

ORIGINAL

LAW OFFICES  
ROSE, SUNDBSTROM & BENTLEY, LLP  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

FREDERICK L. ASCHAUER, JR.  
CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
DAVID F. CHESTER  
F. MARSHALL DETERDING  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
CHASITY H. O'STEEN  
DAREN L. SHIPPY  
WILLIAM E. SUNDBSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON  
ROBERT M. C. ROSE, OF COUNSEL  
WAYNE L. SCHIEFELBEIN, OF COUNSEL

(850) 877-6555  
FAX (850) 656-4029  
www.rsbattoorneys.com

CENTRAL FLORIDA OFFICE  
SANLANDO CENTER  
2180 W. STATE ROAD 434, SUITE 2118  
LONGWOOD, FLORIDA 32779  
(407) 830-6331  
FAX (407) 830-8522

REPLY TO CENTRAL FLORIDA OFFICE

MARTIN S. FRIEDMAN, P.A.  
VALERIE L. LORD  
BRIAN J. STREET

January 10, 2006

HAND DELIVERY

RECEIVED-FPSC  
05 JAN 10 PM 2:45  
COMMISSION  
CLERK

Ms. Blanca Bayo  
Commission Clerk and Administrative Services Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

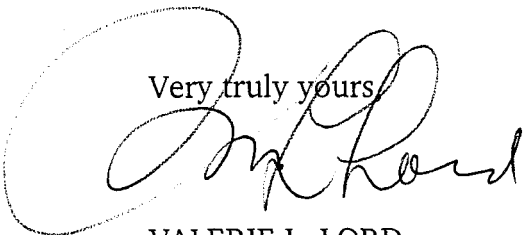
Re: Docket No. 040384-WS; Sanlando Utilities Corporation's Application for Amendment  
to Certificates of Authorization  
Our File No.: 30057.61

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket is the original of Sanlando Utilities  
Corporation's Motion to Strike Testimony of City of Longwood.

Should you have any questions regarding this filing, please do not hesitate to give me  
a call.

- CMP \_\_\_\_\_
- COM 3
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_ MSF/tlc
- RCA \_\_\_\_\_ Enclosures
- SCR \_\_\_\_\_ cc: Jennifer Brubaker, Esquire (w/enclosures) (via hand delivery)
- SGA \_\_\_\_\_ Richard S. Taylor, Esquire (w/enclosures)
- SEC 1 Susan Dietrich, Esquire (w/enclosures)
- OTH \_\_\_\_\_ Patrick C. Flynn, Regional Director (w/enclosures)

Very truly yours  
  
VALERIE L. LORD  
For the Firm

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of  
SANLANDO UTILITIES  
CORPORATION for amendment  
of water and wastewater certificates  
in Seminole County, Florida

Docket No. 040384-WS

MOTION TO STRIKE TESTIMONY OF CITY OF LONGWOOD

SANLANDO UTILITIES CORPORATION ("Applicant"), by and through its undersigned counsel, moves to strike the portions of the testimony of the City of Longwood ("City"), and in support thereof states:

1. In Order Establishing Procedure No. PSC-05-1001-PCO-WS, dated October 17, 2005 ("Order"), this Commission specified the requirements for filing testimony among the participants. In particular, the Order mandated that:

"Each party shall prefile, in writing, *all testimony that it intends to sponsor*. Such testimony shall be typed on 8 ½ inch transcript quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

*Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1.* All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. ...

An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of the Commission Clerk and Administrative Services, by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. *Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the*

*foregoing requirements may bar admission of such exhibits and testimony.*" (Empasis added.)

2. On or about December 30, 2005, the City filed the testimony of Richard Kornbluh, Ronald P. Ferland and Thomas Jensen with the Commission.

3. The Order specifically mandated that each party to "*all testimony that it intends to sponsor*" and that "*[e]ach exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed*". The City therefore failed to comply with the Order in that none of the documents to which Mr. Kornbluh refers in his testimony was attached to his testimony.

4. The City alleges that these documents provide the evidence on which the City's asserts its right to serve the customers in the area under dispute. These documents thus represent the sole basis for the City's objections to the Application. Without providing any basis for its claims, the City has failed to establish that it has standing to object to the Application.

5. Further, the Order specifically provides that "*Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.*"

6. The City is represented by legal counsel; therefore has no justification or excuse for its failure to comply with the Order.

7. Having failed to provide evidence of its rights to serve the disputed area, and established its standing to object to the Application, the City's testimony should be stricken and its objection dismissed.

8. The City has a history of deliberately ignoring the requirements of the Rules of Civil Procedure regarding the time to respond to discovery. The City did not answer the Applicant's First Set of Interrogatories and respond to the Applicant's Second Request for Production of Documents, which were due on May 29, 2005, and its Third Request for Production of Documents, which were due on June 10, 2005, until early August, 2005. The Applicant is still waiting for the City's responses to its Second Set of Interrogatories and Fourth Request for Production of Documents, which were due on November 18, 2005. This information is critical to this Commission's determination of the economic and material impact that disconnection of the customers within the disputed area will have on (a) the Applicant's remaining customers, (b) the customers who will be disconnected, and (c) the City's existing customers.

9. To date, the Applicant was required to file not one, but two, Motions for Order Compelling Discovery with this Commission. The City has yet to respond to the Applicant's Second Set of Interrogatories and Fourth Request for Production of Documents. In addition, the City failed to comply with the Order in filing its testimony.

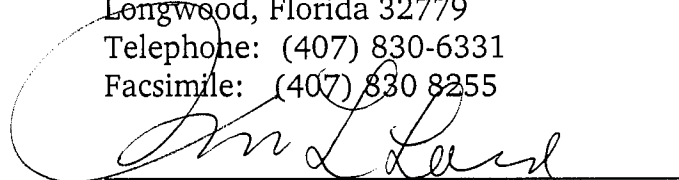
10. The City is bound by the same rules as any other party in this docket. To continue to allow it to flout with impunity this Commission's reasonable rules for the conduct of its own proceedings and the Florida Rules of Civil Procedure, will not only be unfair to the parties who have complied, it will unjustly affect the efficient and orderly resolution of any justiciable issues before the Commission.

WHEREFORE, the Applicant, SANLANDO UTILITIES CORPORATION, requests this

Commission to enter an Order Striking the Testimony of Richard Kornbluh, and dismissing the objections of the City of Longwood.

Respectfully submitted on this 9<sup>th</sup> day of January, 2006.

ROSE, SUNDSTROM & BENTLEY, LLP  
Sanlando Center  
434 W. State Road 434, Suite 2118  
Longwood, Florida 32779  
Telephone: (407) 830-6331  
Facsimile: (407) 830 8255



VALERIE L. LORD  
For the Firm


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION TO STRIKE TESTIMONY OF CITY OF LONGWOOD has been furnished by U.S. Mail this 9<sup>th</sup> day of January, 2006 to:

Jennifer Brubaker, Esq.  
Office of General Counsel  
Florida Public Service Commission  
Capitol Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee Florida 32399-0850

Richard S. Taylor. Esq.  
531 Dog Track Road  
Longwood, Florida, 32752-1117

Susan E. Dietrich, Esq.  
Assistant County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, FL 32771-1468



Valerie L. Lord  
For the Firm