

ORIGINAL

030907- JA

RECEIVED- FPSC

**\*\* FLORIDA PUBLIC SERVICE COMMISSION \*\***

SEP 15 PM 1:16

**DIVISION OF COMPETITIVE MARKETS AND ENFORCEMENT**  
**CERTIFICATION**

COMMISSION  
CLERK

**APPLICATION FORM**

for

**AUTHORITY TO PROVIDE ALTERNATIVE ACCESS VENDOR SERVICE**  
**WITHIN THE STATE OF FLORIDA**

**Instructions**

- A. This form is used as an application for an original certificate and for approval of sale, assignment or transfer of an existing certificate. In the case of a sale, assignment or transfer, the information provided shall be for the purchaser, assignee or transferee (See Page 13).
- B. Print or type all responses to each item requested in the application and appendices. If an item is not applicable, please explain why.
- C. Use a separate sheet for each answer which will not fit the allotted space.
- D. Once completed, submit the original and six (6) copies of this form along with a non-refundable application fee of \$250.00 to:

**Florida Public Service Commission**  
**Division of the Commission Clerk and Administrative Services**  
**2540 Shumard Oak Blvd.**  
**Tallahassee, Florida 32399-0850**  
**(850) 413-6770**

Note: **A filing fee is required** for the sale, assignment or transfer of an existing certificate to another company (see Chapter 25-24.730, F.A.C.).

- E. If you have questions about completing the form, contact:

**Florida Public Service Commission**  
**Division of Competitive Markets and Enforcements**  
**Certification**  
**2540 Shumard Oak Blvd.**  
**Tallahassee, Florida 32399-0850**  
**(850) 413-6600**

This is an application for (check one):

FORM PSC/CMU 43 (1/95)  
 Required by Commission Rule Nos. 25.24.715,  
 15-24.720 and 25-24.730

03 SEP 15 AM 11:27

DISTRIBUTION CENTER

DOCUMENT

Check received with filing and forwarded to Fiscal for deposit. Fiscal to forward deposit information to Records.

Initials of person who forwarded check

08702 SEP 15 08

FPSC-COMMISSION CLERK

(  ) **Original certificate** (new company).

(  ) **Approval of transfer of existing certificate:** Example, a non-certificated company purchases an existing company and desires to retain the original certificate authority rather than apply for a new certificate.

(  ) **Approval of Assignment of existing Certificate:** Example, a certificated company purchases an existing company and desires to retain the existing certificate of authority and tariff.

(  ) **Approval for transfer of control:** Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company:

FORT PIERCE UTILITIES AUTHORITY

3. Name under which applicant will do business (fictitious name, etc.):

GigaBand Communications

4. Official mailing address (including street name & number, post office box, city, state, zip code):

206 S. 6<sup>th</sup> STREET

P. O. BOX 3191

FORT PIERCE, FL 34948-3191

5. Florida address (including street name & number, post office box, city, state, zip code):

206 S. 6<sup>th</sup> STREET \_\_\_\_\_

P. O. BOX 3191 \_\_\_\_\_

FORT PIERCE, FL 34948-3191 \_\_\_\_\_

6. Structure of organization:

- |  |  |
|--|--|
| <input type="checkbox"/> Individual                              | <input type="checkbox"/> Corporation         |
| <input type="checkbox"/> Foreign Corporation                     | <input type="checkbox"/> Foreign Partnership |
| <input type="checkbox"/> General Partnership                     | <input type="checkbox"/> Limited Partnership |
| <input checked="" type="checkbox"/> Other, <b>Public Utility</b> |  |

7. **If individual**, provide:

Name: N/A \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Internet E-Mail Address: \_\_\_\_\_

Internet Website Address: \_\_\_\_\_

8. **If incorporated in Florida**, provide proof of authority to operate in Florida:
- (a) **The Florida Secretary of State corporate registration number:**  
Public Utility: FL PSC Company Code TX716 (Fort Pierce City Charter Article XII Attached).
9. **If foreign corporation**, provide proof of authority to operate in Florida:
- (a) **The Florida Secretary of State corporate registration number:**  
N/A
10. **If using fictitious name-d/b/a**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida.
- (a) **The Florida Secretary of State fictitious name registration number:**  
G03037700132 (for GigaBand Communications)
11. **If a limited liability partnership**, please proof of registration to operate in Florida.
- (a) **The Florida Secretary of State registration number:**  
N/A
12. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.
- Name: N/A
- Title: \_\_\_\_\_
- Address: \_\_\_\_\_
- City/State/Zip: \_\_\_\_\_
- Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_
- Internet E-Mail Address: \_\_\_\_\_
- Internet Website Address: \_\_\_\_\_

13. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable.

