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DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

# Public Service Commission

October 30, 2002

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
650 S. North Lake Boulevard, Suite 420  
Altamonte Springs, Florida 32701

Re: Docket No. 020746-WU, Application for certificate to provide water service in Charlotte County by Knight Water Utility, Inc.

Dear Mr. Friedman:

Thank you for the September 20, 2002, response to staff's August 18, 2002, notice of deficiencies. Staff found the response substantially complete but the application is still deficient with respect to the proofs of ownership as described below. In addition, staff still has questions and concerns regarding the application. Further, staff has contacted Bocilla Utilities, Inc., (Bocilla) to determine if the Amended Legal Description filed in this docket addressed their concerns and it appears that it does. However, please be advised that, to date, Bocilla has not filed a notice of withdrawal of their conditional objection to the application.

### REMAINING DEFICIENCIES

1. Transfer of Ownership. As you are aware, the application was filed under Rule 25-30.034, Florida Administrative Code, which is for a certificate of authorization for an existing utility currently charging rates. However, this rule does not exactly fit as Knight Water Utility, Inc. (Knight or utility) does not yet own or control the utility facilities. In this respect, the application is more like an application for authorization to transfer pursuant to Rule 25-30.037, Florida Administrative Code. By letter dated August 5, 2002, it was clarified that the utility assets will be conveyed to Knight upon Commission approval. Based on the Commission's rules for a transfer, staff does not believe it is appropriate to make a recommendation regarding the certificate of authorization absent a review of the proposed terms and conditions of the conveyance.

Please provide a copy of the terms and conditions of the proposed conveyance.

AUS	_____
CAF	_____
GMP	_____
COM	_____
CTR	_____
ECR	_____
GCL	_____
OPC	_____
MMS	_____
SEC	_____
OTH	_____

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2. Ownership of Land. As indicated in staff's August 18, 2002 letter, Rule 25-30.034(1)(e), Florida Administrative Code, requires evidence that the utility owns the land upon which the utility treatment facilities are located, or copy of an agreement which provides for the continued use of the land. The utility's September 20, 2002, response indicated that the utility is currently negotiating a lease which will be provided to the Commission upon conclusion of the negotiations. The late-filed exhibit will be acceptable. However, until staff has reviewed the proposed lease, this requirement must remain deficient. Also, if the negotiated lease is for a period of less than 99 years, please remember that staff will need justification.

#### ADDITIONAL INFORMATION, CLARIFICATION, CORRECTIONS

3. Rates and Charges. Rule 25-30.034(1)(g), Florida Administrative Code, requires a statement specifying on what date and under what authority the current rates and charges were established. In the September 20th response to this matter, minutes of Knight Island Utilities, Inc. (KIUI) Board of Directors meetings were provided. Unfortunately, the minutes provided did not cover all of the current rates and charges.
  - a. Minutes from the August 30, 1997, Board Meeting indicated an increase in base rates from \$35.95 to \$39.41 per month. However, the application indicates that the current base rate for water is \$23.26. Apparently, there must have been a subsequent Board Meeting in which the rates were reduced. Please provide the minutes from the Board Meeting in which base rates were reduced to \$23.26.
  - b. Minutes from the August 30, 1997, Board Meeting also indicated that the gallonage rates were to remain unchanged. Please provide the Board Meeting Minutes in which the proposed gallonage rates of \$4.25 per 1,000 gallon up to 10,000 gallons and \$6.37 per thousand gallons over 10,000 gallons were established.
4. Rate Base. Because the original owners were developers and because a non-profit corporation, KIUI, rented the utility facilities during the exemption period, staff believes that it is both appropriate and prudent to (1) attempt to identify the original cost when the utility plant and land were first placed into public use and (2) attempt to establish rate base at the time of the proposed conveyance. It has been staff's experience that when the utility facilities are constructed by developers not intending to be regulated utilities, the cost of the plant and lines are recovered in sale of the lots. And, in this instance, the rent paid by KIUI may represent additional contributions. Therefore, it is possible that rate base for Knight could be zero or even negative.

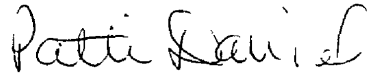
Since a zero or negative rate base would be a public interest concern, staff is requesting that:

- a. the original cost records with regard to utility plant, land, and lines be filed along with the developers' tax returns for each year beginning with the year the utility facilities were constructed to the present.
  - b. to the extent that KIUI was responsible for plant additions and upgrades during the period in which it rented the utility facilities, staff requests that KIUI's plant records and tax statements also be provided to verify additional plant and to determine whether the plant was expensed rather than capitalized.
5. Schedule of Customers. Rule 25-30.034(1)(n), Florida Administrative Code, requires a schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the requested service territory is fully occupied. Staff is somewhat confused by the utility's September 20th response which indicates a total of 450 lots within the service area, of which there are 210 current connections, and approximately 150 more connections not being served in the remainder of Thornton Key. Please clarify whether the 150 additional lots not being served in the remainder of Thornton Key are included in the total of 450 lots within the service area or whether they are in addition to the 450 lots.
6. Territory Not Served. Since the applicant appears to be requesting territory not served at the time of the application, Rule 25-30.034(2)(a), Florida Administrative Code, requires a showing of the need for service. If the 150 unconnected lots discussed in Item 5, above, for the remainder of Thornton Key represent another development, rather than an undeveloped portion of the current development, please provide documentation of the need for service in the area.
7. Capacity. Information provided by the Florida Department of Environmental Protection (FDEP) indicates that short term water capacity is not adequate during periods of peak occupancy. In the August 15, 2002, Annual Meeting of KIUI, there was a discussion about this problem in which a short-term solution of increasing the storage capacity was decided. Since KIUI is experiencing capacity shortages with only 210 current connections, please explain how Knight intends to serve the current service area at build-out and the additional service area requested.
8. KIUI's Decision. In its August 18<sup>th</sup> letter, staff requested the minutes of the KIUI's meeting(s) in which its members decided they no longer wished to serve themselves causing this application to be filed. In the October 20<sup>th</sup> utility response, minutes were provided of the August 15, 2002 Annual Meeting. This meeting post-dates the filing of the application on July 17, 2002, and appears to contain a discussion regarding terminating the existing lease. Please provide the minutes of the meeting which resulted in the filing of the certificate application with the PSC.

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An original and five copies of the information requested above should be provided as soon as possible but no later than, November 28, 2002. Until Items 1 and 2 are satisfied, the application will be considered deficient. The response should be filed directly with the Director, Division of the Commission Clerk and Administrative Services. Should you have any questions, please call Patricia Brady at (850) 413-6686, [pbrady@psc.state.fl.us](mailto:pbrady@psc.state.fl.us) or Rosanne Gervasi at (850) 413-6224, [rgervasi@psc.state.fl.us](mailto:rgervasi@psc.state.fl.us).

Sincerely,



Patti Daniel  
Supervisor of Certification

PD:PB

cc: Robert Dennis, Department of Community Affairs  
Mark Charneski, Department of Environmental Protection  
Division of Economic Regulation (Brady, Redemann)  
Office of the General Counsel (Gervasi)  
Division of the Commission Clerk and Administrative Services (Docket)