

ORIGINAL

BREVARD County

BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST



NANCY HIGGS, Commissioner, District 3
1311 E. New Haven Avenue Melbourne, FL 32901

Telephone: (321) 952-6300
Fax: (321) 952-6340
nancy.higgs@countygovt.brevard.fl.us

020553-WS

July 11, 2002

Director, Division of Commission
Clerk and Administrative Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: NOTICE OF APPLICATION FOR AN EXTENSION OF WATER AND
WASTEWATER SERVICE AREA - BURKIM ENTERPRISES, INC.

Dear Director:

I understand Burkim Enterprises has made application for an extension to its water and wastewater service area to provide water and wastewater service to the Snug Harbor Community. This application is to correct an oversight of the prior utility in not obtaining Commission approval.

Attached is a copy of an executed agreement between Burkim Enterprises, Inc. and the office of Public Counsel, the letter from the staff of the Public Service Commission and the language to be included in the consummating Order No. PSC-01-2511-PAA-WS. The agreement entered into on January 9, 2002, outlines specific requirements for plant upgrades within a 9 month time period. In order to avoid a protest of the Order, the utility and the Office of Public Counsel entered into the agreement and the staff would pursue if the utility fails to make the required upgrades within 9 months of the effective date.

I am very concerned with the system failures and the water quality issues the residents, my constituents, are experiencing. We have had numerous phone calls and complaints from the residents such as tank explosions, boil water notices, water quality, poor pressure, pressure fluctuations, sulfur odors, no pressure for the fire hydrants, the water being unsafe to consume as well as, the imposed rate increase.

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC I
- OTH _____

DOCUMENT NUMBER-DATE

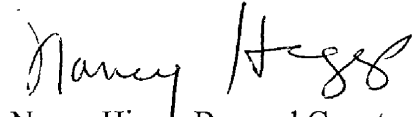
07353 JUL 16 02

BOARD-COMMISSION CLERK

I propose a delay in Burkim Enterprises' request for the extension of its service area until Burkim Order No. PSC-01-25110-PAA-WS has been complied with including all of the specified upgrades of the utility plant to be made by Burkim.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Nancy Higgs, Brevard County
Commissioner, District 3

NH/la

cc Stephen C. Reilly, Esquire
Associate Public Counsel
State of Florida Office of Public Counsel

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

Shirley Francone, President, Snug Harbor Community Association
Marie Bergamini, Director, Snug Harbor Community Association
Al Brandt, Treasurer, Snug Harbor Condo Association
Jim Arpino, President, Snug Harbor Condo Association
Troy Rendell, Public Utilities Supervisor, Florida Public Service Commission

AGREEMENT

The following Parties, Burkim Enterprises, Inc., (“Utility”) and The Office of Public Counsel, (“OPC”) hereby stipulate and agree to the following:

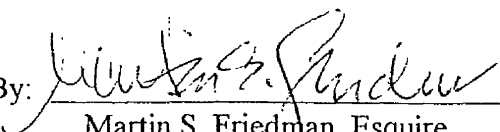
1. Commission Order PSC-01-2511-PAA-WS orders that the Utility shall complete all pro forma additions, as set forth in the body of the Order within nine months of the effective day of the Order.

2. To enforce this requirement of the Order, Staff shall inspect the Utility’s plant at the conclusion of the nine (9) month period to verify that all of the plant upgrades have been accomplished. If for any reason all of the improvements have not been made, the above Parties acknowledge that Staff shall initiate a show cause proceeding that will require the Utility to show cause why it has not completed all of the plant upgrades. Sanctions available to the Commission in any such show cause proceeding shall include but not be limited to imposing fines upon the Utility and or reducing rates until such time as the upgrades have been accomplished.

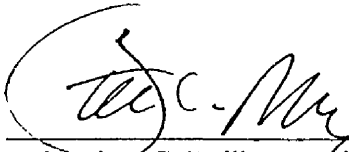
3. This Agreement shall be referenced in the Order issued by the Commission Consummating Order PSC-01-2511-PAA-WS.

