

# Holland+Knight

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# ORIGINAL

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315 South Calhoun Street, Suite 600  
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November 17, 2006

D. BRUCE MAY, JR.  
850-425-5607

Internet Address:  
bruce.may@hklaw.com

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

Via Hand Delivery

COMMISSION  
CLERK

05 NOV 17 PM 4:30

RECEIVED-11:50

Re: *In re: Application for certificate to provide water and wastewater service in Polk County by Four Points Utility Corporation, Docket No. 050595-WS*

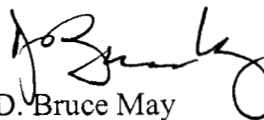
Dear Ms. Bayo:

Enclosed for filing on behalf of Four Points Utility Corporation are the original and seven (7) copies of its Consented Motion Seeking Commission Approval of Settlement Agreement and Cancellation of Hearing.

For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter. Thank you for your consideration.

Sincerely,

HOLLAND & KNIGHT LLP

  
D. Bruce May

CMP \_\_\_\_\_

COM 5 DBM:kjg

CTR \_\_\_\_\_ Enclosures

ECR \_\_\_\_\_ cc: Commissioner Isilio Arriaga, Pre-Hearing Officer

GCL \_\_\_\_\_ James Brett

OPC \_\_\_\_\_ Michael Flynn

RCA \_\_\_\_\_ Nancy Keogh  
Rosanne Gervasi

SCR \_\_\_\_\_

SGA \_\_\_\_\_

SEC 1

OTH Keim

RECEIVED & FILED

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DOCUMENT NUMBER-DATE

10582 NOV 17 06

FPSC-COMMISSION CLERK

Blanca S. Bayo  
November 17, 2006  
Page: 2

Thomas Walden  
David Meadows  
David Smith

# 4191492\_v1

# ORIGINAL

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates  
to provide water and wastewater  
service in Polk County by Four  
Points Utility Corporation

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Docket No. 050595-WS

Filed: November 17, 2006

### **CONSENTED MOTION SEEKING COMMISSION APPROVAL OF SETTLEMENT AGREEMENT AND CANCELLATION OF HEARING**

Four Points Utility Corporation ("Utility"), with the express consent of Island Club West Homeowners Association ("Association") (collectively, the "Parties"), files this motion requesting the Florida Public Service Commission ("Commission") to approve the attached Settlement Agreement, and states:

1. The Association and the Utility have participated in mediation before a Commission mediator in an effort to settle this matter without having to resort to a formal administrative hearing. Through this mediation process, the Association and the Utility have entered into a Settlement Agreement that resolves all of the issues between the Parties and is intended to avoid the time, expense and uncertainty associated with adversarial litigation.
2. Section 9 of the Settlement Agreement requires that the Parties file a motion with the Commission requesting approval of the agreement and cancellation of the hearing. The Settlement Agreement is attached to this motion as Exhibit "1".
3. The Association and the Utility believe that the Settlement Agreement serves the public interest and is consistent with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues wherever possible. Accordingly, the Parties request the Commission to expeditiously accept and approve the Settlement Agreement as filed.

DOCUMENT NUMBER-DATE

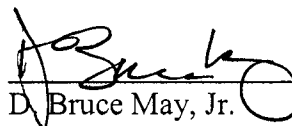
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FPSC-COMMISSION OF FDV

4. Pending Commission consideration of the Settlement Agreement, the Parties request the Commission to suspend all pre-filed testimony deadlines, discovery and other activity in this docket, and cancel the hearing currently set for March 1, 2007.

WHEREFORE, the Association and the Utility respectfully request the Commission to approve the attached Settlement Agreement without modification, to suspend all pre-filed testimony deadlines, discovery, and other activity in the docket, and to cancel the hearing set for March 1, 2007.

Respectfully submitted,



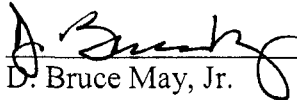
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D. Bruce May, Jr.  
Holland & Knight LLP  
315 South Calhoun Street, Suite 600  
Tallahassee, Florida 32301  
Telephone: (850) 224-7000

*Attorneys for Four Points Utility  
Corporation*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY and a true and correct copy of the foregoing was provided by hand delivery to Tom Walden and Rosanne Gervasi, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 17th day of November, 2006.



