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Matilda Sanders

From: Michele Parks [michele@rsbattorneys.com]
Sent: Monday, February 06, 2006 10:58 AM
To: Filings@psc.state.fl.us
Subject: Filing in Docket No.: 040384-WS/Sanlando Utilities Corporation
Attachments: 02-06-2006 Resp to Motion to Continue.pdf

Document: Response to Motion for Continuance

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- b. In re: Application of Sanlando Utilities Corporation for amendment of water and wastewater certificates in Seminole County
 Docket No.: 040384-WS
- c. Sanlando Utilities Corporation
- d. 5 pages
- e. 1 page cover letter to PSC Clerk and 4 page Response to Motion for Continuance

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MARTIN S. FRIEDMAN, P.A.
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February 6, 2006

VIA E-FILING

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 Sanlando Utilities Corporation's
Response to Motion For Continuance.

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

Very truly yours,

s/Martin S. Friedman

MARTIN S. FRIEDMAN
For the Firm

MSF/mp
Attachment

cc: Jennifer Brubaker, Esquire (w/attachment) (via U. S. Mail & Facsimile)
Richard S. Taylor, Esquire (w/attachment) (via U. S. Mail & Facsimile)
Susan Dietrich, Esquire (w/attachment) (via U. S. Mail & Facsimile)
Patrick C. Flynn, Regional Director (w/attachment) (via Facsimile)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 040384-WS

RESPONSE TO MOTION FOR CONTINUANCE

Applicant, SANLANDO UTILITIES CORPORATION ("Sanlando"), by and through its undersigned attorneys and pursuant to Rule 28-106.204, Florida Administrative Code, files this response to the Motion for Continuance filed by the City of Longwood ("City"). The City asserts the following two reasons for requesting a continuance: (1) its desire to retain co-counsel with PSC experience and (2) to allow time for mediation. The City's Motion must be denied for the following reasons:

1. The City has failed to comply with Rule 28-106.204 (3), Florida Administrative Code, which requires a Motion for Continuance to include a statement that the movant has conferred with all other parties and shall state as to each party whether the party has any objection to the Motion. The City never consulted with Sanlando's attorneys regarding this Motion, and the required statement is omitted from the Motion.

2. Sanlando filed its Application in April of 2004, almost two (2) years ago, in order to clear up errors in its territory description that had existed for over thirty (30) years. On May 10, 2004, the City filed an objection to Sanlando's Application. It is unfathomable that it took almost two years for the City to determine that experienced PSC co-counsel was needed. This matter has been set for hearing since October, 2005.

3. If the City believes it needs co-counsel, it certainly should have been able to

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make that determination at an earlier date. The Order Establishing Procedure was issued on October 17, 2005, which would have alerted the City's attorneys to the procedures utilized by the Commission. There is no explanation as to why it took the City three and one-half (3 ½) months to reach the decision that it needed co-counsel. Raising this issue one month before trial is untimely. Based on the present schedule, a final decision will not be entered until June, 2006. Any further delay will prejudice Sanlando.

4. The City's argument that it is now agreeable to mediation, and thus, the final hearing should be continued is disingenuous. Several months ago the attorneys for Sanlando suggested mediation as a possible option, however, the City ignored that suggestion – at least until it could use it to its advantage in requesting a continuance. Sanlando is still willing to mediate so long as it does not result in a continuance of the current final hearing. Frankly, if the City is truly interested in mediation, there is plenty of time to accomplish it within the current schedule.

5. The City's assertion is that mediation could provide a "global" settlement of "other disputes that exist" between the City and Sanlando. In fact, there are no other disputes between Sanlando and the City. Admittedly, there is a dispute between Utilities, Inc. of Longwood and the City by virtue of the City using its permitting powers to require businesses in Utilities, Inc. of Longwood's exclusive service area to connect to the City's wastewater system instead of that of Utilities, Inc. of Longwood. Sanlando is not involved in that dispute.

6. Sanlando, as well as the Staff, has devoted substantial time and expense in preparing Prefiled Testimony and Exhibits. This case is virtually ready for trial. To allow

a continuance and to change the schedule will require Sanlando and the Staff, and presumably the City, to redo all of that effort, which would have been for naught.

7. The only purpose for bringing in co-counsel would be to make new argument and take a new position which the City had heretofore not raised, setting this case back to the beginning. That results in substantial prejudice to Sanlando. If the City wants to bring in co-counsel to "take the case as he or she finds it" there is still plenty of time within which to do so.

WHEREFORE, Sanlando Utilities Corporation requests this Commission deny the City's Motion for Continuance.

Respectfully submitted this 6th day of February, 2006, by:

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VALERIE L. LORD
For the Firm

CERTIFICATE OF SERVICE
Docket No. 040384-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished
by Facsimile and U.S. Mail on this 6th day of February, 2006, to:

Jennifer Brubaker, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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Longwood, FL 32752-1117

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