This Stipulation and Agreement is entered into by the following Parties this 4th day of January, 2002.

BURKIM ENTERPRISES, INC.

By: 
Martin S. Friedman, Esquire
Attorney for Burkim Enterprises, Inc.

OFFICE OF PUBLIC COUNSEL

By:  _____
Stephen C. Reilly, Esquire
Associate Public Counsel

STATE OF FLORIDA

COMMISSIONERS.
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

January 9, 2002

Mr. Steve Reilly
Office of Public Counsel
111 W. Madison St., #812
Tallahassee, FL 32399-1400

To Whom It May Concern:

Commission Order No. PSC-01-2511-PAA-WS orders Burkim Enterprises, Inc., ("Utility") to complete all pro forma additions, as set forth in the body of the Order within nine (9) months of the effective date of the Order. At the conclusion of the nine month period staff shall inspect the Utility's plant to verify that all of the plant upgrades have been accomplished. If for any reason all of the improvements have not been made, staff shall initiate a show cause proceeding that will require the Utility to show cause why it has not completed all of the plant upgrades. Sanctions available to the Commission in any such show cause proceeding shall include but not be limited to imposing fines upon the Utility and or reducing rates until such time as the upgrades have been accomplished.

In order to avoid a protest of this Order, the Utility and the Office of Public Counsel have entered into a stipulation and agreement acknowledging the above procedure that the staff will pursue if the Utility fails to make the required upgrades within the nine (9) month period of time. The Order to be issued consummating Order No. PSC-01-2511-PAA-WS, shall make reference to the parties agreement acknowledging the procedure to enforce any potential violation of Order No. PSC-01-2511-PAA-WS, with regard to the Utility's obligation to complete the plant upgrades.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Rendell".

Troy Rendell
Public Utilities Supervisor

TR(burkim.ltr)

An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

The order issued by the Commission to consummate Order No. PSC-01-2511-PAA-WS shall include the following language:

In order to avoid a protest of this Order the Utility and the Office of Public Counsel entered into a stipulation and agreement acknowledging the procedure Staff will follow if the Utility fails to comply with the Order's requirement that it complete all of the plant upgrades within nine (9) month's of the effective date of Order No. PSC-01-2511-PAA-WS.



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

January 10, 2002

RECEIVED

JAN 16 2002

DISTRICT #3
COMMISSIONER'S OFFICE

Nancy Higgs
Brevard County Commissioner
Brevard County Courthouse
1311 E. New Haven Avenue
Melbourne, Florida 32901

Re: Commission Order No. PSC-01-2511-PAA-WS

Dear Nancy:

Thank you for your assistance in working with the utility customers of Burkim Enterprises ("Burkim"). At the conclusion of our telephone conference with the four community leaders, I was instructed not to protest the above PPA order. However, I was asked to do everything I could to better document the commitment of the Commission's staff to enforce the provision of the order that required all of the specified upgrades of utility plant to be made by Burkim within a nine (9) month period.

I was successful in accomplishing the things I hoped I could accomplish when we last spoke on Tuesday afternoon. Please see the attached copies of executed agreement between Burkim Enterprises and the Office of Public Counsel, the letter from the staff of the Public Service Commission and the language that is suppose to be included in the consummating order for Order No. PSC-01-2511-PAA-WS.

Hopefully, the agreement together with the written commitment from the staff to strictly enforce the requirement to upgrade utility plant will help highlight the issue and help better insure that the improvements will be made in a timely manner. Needless to say our office will continue to monitor the situation and be actively involved in any potential enforcement procedure in the future.

Thank you again for all of your help.

Sincerely,

Stephen C. Reilly
Associate Public Counsel

Enclosures:

cc: Shirley Francone, President, Snug Harbor Community Association
Marie Bergamini, Director, Snug Harbor Community Association
Al Brandt, Treasurer, Snug Harbor Condo Association
Jim Arpino, President, Snug Harbor Condo Association
Troy Rendell, Public Utilities Supervisor, Florida Public Service Commission