(a) **The Florida registration number:** N/A

14. Provide **F.E.I. Number**(if applicable): 591547357

15. Provide the following (if applicable):

(a) Will the name of your company appear on the bill for your services?  
(  ) **Yes** (  ) **No**

(b) If not, who will bill for your services?

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_ **Fax No.:** \_\_\_\_\_

(c) Who will the billed party contact to ask questions about the bill?

**Name:** Don Landin or Customer Service Department

**Telephone Number:** 772-466-1600

(d) How is this information provided?

Website, Service Orders, and Invoices

16. Who will serve as liaison to the Commission in regard to the following?

(a) The application:

**Name:** Don Landin

**Title:** Marketing Representative

**Address:** P. O. Box 3191

**City/State/Zip:** Fort Pierce, FL 34948-3191

**Telephone No.:** 772-466-1600 ext 6307 **Fax No.:** 772-461-1938

**Internet E-Mail Address:** dlandin@fpu.com

**Internet Website Address:** www.fpu.com

(b) Official point of contact for the ongoing operations of the company:

**Name:** Mr. Thomas W. Richards, P. E.

**Title:** Director of Electric & Gas Systems

**Address:** P. O. BOX 3191

**City/State/Zip:** Fort Pierce, FL 34948-3191

**Telephone No.:** 772-466-1600 ext 3400 **Fax No.:** 772-595-9841

**Internet E-Mail Address:** trichards@fpu.com

**Internet Website Address:** www.fpu.com

(c) Complaints/Inquiries from customers:

**Name:** Don Landin

**Title:** Marketing Representative

**Address:** P. O. Box 3191

**City/State/Zip:** Fort Pierce, FL 34948-3191

**Telephone No.:** 772-466-1600 **Fax No.:** 772-461-1938

**Internet E-Mail Address:** dlandin@fpu.com

**Internet Website Address:** www.fpu.com

17. List the states in which the applicant:

- (a) has operated as an Alternative Access Vendor.

N/A

- (b) has applications pending to be certificated as an Alternative Access Vendor.

N/A

- (c) is certificated to operate as an Alternative Access Vendor.

N/A

- (d) has been denied authority to operate as an Alternative Access Vendor and the circumstances involved.

N/A

---

---

- (e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

N/A

---

---

- (f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

N/A

---

---

18. Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

- (a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation.

N/A

---

---

- (b) an officer, director, partner or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

N/A

---

---



19. The applicant will provide the following AAV services (check all that apply):

- a. (  ) Intraexchange private line service to an affiliate.
- b. (  ) Interexchange private line service to an affiliate.
- c. (  ) Special access as part of a private line dedicated service.
- d. (  ) Special access to an IXC switched network.
- e. (  ) Private line services (Channel Services)

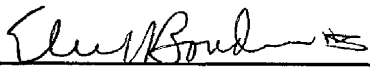
- (  ) DS-0, 64 kb/s
- (  ) DS-1, 1.54 Mb/s
- (  ) DS-2, 6.31 Mb/s
- (  ) DS-3, 44.76 Mb/s

**THIS PAGE MUST BE COMPLETED AND SIGNED**  
**\*\* APPLICANT ACKNOWLEDGEMENT STATEMENT \*\***

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of the gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
  
2. **APPLICATION FEE:** I understand that a non-refundable application fee of \$250.00 must be submitted with the application.
  
3. **RECEIPT AND UNDERSTANDING OF RULES:** I acknowledge receipt and understanding of the Florida Public Service Commission's rules and orders relating to my provision of alternative access vendor service in Florida. I also understand that it is my responsibility to comply with all current and future Commission requirements regarding AAV service.

