

STATE OF FLORIDA

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DIVISION OF REGULATORY OVERSIGHT
DANIEL M. HOPPE, DIRECTOR
(850) 413-6480

Public Service Commission

November 30, 2001

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

RE: Docket No. 011401-WU: Application for authority to transfer facilities of Heartland Utilities, Inc., holder of Certificate No. 420-W in Highlands County, to AquaSource Utility, Inc., holder of Certificate No. 424-W, and for cancellation of Certificate No. 420-W.

Dear Mr. Friedman:

This letter is a follow up to the review and subsequent telephone call to your office concerning deficiencies which exist with the application for transfer. These deficiencies need to be cured in order for us to process your application.

Deficiencies

1. Copies of all federal tax returns. Pursuant to Rule 25-30.037(2)(o), Florida Administrative Code (F.A.C.), the application is to contain a statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller. A thorough review of the application and attachments did not reveal such a statement. Please provide a statement which addresses this matter.
2. Transfer without prior Commission approval. In accordance with Section 367.071, Florida Statutes, the closing of a transfer may occur prior to Commission approval if the contract is made contingent upon Commission approval. Although you indicated that it was the intention of AquaSource Utility, Inc. and Heartland Utilities, Inc. when the contract was executed, the contract does not clearly state that the closing is contingent upon Commission approval. It is our understanding that an addendum to the contract will be provided to clarify this issue.

Additional Information

A review of the tariff pages submitted and AquaSource's existing water tariff resulted in the need for the following corrections to be made.

1. Customer Deposits. Second Revised Sheet No. 17.0 was submitted for the Highlands County-Sebring Lakes Subdivision indicating that it was for "Charlotte" County. To be consistent with your tariff numbering convention, the Highlands County Customer Deposit sheet number should be Original Sheet No. 17.3. Please submit the Customer Deposits for Highlands County as Original Sheet No. 17.3.
2. Application for Water and/or Sewer Service. A review of this application reveals that it is in conflict with your Customer Deposits Sheets Nos. 17.1 and 17.2 and with Rule 25-30.311(5), F.A.C., which states "After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the utility shall refund the residential customer's deposits...." The application, which appears on both Original Sheet No. 22.0 and Original Sheet No. 23.0 must be corrected to comply with Rule 25-30.311(5), F.A.C. Please submit the corrections as First Revised Sheet No. 22.0 and First Revised Sheet No. 23.0.

The following are reminders of items that were marked as to be late filed.

1. Notices of actual application: Pursuant to Rule 25-30.030, F.A.C., specific styled notices are to be submitted to government bodies and other utilities as well as customers and for publication. The required affidavit that the notice of the application was published once in a newspaper was noted to be late filed. Please provide the required affidavit.
2. Evidence of ownership. Pursuant to Rule 25-30.037(2)(q), F.A.C., evidence that the utility owns the land upon which the utility treatment facilities are located is to be provided. The application contained an unexecuted copy of the warranty deed and a statement that a recorded copy of the deed transferring this property to the Buyer will be filed within 30 days of closing. Since the closing took place on October 31, 2001, please provide a copy of the recorded warranty deed.

The original and four copies, of the response to the information requested in this letter should be filed with the Commission on or before **January 14, 2002**. When filing the response, please be sure to reference the docket and to direct the response to :

Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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Should you have any questions concerning the information requested in this letter, please contact Ms. Stephanie Clapp, of my staff, at (850) 413-6997.

Sincerely,



Patti Daniel
Chief, Bureau of Certification

PD/sc

cc: Division of Regulatory Oversight (lowe, Messer, Clapp, Walden)
Division of Legal Services (Crosby)
Division of Commission Clerk and Administrative Services