-S.*

**ADDITIONAL INFORMATION OR CLARIFICATION**

6. **Continuation of Flat Rates.** According to Article IV(1) of the Purchase Agreement, UIER is required to request that wastewater rates be established at the existing flat rate of \$13.45 per month for each of the 905 condominium units. In addition, UIER has agreed not to seek an increase in the service rates for a period of two (2) years from the date of Commission approval.

6.a. Please indicate how water service is currently provided to Cross Creek and whether or not such service is metered.

*Water service is currently provided to the Cross Creek customers by Lee County Utilities Department through metered connections.*

6.b. If water service is not currently metered, please provide an explanation, if known.

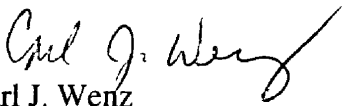
*N/A.*

6.c. Regardless of whether or not water service is currently metered, please provide justification for the continuation of flat rates for wastewater service.

*Pursuant to Article IV of the October 12, 2000 Asset Purchase Agreement, Purchaser agreed to request approval of the existing rates.*

If you have any questions regarding the information above, you may contact me at the number listed above.

Respectfully submitted,

  
Carl J. Wenz  
Vice President, Regulatory Matters

Encl.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**Docket No. 001820-SU, application for transfer of wastewater utility facility in Lee County, from Cross Creek of Fort Myers Community Association, Inc., a not-for-profit Florida corporation to Utilities, Inc. of Eagle Ridge, holder of Certificate No. 369-S. and for amendment of Certificate No. 369-S to include additional territory.**

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Please provide a copy of such a system map for Cross Creek's wastewater systems.

Attached is the system map. (1 ORIGINAL ONLY)

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*Attached is a proposed tariff reflecting the zero rate for reclaimed water.*

UTILITIES, INC. OF EAGLE RIDGE

WASTEWATER TARIFF

REUSE SERVICE

RATE SCHEDULE RU

<u>AVAILABILITY</u>	—	Available throughout the Cross Creek development served by the Company.
<u>APPLICABILITY</u>	—	For reuse service for all purposes.
<u>LIMITATIONS</u>	—	Subject to all of the Rules and Regulations of this tariff and General Rules and Regulations of the Commission.
<u>BILLING PERIOD</u>	—	Monthly
<u>RATE</u>	—	\$ 0
<u>MINIMUM CHARGE</u>		\$ 0
<u>TERMS OF PAYMENT</u>		Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days written notice is mailed to the customer separate and apart from any other bill, service may then be discontinued.
<u>EFFECTIVE DATE</u>	—	
<u>TYPE OF FILING</u>	—	

Carl J. Wenz  
ISSUING OFFICER

Vice President, Regulatory Matters  
TITLE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**Docket No. 001820-SU, application for transfer of wastewater utility facility in Lee County, from Cross Creek of Fort Myers Community Association, Inc., a not-for-profit Florida corporation to Utilities, Inc. of Eagle Ridge, holder of Certificate No. 369-S. and for amendment of Certificate No. 369-S to include additional territory.**

- 4.f. According to the application, the buyer is not aware of any outstanding Notices of Violation or any outstanding FDEP consent orders for Cross Creek's facilities and staff has confirmed this with the FDEP.

However, the FDEP indicated that UIER's Eagle Ridge's facilities were recently cited for a violation and that the penalty was being negotiated. Please provide a copy of UIER's Notice of Violation(s), a description of the corrective action(s) taken, or proposed to be taken, as well as the approximate costs.

*Enclosed is a copy of the DEP Consent Order.*



# Department of Environmental Protection

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

To: DR \_\_\_\_\_

David B. Struhs  
Secretary

January 19, 2001

*Jaw*  
FEB - 1 2001

CERTIFIED MAIL NO.: Z 252 621 747  
RETURN RECEIPT REQUESTED

Utilities Inc. of Eagle Ridge  
C/O Jerry Buhr  
P.O. Box 1657  
Lutz, FL 33548-1657

Rc: Lec County - DW  
OGC Case No.: 00-1081-36-DW  
Eagle Ridge WWTP  
FLA014493  
Southwest Coast EMA

Dear Mr. Buhr :

Enclosed is the signed and entered Short Form Consent Order to resolve the above referenced case. This copy is for your records.

The Department has received your check for \$2850.00. The Department will close this case and place it in our inactive file.

If you have any questions, please contact **Andrew Barienbrock** of this office at (941) 332-6975, ext. 117. Your cooperation in resolving this case is appreciated.

Sincerely,

**FILE**  
673-

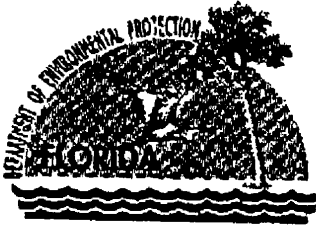
Richard W. Cantrell  
Director of  
District Management

RWC/ARB/klm

Enclosure

cc: Ilia Herrera (w/enclosures)  
Kathy Carter (w/enclosures)  
Mary Wilson - OGC (w/enclosures)

"More Protection, Less Process"



Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## SHORT FORM CONSENT ORDER

December 22, 2000

Donald Rasmussen  
c/o Gerald Bulr  
P.O. Box 1657  
Lutz, Florida 33549

**SUBJECT:** Proposed Settlement of Eagle Ridge WWTP  
OGC File No.: 00-2188-36-DW

Dear Mr. Rasmussen:

The purpose of this letter is to complete resolution of the matters previously alleged by the Department in the Warning Letter dated March 21, 2000, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed or no corrective actions are required to bring your facility into compliance. However, the Department has calculated that civil penalties in the amount of \$2600.00, along with \$250.00 to reimburse the Department costs would be an appropriate settlement.