\_\_\_\_\_  
D. Bruce May, Jr.  
Florida Bar No. 354473  
**Holland & Knight LLP**  
Post Office Drawer 810  
Tallahassee, Florida 32302  
Ph. (850) 224-7000  
Fax (850) 224-8832

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for certificates to provide water and wastewater service in Polk County by Four Points Utility Corporation. | DOCKET NO. 050595-WS  
FILED:

**SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into this \_\_ day of October, 2006, by and between members of the Island Club West Homeowners Association ("Customers"), and Four Points Utility Corporation ("Utility").

**WITNESSETH**

WHEREAS, the Utility currently provides water and wastewater services to Customers that own residential units in the Island West Development in Polk County, Florida ("Development");

WHEREAS, the Utility has applied to the Florida Public Service Commission ("Commission") for an original water and wastewater utility certificates to serve the Island Club West Development and for initial rates and charges ("Application").

WHEREAS, Customers of the Utility, through the Chairman of the Island Club West Homeowners Association ("Association"), Mr. Jim Brett, have filed a formal objection to the Utility's Application.

WHEREAS, the Utility and the Customers have engaged in mediation conducted by a Commission-sponsored mediator, and through that process, have arrived at this Settlement Agreement, to resolve all of the issues between the Parties;

WHEREAS, the Utility and the Customers desire to enter into this Settlement Agreement in order to avoid the time, expense and uncertainty associated with adversarial litigation and, in keeping with Commission's long-standing policy and practice of encouraging parties in protested

proceedings to settle issues whenever possible;

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the Utility and Customers agree as follows:

1. Meters. The Utility agrees to utilize meters that conform to the standards adopted by the American Water Works Association as required in Rule 25-30.255, Florida Administrative Code. The Utility shall locate and install meters in accordance with the policies and regulations of the Commission including Rule 25-30.260, Florida Administrative Code.

2. Meter reading. The Utility has established a formal meter reading and training protocol which is attached hereto as Exhibit "A". Pursuant to that protocol, meters are now read on the day Polk County reads the Utility's master meter (which is now done on the 17<sup>th</sup> of each month), and bills are sent to customers within 5 days of the meter reading.

3. Meter Testing. The Utility shall test its meters in accordance with the requirements of Commission including, without limitation, Rule 25-30.263, Florida Administrative Code. Prior to conducting meter tests, the Utility shall notify the Chairman of the Association and will allow a Customer representative to monitor the test if the Association so desires.

4. Customer Meeting. Within thirty (30) days of the Commission's approval of the foregoing Settlement Agreement, the Utility shall conduct a customer meeting at which time it will instruct Customers how to independently read and review their own meters and also discuss methods by which Customers may alleviate problems arising from abnormally high usage levels. A written copy of these instructions will be given to each owner whether or not they attend this customer meeting.

5. Communications. The Utility has established and will continue to provide the Customers with a telephone number [(863) 424-0130, ext. 137 or 152] and an e-mail address (ICWHelp@islandhideaway.net) dedicated to customer service. The Utility also shall establish a 24-hour telephone number for utility service emergencies no later than fourteen (14) days after

execution of this Settlement Agreement.

6. Bill Format. Pursuant to the Customer's request, the Utility has redesigned the format of its bills so that each bill includes the serial number of the Customer's meter, and depicts the actual usage on the bill. A copy of a new bill format is attached as Exhibit "B". In addition, the Utility has retained the services a utility consultant to ensure that the books and records of the Utility are kept in accordance with the National Association of Regulatory Utility Commissioners, System of Accounts, and to enhance its billing system.

7. System Map. The Utility shall provide Mr. Jim Brett with an as-built design map of the Utility system not later than fourteen (14) days after execution of this Settlement Agreement.

