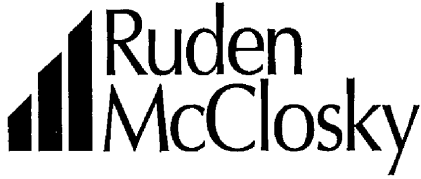


ORIGINAL



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December 5, 2003

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05 DEC -5 PM 2:18
COMMISSION
CLERK

Via Hand Delivery

Blanca S. Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Building, Room 110
Tallahassee, Florida 32399-0850

Re: Docket No. 980876-WS
Application for certificate to operate a water and wastewater utility in Marion
County by Ocala Springs Utilities Inc.

Dear Ms. Bayo:

Enclosed on behalf of Ocala Springs Utilities Inc. are an original and fifteen (15) copies
of the Second Motion for Extension of Time of Ocala Springs Utilities Inc.

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this
letter and returning same to my attention.

RECEIVED & FILED

11

FPSC-BUREAU OF RECORDS

Sincerely,

Kathryn G.W. Cowdery

Enclosures

cc: Pat Brady (w/enclosures)

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC 1
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TAL:45975:1

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

DOCUMENT NUMBER-DATE

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CARACAS ■ FT. LAUDERDALE ■ MIAMI ■ NAPLES ■ PORT ST. LUCIE ■ SARASOTA ■ ST. PETERSBURG ■ TALLAHASSEE ■ TAMPA ■ WEST PALM BEACH

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates)
to operate a water and wastewater)
utility in Marion County by Ocala)
Springs Utilities Inc.)

Docket No. 980876-WS

Filed: December 5, 2003

SECOND MOTION FOR EXTENSION OF TIME
OF OCALA SPRINGS UTILITIES INC.

Ocala Springs Utilities Inc. ("OSUI"), by and through its undersigned attorneys, hereby files this its second motion for extension of time in which to file information pursuant to Florida Public Service Commission ("PSC") requirements in this docket, and states:

1. Pursuant to Order No. PSC-98-1644-FOF-WS, issued December 7, 1998 in this docket, OSUI was granted Certificates Nos. 604-W and 520-S. Certification was obtained in order to provide OSUI and Avatar Properties Inc. ("API"), its affiliated developer, with the reasonable assurances required to effectively plan and coordinate the development of Ocala Springs active adult community development in Marion County ("Ocala Springs") and the utility infrastructure necessary to provide water and wastewater service in an efficient and cost-effective manner. At the time that OSUI applied for certification from the PSC, the planning and permitting of the Ocala Springs were imminent, and development was intended to commence within two years.

2. Order No. PSC-98-1644-FOF-WS required OSUI as part of this docket and pursuant to Order No. PSC-98-1374-PCO-WS, to submit a separate application by December 7, 2000, to establish initial rates and charges, and to submit detailed system maps and evidence of ownership of plant sites at the time it submits its applications for permits with the Water Management District and the Florida Department of Environmental Protection. This docket was

held open pending the completion of the filing requirements and the establishment of rates and charges.

3. Development of Ocala Springs was delayed due to consideration by Marion County of locating a landfill within one mile of the proposed Ocala Springs project, and the resultant decision by API to put the Ocala Springs development on hold pending resolution of that matter and to proceed with development of another active adult community located in Polk County. See Response of Ocala Springs Utilities Inc., to Staff's First Data Request and Request for Extension of Time to File Information Pursuant to Orders Nos. PSC-98-1644-FOF-WS and PSC-98-1374-PCO-WS, filed September 12, 2000, and Supplemental Response of Ocala Springs Utilities Inc. to Staff's First Data Request and Amended Request for Extension of Time, filed October 11, 2000 ("Supplemental Response"). At that point in time, it was believed that the permitting and beginning construction for OSUI would essentially run from December, 2001 through May 2002. Order No. PSC-00-2387-FOF-WS, Order Granting Amended Request for Extension of Time and Requiring Status Report, issued December 13, 2000, granted OSUI until February 7, 2002 to file an application in this docket for initial rates and charges, including all previously required information.

4. On February 11, 2002, the commission issued Order No. PSC-02-0180-PCO-WS, Order Granting Motion for Extension of Time, which ordered that OCSU shall be allowed until December 7, 2003, to file its application to establish initial rates and charges, along with the information required by Orders Nos. PSC-98-1644-FOF-WS and PSC-98-1374-PCO-WS. The basis for OSUI's motion for extension of time was that API had determined that it would not be a prudent business and investment decision to proceed at that time with the development of Ocala Springs under the then prevailing market and economic conditions. Thus, OSUI was not in a

position to undertake permitting and construction of the utility infrastructure proposed for Ocala Springs. The proposed time frame for permitting and beginning construction of the water and wastewater facilities was October 2003 through March 2004.

5. In early 2003, the State of Florida and API began preliminary discussions regarding the State's possible purchase of the property for preservation and conservation pursuant to the Florida Forever Program. Two appraisers for the State of Florida have completed their appraisals, and have submitted these appraisals to a third party appraiser hired by the State of Florida for final evaluation. API expects to receive a written offer from the State sometime in January or February of 2004. If the property is not sold to the State of Florida, API will develop the property as a primary residential community and/or active adult community. The determination as to whether the property will be developed or sold to the State of Florida should be known in the first quarter of 2004.