**UTILITY OFFICIAL:**

Elie J. Boudreaux, III  
Print Name

  
Signature

Director of Utilities  
Title

9/4/03  
Date

772-466-1600  
Telephone No.

772-595-9841  
Fax No.

Address: P. O. Box 3191  
Fort Pierce, FL 34948-3191

**THIS PAGE MUST BE COMPLETED AND SIGNED**

**AFFIDAVIT**

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide alternative access vendor service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

**Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."**

**OFFICIAL:**

Elie J. Boudreaux, III  
Print Name

  
Signature

Director of Utilities  
Title

9/4/03  
Date

772-466-1600  
Telephone No.

772-595-9841  
Fax No.

Address: P. O. Box 3191

Fort Pierce, FL 34948-3191

SERVICE AREA NETWORK

1. **CURRENT FLORIDA INTRASTATE SERVICES:** Applicant has ( ) or has not (  ) previously provided intrastate telecommunications in Florida. If the answer is has, fully describe the following:

a) What services have been provided and when did these services begin?

N/A

b) If the services are not currently offered, when were they discontinued?

N/A

UTILITY OFFICIAL:

Elie J. Boudreaux, III  
Print Name

  
Signature

Director of Utilities  
Title

9/4/03  
Date

772-466-1600  
Telephone No.

772-595-9841  
Fax No.

Address: P. O. Box 3191  
Fort Pierce, FL 34948-3191

CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT

I, (Name) \_\_\_\_\_,

(Title) \_\_\_\_\_ of

(Name of Company) \_\_\_\_\_

and current holder of certificate number \_\_\_\_\_, have

reviewed this application and join in the petitioner's

request for a ( ) sale, ( ) transfer ( ) or assignment of the above-mentioned certificate.

UTILITY OFFICIAL:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone No.

\_\_\_\_\_  
Fax No.

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CODE OF ORDINANCES City of FORT PIERCE, FLORIDA Codified through Ord. No. K-170, adopted Dec. 2, 2002. (Supplement No. 68)

CHARTER\*

ARTICLE XII. FORT PIERCE UTILITIES AUTHORITY\*

Sec. 169. Created; powers, duties, responsibilities generally; definitions.

---

**Sec. 169. Created; powers, duties, responsibilities generally; definitions.**

(a) There is hereby created and made a part of the government of the City of Fort Pierce a utilities authority to be known and designated as Fort Pierce Utilities Authority, City of Fort Pierce, Florida, which shall be responsible for the development, production, purchase and distribution of all electricity, gas, water, sanitary sewer collection and disposal, and such other utility services as may be designated by resolution by the city commission. The authority shall have exclusive jurisdiction, control and management of the utilities of the city and all of its operations and facilities. The authority shall have all the powers and duties possessed by the city to construct, acquire, expand and operate utility systems, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility systems. The authority shall operate as a separate unit of the city government; and except as otherwise provided in this article, the authority shall be free from the jurisdiction, direction, and control of other city officers and of the city commission. The authority may sue or be sued in its own name. All damage claims arising from the operations of the authority and the utilities shall be the responsibility of and be liquidated by the authority from the appropriate funds of the utility systems.

(b) For the purposes of this article, unless otherwise designated or the context requires, the word "authority" shall mean the Fort Pierce Utilities Authority, the word "member" shall mean a member of the Fort Pierce Utilities Authority, and the word "city" shall mean the City of Fort Pierce.

(Ord. No. F-399, § 1, 4-24-72)

**Sec. 170. Composition; qualifications, selection, terms of office, removal and compensation of members; vacancies; election and duties of officers; authority to adopt rules; required vote to act; quorum; meetings; execution of contracts, written instruments.**

(a) The authority shall consist of five (5) members, one (1) of whom shall be the mayor. In the discretion of the city commission, the city manager may serve as an ex officio member without vote, and whose term shall be set by the city commission.