Therefore, the Department proposes settlement on these terms: you shall make payment in the total amount of \$2850.00 by cashier's check or money order payable to the Department of Environmental Protection. The payment instrument shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, P.O. Box 2549, Fort Myers, Florida 33902-2549, within thirty (30) days of your signing this letter.

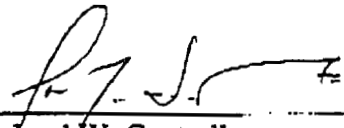
Your signing this letter constitutes your acceptance of the Department's offer to resolve this matter on these terms without any admission of guilt. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes.

Continued . . .  
"More Protection, Less Process"

Don Rasmussen  
December 22, 2000  
Page Two

If you do not sign and return this letter to the Department at the District address by December 10, 2000, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Richard W. Cantrell  
Director of  
District Management

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**I ACCEPT THE TERMS OF THE SETTLEMENT OFFER.**

For: Utilities Inc. of Eagle Ridge



Donald Rasmussen

Date: 1/4/01

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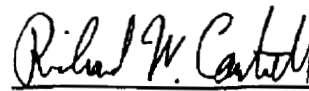
**Please do not write below this line. For DEP use only.**

Entered into this 19 day of January 2001, in Fort Myers, Florida.

**FILING AND ACKNOWLEDGEMENT**

FILED, on this date, pursuant to § 120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

For the DEP



Richard W. Cantrell  
Director of  
District Management

Loren D. Nealy 1-19-01  
CLERK DATE

## **NOTICE OF RIGHTS**

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



# Department of Environmental Protection

FILE

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

March 21, 2000

CERTIFIED MAIL NO: Z 541 193 318  
RETURNED RECEIPT REQUESTED

Utilities Inc. of Eagle Ridge  
c/o Mr. Donald Rasmussen  
200 Weathersfield Avenue  
Altamonte Springs, Florida 32714

RECEIVED  
01 APR - 8 PM 10:10  
SECRETARY'S OFFICE

Re: Lee County - DW  
Eagle Ridge WWTP  
FLA014498

Dear Mr. Rasmussen:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A field inspection of the above referenced facility on March 2, 2000 indicates that a violation of Florida Statutes (F.S.) and Rules may exist at the above described facility.

Department personnel observed the following at the facility:

A strong sewage odor was detected emanating from the wastewater treatment plant's digestors. Florida Administrative Code (F.A.C.) Rule 62-600.410 (8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect the neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modification of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with the rules of the Department.

The activities observed during the Departments field inspection and any activity at the facility that may be contributing to violations of the above described statutes and rules should be ceased.

Continued activities at the facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000

Continued

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Printed on recycled paper.



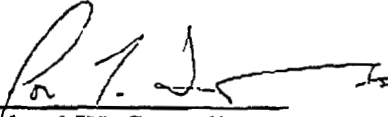
Mr. Donald Rasmussen  
March 21, 2000  
Page Two

per violation per day, pursuant to Sections 403.141 and 403.161, F.S.

Please contact Keith Kleinmann at (941) 332-6975 ext. 182 or at the letterhead address within 15 days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

PLEASE BE ADVISED that this Warning Letter is a part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), F.S. We look forward to your cooperation in completing the investigation and resolution of this matter

Sincerely,

  
Richard W. Cantrell  
Director of  
District Management

RWC/KK/dj



Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

January 19, 2001

CERTIFIED MAIL NO.: Z 252 621 747  
RETURN RECEIPT REQUESTED

Utilities Inc. of Eagle Ridge  
C/O Jerry Buhr  
P.O. Box 1657  
Lutz, FL 33548-1657

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Southwest Coast EMA

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Director of  
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RWC/ARB/klm

Enclosure

cc: Ilia Herrera (w/enclosures)  
Kathy Carter (w/enclosures)  
Mary Wilson - OGC (w/enclosures)

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Please return original Certificate No. 369-S for modification pursuant to Commission vote.

*Enclosed is Certificate 369-S.*

**FLORIDA PUBLIC SERVICE COMMISSION**

Certificate Number  
369 - S

Upon consideration of the record it is hereby ORDERED  
that authority be and is hereby granted to:

UTILITIES, INC. OF EAGLE RIDGE

Whose principal address is:

200 Weathersfield Avenue  
Altamonte Springs, FL 32714 (Lee County)

to provide wastewater service in accordance with the  
provision of Chapter 367, Florida Statutes, the Rules,  
Regulations and Orders of this Commission in the  
territory described by the Orders of this Commission.

This Certificate shall remain in force and effect until  
suspended, cancelled or revoked by Orders of this  
Commission.

ORDER	PSC-98-0514-FOF-SU	DOCKET	951008-SU
ORDER		DOCKET	
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BY ORDER OF THE  
FLORIDA PUBLIC SERVICE COMMISSION

  
Director  
Division of Records and Reporting