6. The commission ordered in Order No. PSC-02-0180-PCO-WS that OSUI is on notice that if the rate information is not filed by December 7, 2003: "Commission staff will bring a recommendation for the Commission's consideration addressing whether certificate revocation proceedings should be initiated pursuant to Section 367.111, Florida Statutes." OSUI believes that Staff should not recommend that certificate revocation proceedings should be initiated because API and OSUI are proceeding in good faith regarding the ultimate development or sale to the State of the affected property, and because there is no alternative water and wastewater utility service provider available to serve the property. The reasons why the PSC granted OSUI's request for extension of time in Order PSC-02-0180-PCO-WS are that same reasons why OSUI's current request should be granted.

7. It continues to be the case that there is no water and wastewater utility service provider available to Ocala Springs except OSUI. Granting of this motion would be in the public interest because it allows a certificated utility to remain in existence to be ready to serve a proposed development where there is no other utility provider in existence, in the event that this property is not sold to the State of Florida pursuant to the Florida Forever Plan. The continued certification of OSUI as service provider for Ocala Springs remains important to an orderly development, regulatory and permitting process.

8. Granting of this motion would be wholly consistent with Section 367.111(1), Fla. Stat., which gives the PSC discretionary authority to review a utility's authority to serve an area if service has not been provided within five years after the date of authorization for service. The statute does not provide that a certificate must or should be revoked if service has not been provided within five years, only that the PSC has the discretion to review the utility's authority to serve. Order No. PSC-02-0180-POC-WS cites two cases wherein the PSC revoked a utility's water and/or wastewater certificate at least in part because the utility had not provided service to its territory after five years. Those cases are distinguishable from the instant one.

In In Re: Revocation by Florida Public Service Commission of St. George Island Utility Utility Company, Ltd., Certificate No. 356-S in Franklin County, Pursuant to Section 367.111(1), Florida Statutes, Order No. 24798, Issued July 11, 1991, in Docket 900223-SU, St. George Island Utility Company's wastewater certificate was revoked. However, unlike the case of OSUI, St. George Island Utility Company had a poor track record before the PSC: "The utility's continued unacceptable performance in the water system operation and management casts serious doubt on its ability to function adequately in respect to wastewater collection, treatment and disposal on St. George Island." The opposite is true in the instant case. Former

affiliates of API, Poinciana Utilities and Florida Cities Water Company, were responsible for providing excellent utility service to thousands of customers for decades. API has the corporate knowledge and standards of excellence to assure that OSUI would also provide high quality utility service. The Commission recognized OSUI's financial and technical ability to provide service in Order No. PSC-02-0180-PCO-WS, at page 2.

In In Re: Monument Utility Company – Revocation of Authority to Provide Service and Cancellation of Certificates Nos. 319-W and 267-S, Order No. 14012, Issued January 18, 1985, in Docket No. 840440-WS, the utility's certificates were cancelled because the utility had no facilities, no customers, and had not provided service after five years. There is no background discussion in the two page order, and no indication of whether the utility indeed still had any plans to provide service, whether the utility was developer related, or whether any entity had reasons to request or even did request that the utility remain certificated. OSUI and API believe that the utility should remain certificated as part of an orderly and thoughtful planning process for the property, and are proceeding in good faith before the commission.

9. The current estimated time frame for OSUI permitting and construction, which covers the current negotiations with the State of Florida, and subsequent development of the community in the event the property is not sold to the State is as follows:

Written offer from the State of Florida to acquire property	January/February 2004
If applicable: contract between State and API	February/ March 2004
If applicable: closing on sale and cancellation of PSC certificate filing	April 2004
If the offer from the State is not acceptable, and no contract is executed between the parties:	
Final decision as to type of development (active adult vs. traditional residential)	April 2004

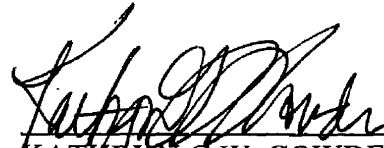
Commencement of replanning and replatting of development with Marion County	May 2004
Major advertising effort begins for the Ocala Springs development	August 2004
Consumptive use permit application submitted to Water Management District	October 2004
Construction permit application for water and wastewater facilities submitted to DEP	October 2004
Submit to PSC copies of detailed system maps and evidence of ownership of plant sites	December 7, 2004
File with PSC application to establish initial water and wastewater rates	December 7, 2004
Construction to begin on water and wastewater facilities	March 2005

The timeframe for permitting and construction is one year later than was previously determined and submitted to the commission, prior to commencement of negotiations for sale of the property to the State of Florida.

WHEREFORE, OSUI respectfully requests that:

1. The Commission grant a one year extension of time from the December 7, 2003 filing date established by Order No. PSC-02-0180-PCO-WS until December 7, 2004, in which to file the information required by Order Nos. PSC-98-1374-PCO-WS and PSC-98-1644-FOF-WS, as set forth therein;
2. Certificate revocation proceedings not be commenced for the reasons set forth herein; and
3. The Commission grant such other relief as is appropriate.


Respectfully submitted this 5th day of December 2003.


KATHRYN G.W. COWDERY
Fla. Bar No. 0363995
Ruden, McClosky
215 S. Monroe St., Suite 815
Tallahassee, FL 32301
(850) 412-2000

Attorneys for Ocala Springs Utilities Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Second Motion for Extension of Time of Ocala Springs Utilities Inc. has been furnished this 5th day of December 2003, by hand delivery to Samantha Cibula, Office of the General Counsel, Gunter Building, Room 301D, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.


KATHRYN G.W. COWDERY