(b) The city commission shall, within fifteen (15) days upon this article becoming law, elect by a majority vote, four (4) citizens with such qualifications as are provided for herein, one of whom shall serve for one year, one of whom shall serve for two (2) years, one of whom shall serve for three (3) years, and one of whom shall serve for four (4) years, each of such terms to commence the first day of each new fiscal year. Thereafter, the term of office of each member shall be for four (4) years, but each elected member shall hold such office until his successor has qualified and been elected and furthermore, the city commission shall by a majority vote nominate and elect any successor to the present membership of the utilities authority and shall by a majority vote elect all new members of the authority. No member of the utilities authority shall serve more than two (2) consecutive terms.

(c) Any vacancy in the authority shall be filled for the unexpired term in the same manner as provided for appointment after the initial appointments. No vacancy in the authority shall impair the right of the remaining members to exercise all the powers of the authority.

(d) Any member may be removed from office by the city commission for malfeasance, misfeasance or nonfeasance in office, or upon conviction of a felony.

(e) No person shall be a member unless he shall be a qualified elector of the city. No person who holds any other public office or who is an employee of the city government or who has any business relationship with the authority other than as a consumer shall be a member, except the mayor and the ex officio member. A member ceasing to possess any of these qualifications shall be removed from his office forthwith by the city commission.

**State law references:** Code of ethics for public officers and employees, F.S. § 112.311 et seq.

- (f) Each member shall be paid as set out in the budget and approved by the city commission in accordance with section 176, subsection (12).
- (g) The authority by majority vote shall elect from among its members a chairman, who shall preside over the meetings of the authority, a vice-chairman who shall act for the chairman during his absence, and a secretary. An election of officers of the authority shall be held at the first regular meeting at which all members are present following the appointment of a new member for a full term, but not later than the fourth meeting following the appointment.
- (h) The authority shall adopt rules for the conduct of its meetings.
- (i) No action shall be taken by the authority except by the affirmative vote of at least three (3) members.
- (j) Three (3) members shall constitute a quorum.
- (k) The authority shall meet at least once each month. All meetings shall be open to the public and minutes shall be kept of all meetings; copies of such minutes shall be furnished members of the city commission within seven (7) days of such meeting. Special meetings may be called upon six (6) hours['] written notice thereof by the chairman or any three (3) members.
- (l) All contracts shall be executed by the chairman or vice-chairman and secretary. All other instruments in writing necessary to be signed by the authority shall be executed by the chairman or vice-chairman and secretary, or by such officer, agent or employee of the authority as it may designate.

(Ord. No. F-399, § 2, 4-24-72; Ord. No. G-297, §§ 2, 4, 9-20-76)

### **Sec. 171. Separate divisions for electric, water and other utility operations.**

- (a) The authority may establish separate divisions for the electric, water, and other utility operations, respectively.
- (b) Separate accounts shall be kept for each division and as may be found practical by the authority in accordance with the uniform systems of accounts for sanitary sewer, gas, electricity, water and other utilities, as promulgated by the Public Utilities Commission of the State of Florida or the Federal Power Commission and according to generally accepted public utility accounting principles.
- (c) Each division may be operated independently of the others, except insofar as the authority determines joint operations to be advisable and economical.
- (d) Expenses incurred in joint operations shall be equitably prorated among the divisions by the authority.

(Ord. No. F-399, § 3, 4-24-72)

### **Sec. 172. Utilities director; officers, employees, department heads.**

The authority shall have the power to appoint a utilities director to be responsible to the authority and who shall serve at its pleasure. There shall be such other officers and employees as may be provided by the authority. The officers shall be appointed or removed by the utilities director subject to confirmation by the authority. The employees shall be appointed and removed by the utilities director. The authority shall fix the salary of the utilities director and shall have, but may delegate to the utilities director, the power to fix the salaries of all other officers and employees of the authority. The authority shall also have the power to employ or appoint engineers, accountants, lawyers, and such other personnel as may be required for the operation and management of the utilities and to fix their compensation. Department heads shall be appointed by the director subject to the approval of the authority.

(Ord. No. F-399, § 4, 4-24-72)

### **Sec. 173. Surety bonds for officers, employees.**

The authority may require surety bonds for any of the officers and employees in such amounts as the authority deems necessary. The premiums for the bonds shall be paid in the same manner as any other operating expense.