

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

September 12, 2002

Michael W. Leonard, Esquire
Michael W. Leonard, P.A.
2030 McGregor Blvd.
Ft. Myers, FL 33901

RE: Docket No. 020640-SU - Application for certificate to provide wastewater service in Lee County by Gistro, Inc.

Dear Mr. Leonard:

Pursuant to Section 120.573, Florida Statutes, state agencies have been charged with the responsibility of promoting mediation of administrative disputes consistent with the provisions contained therein. Mediation is an informal dispute resolution process in which a neutral third party, the mediator, helps the disputing parties reach an agreement upon the disputed matter. The mediator has no power to impose a decision on the parties. Mediation is a desirable alternative to an administrative hearing in that it can be less expensive, less time-consuming, and allows the parties themselves to negotiate settlement of disputed issues.

We will soon contact you to discuss whether this case can be handled through mediation. We encourage you to raise any questions or concerns you may have concerning mediation at that time.

If the affected persons agree to proceed to mediation, Commission staff will draft and submit for your approval an agreement to mediate. For your information, a sample Agreement to Engage in Mediation is enclosed with this letter. The agreement will include provisions for mediator selection, the allocation of any costs and fees associated with the mediation, and the mediating parties' understanding regarding the confidentiality of discussions and documents introduced during mediation, as well as the participation by Commission staff in the mediation process. Pursuant to Section 120.573, Florida Statutes, the mediation will conclude within 60 days of the agreement unless otherwise agreed upon by the parties.

In order for the mediation to be successful, all parties must be committed to engaging in good faith negotiations in order to reach a binding agreement on how to resolve this matter. Therefore, it is important for all parties to be present at the mediation who are able to agree to a binding solution.

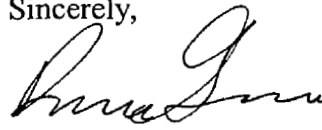
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If you have any questions, please feel free to contact me at (850) 413- 6224. Thank you for your attention to this matter.

Sincerely,



Rosanne Gervasi
Senior Attorney

Enclosure
rg/dm

cc: Division of the Commission Clerk and Administrative Services
Division of Economic Regulation (Brady, Daniel)
Office of the General Counsel (Helton)

**Sample
AGREEMENT TO ENGAGE IN
MEDIATION
FLORIDA PUBLIC SERVICE COMMISSION**

Upon signing of this document, each of the parties identified below voluntarily agrees to engage in mediation in good faith for the purpose of resolving the disputed issues of Docket No. _____ . The process shall be concluded within 60 days of the date this agreement is signed unless otherwise agreed in writing by all parties.

Each party understands that choosing to engage in mediation is voluntary and does not confer or limit standing in any subsequent judicial or administrative proceeding. However, non-participation may limit standing as provided in Rule 28-106.111, FAC. Each party retains the right to a formal hearing before the Florida Public Service Commission (Commission) should the issues fail to be resolved through the mediation process. If any issues remain unresolved, the Commission shall notify the parties in writing of the legal remedies which remain available for disposition of the dispute and the deadlines for pursuing each within 7 days of the conclusion of the mediation.

If the parties have selected a mediator, provide the following. Name: _____ ;
Address: _____ ; Telephone Number: _____

Each party agrees that the cost of engaging the services of an outside mediator will be shared equally among the parties (excluding the Commission) unless specifically stated otherwise and agreed to in writing by all parties.

Each party agrees that the Commission may assign a staff member to conduct the mediation unless a mutually agreed upon mediator is selected by the parties. There is no charge for mediation services when the mediation is conducted by a member of the Commission staff.

Each party agrees that all mediation communications of the parties or the mediator prepared for the purpose of mediation shall be considered confidential offers of settlement and are not admissible in subsequent administrative, legislative, or judicial proceedings, unless: agreed to in writing by all parties; the communication has already been made public; or, the communication is required to be made public by statute or judicial order.

Each party understands that any agreement reached through the mediation process is subject to final review by the Commission. The Commission's final review of the mediated agreement shall be limited to whether the agreement is lawful and in the public interest.

Signature Date

Name of Party

Signature Date

Name of Party

Below, please list the date, time and place of the first mediation session.

Date of first mediation session _____ Time _____

Place first session to be conducted _____

Below, please list the names, addresses, and telephone numbers of any persons who may attend the mediation; please also indicate whether the person is authorized to settle or recommend settlement in this case:

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Sample REQUEST FOR MEDIATION

Florida Public Service Commission

NAME OF PARTY

PARTY'S REPRESENTATIVE (IF ANY)

ADDRESS

ADDRESS

TELEPHONE NUMBER (VOICE)

TELEPHONE NUMBER (VOICE)

TELEPHONE NUMBER (FAX)

TELEPHONE NUMBER (FAX)

Statement of preliminary agency action in Docket No. _____.

Using the space below or additional pages if necessary, explain how your substantial interests will be affected by the Florida Public Service Commission's decision in this case. Please also specifically state the relief sought.