8. Financial Stability. The Utility represents and warrants that it is financially able to provide a safe, continuous and reliable service to Customers. The Utility shall provide Mr. Jim Brett with a written history of payments made to Polk County for bulk water and wastewater service not later than fourteen (14) days after execution of this Settlement Agreement. In order to secure service from Polk County, the Utility has placed a deposit with Polk County in the amount of \$4,200.00. The Utility agrees to maintain that deposit at all times. The Utility further agrees to provide the Association each month with a copy of the invoice received from Polk County for bulk water and wastewater service along with a copy of the check to Polk County for payment for such services. Two weeks prior to the final decision by the Florida Commission (which is anticipated prior to March 2007), the Utility shall submit a current financial statement and balance sheet for proof of financial responsibility at that time.

9. Joint Motion to Approve Settlement Agreement. Within five (5) days of execution of this Settlement Agreement, the Parties agree to file a Joint Motion with the Commission requesting that the Commission approve the Settlement Agreement without modification and cancel the hearing scheduled in this proceeding.

10. Full and Complete Settlement. If the Commission accepts this Settlement Agreement and issues a final order, the Customer's protest shall be deemed to be withdrawn and



all issues concerning the application among and between the Parties shall be deemed to have been resolved.

11. Offer to Settle. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

12. Authority to Execute. The undersigned personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties. The Parties have evidenced their acceptance of and concurrence with the provisions of this Settlement Agreement by their signatures.

ISLAND WEST  
HOMEOWNERS ASSOCIATION

By: Jim Burt  
As Its: President

FOUR POINTS UTILITY CORPORATION

By: [Signature]  
As Its: President

**EXHIBIT "A"**

**FOUR POINTS UTILITY CORPORATION, INC.**

**METER READING AND TRAINING PROTOCOL**

Four Points Utility Corporation, Inc. ("Utility") has retained Adam Filipe, who is primarily responsible for reading Customer meters. Mr. Filipe has been provided training to perform meter readings. The Utility has established a regular meter reading schedule and billing cycle. The Utility reads Customer meters on the day that Polk County reads the Utility's master meter (which is currently done on the 17<sup>th</sup> day of each month) and sends bills out within 5 days of that meter reading to Customers.

The Utility's meter reader is trained and instructed to take into account historic usage patterns when reading a meter. Where a meter reading shows abnormally high usage levels, the Utility's meter-reader will re-read the meter and, if it is correct, a note will be left at the Customer's residence and also mailed to the Customer instructing the Customer to check for possible leaks within the unit. Each Customer meter has a unique serial number which the Utility uses to calculate Customer usage and issue Customer bills. In order to ensure that meter readings are assigned to the appropriate Customers, the serial number of each meter appears on the Customer's bill.

Exhibit "B"

Four Points Utility Corp.

101 Golden Malay Palm Way  
 Davenport, FL, USA 33897  
 863-424-0130 x116 or x137

Invoice

Date	Invoice #
8/22/2006	UW-912-8-2006

Bill To
[Redacted]
1 [Redacted]
Santa Rosa, CA 95404
[Redacted]

Year	Month	Terms
2006	8	Net 30

Description	Qty	Rate	Amount
Water Meter Serial Number - 33311864		0.00	0.00
Water Previous Reading	8,150	0.00	0.00
Water Current Reading	12,310	0.00	0.00
Water - Total Gallon Usage	4,160	0.00	0.00
Water - Base Charge	1	8.93	8.93
Water - First 10,000 gallons	4.16	2.01	8.36
Water - 10,001 to 15,000 gallons	0	2.52	0.00
Water - 15,001 to 20,000	0	3.14	0.00
Water - 20,001 to 25,000 gallons	0	3.91	0.00
Waste Water - Base Charge	1	28.21	28.21
Waste Water - 0 to 1,000 gallons - Maximum of 7,000 gallons per month	4.16	2.62	10.90
This bill applies to the dates 8/01 to 8/17/2006 for Unit 912			<b>Total</b> \$56.40
			<b>Payments/Credits</b> \$0.00
			<b>Balance Due</b> \$56.40