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DIVISION OF ECONOMIC REGULATION
(850) 413-6900

Public Service Commission

April 2, 2002

Mr. F. Marshall Deterding, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Re: Docket No. 020091-WS, Application for transfer of facilities and Certificate Nos. 517-W and 450-S in Brevard County from Service Management Systems, Inc. to IRD Osprey, LLC d/b/a Aquarina Utilities.

Dear Mr. Deterding:

Staff has reviewed the above referenced docket for deficiencies and has found none. However, there are a couple of items for which staff needs additional information, clarification, or modification.

ADDITIONAL INFORMATION / CLARIFICATION / MODIFICATION

1. Closing Date. The application indicates that the transfer will not occur until after Commission approval. The Agreement for Sale and Purchase (Agreement) provided with the application from Petrus Corp., General Partner of Petrus Group, L.P., Service Management Systems, Inc. (SMS), and Aquarina Club Corporation (collectively the sellers) to Indian River No. 1 Developers, LLC (Indian River, the buyer) is for a much larger transaction than just the utility assets. As such, the Agreement appears to have closed with an amount not to exceed \$1,500,000 being held in escrow pending Commission approval of the utility transfer. Subsequent to Commission approval, it appears that the transfer of utility assets will be evidenced by a separate special warranty deed and absolute bill of sale.

Please confirm the closing date of the Agreement and provide a copy of all executed closing documents relevant to the transfer of the utility. In particular, please provide an executed copy of the Consulting Agreement referred to in Item 3, below.

DOCUMENT NUMBER
03781 APR-30
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Mr. F. Marshall Deterding, Esquire

Page 2

April 2, 2002

2. Financial Ability. Thank you for correcting the initial filing to include Exhibit C, Indian River's Balance Sheet as of September 30, 2001. While Exhibit C has been accepted as a showing of financial ability pursuant to Rule 25-30.037(1)(j), Florida Administrative Code, it needs to be clarified and supplemented.

- The application indicates that Exhibit C was offered to show the financial strength of the entity that has a controlling interest in the utility as well as the remaining undeveloped property within the utility's service area. However, the application does not list Indian River as a corporate member of IRD Osprey, LLC (IRD).

Please indicate the relationship between Indian River and IRD as well as which members of Indian River are also members of IRD.

- Presumably Indian River's financial statement was offered because IRD will have no assets until after the transfer. If so, please provide a statement of Indian River's intent to pledge its resources on behalf of IRD to fulfill the commitments, obligations and representations of the seller with regard to utility matters.
- Indian River's Balance Sheet shows more in mortgage payable (\$4,900,000) than it does in real estate assets (\$4,844,514). The remaining assets appear to be intercompany receivables, deferred charges and intangibles. It is difficult to ascertain the availability of these funds for utility operations.

It is not enough for the application to indicate that Indian River has a vested interest in continued utility operations. Please indicate how Indian River intends to cover IRD's operating expenses until the development reaches a more advanced stage of build out.

- Finally, staff could find no record of proven longevity for the buyers. IRD was established on 7/16/01, MMJ Development, LLC (one of IRD's corporate members) was established on 7/11/01, and Indian River was established on 3/22/01.

Please provide any supplemental information that will indicate financial experience or longevity on behalf of the members of IRD and Indian River. To the extent that the infusion of capital into either corporation rests on one or more the members, please provide financial statements for those member(s) along with a statement of intent to pledge their resources to support the continued viability of utility operations.

Mr. F. Marshall Deterding, Esquire
Page 3
April 2, 2002

3. Consulting Agreement. The Consulting Agreement with James H. Bates, President of SMS, was to be for a minimum period of six months from the effective date of the Agreement in March of 2001, but appears not to have begun until the Third Addendum to the Agreement was executed in September of 2001.

Please confirm whether the Consulting Agreement is in effect and the reason for the six month delay. Also, please indicate when the buyer intends to terminate the seller's consulting services.

4. Annual Reports and RAFs. Staff has confirmed that the utility's 2001 annual reports were timely filed. Please confirm that the buyer will be responsible for annual reports and RAFs for 2002 and beyond, regardless of when the transfer is approved.
5. Proposed Tariffs. For your convenience, you can now retrieve model tariffs from the Commission's Website at <http://www.floridapsc.com>. While it may appear to be easier to change the name and issuing officer on the existing tariffs rather than use the model tariffs, generally it is not. For most utilities, there is very little information that needs to be added to the model tariff. Generally this is only the utility specific territory description, which can be copied from the notice, and the utility specific rates and charges. On the other hand, there can be substantial structural changes and tariff modifications which need to be made to the existing tariffs before they can be re-issued which is the case with Aquarina Utilities' tariffs.

Please refer to the enclosed copy of the proposed tariffs for specific changes. However, below are some general comments:

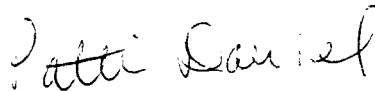
- Indexes. There were a number of incorrect tariff sheet references on the indexes. Be sure to check the tariff sheets against all indexes.
- Territory Authority. Tariff sheets for territory authority were not previously included in the utility's existing tariffs and need added before re-issuance.
- Legal Description. The legal description needs to be legible and to reflect any scrivener corrections made during noticing.
- Irrigation Service. Since there are no approved base facility charges for non-potable water, the water tariff sheets for potable and non-potable water need to be separated.
- Service Availability Fees and Charges. The existing water tariff does not correctly contain all of the utility's approved service availability charges pursuant to Order No. PSC-95-1417-FOF-WS. Separate tariff sheets for potable and non-potable service availability charges should be used.

Mr. F. Marshall Deterding, Esquire
Page 4
April 2, 2002

- Copy of Customer's Bill. A copy of the buyer's proposed bill for water and wastewater service must be included on the applicable tariff sheets. Reduced copy cut and paste is acceptable.
- Docket No. 020111-SU. Please ensure any tariffs implemented pursuant to the Commission's vote on Docket No. 020111-SU are added to proposed wastewater tariff and any impacted indexes updated.

If you have any questions regarding the information requested, please contact Ms. Patricia Brady at (850) 413-6686 or pbrady@psc.state.fl.us.

Sincerely,



Patti Daniel
Supervisor of Certification

Enclosure
PD:PB

cc: Division of Economic Regulation (Brady, Costner)
Office of the General Counsel (Vining)
Division of Commission Clerk and Administrative Services (2 copies)