



JANETTE S. KNOWLTON  
COUNTY ATTORNEY

# County of Charlotte

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*"To exceed expectations in the delivery of public services"*

## ORIGINAL

07 MAR 16 PM 4:54

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COMMISSION  
CLERK

March 15, 2007

### Via Federal Express

Ms. Ann Cole, Chief  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 070109  
Application for Amendment of Certificates 611-W and 527-S to extend  
Water and Wastewater service areas to include certain land in Charlotte County

Dear Ms. Cole:

Enclosed are the original and seven (8) copies [1 extra copy for conforming] of Charlotte County's Objection to the Application for Amendment of Certificates 611-W and 527-S to extend Water and Wastewater service areas to include certain land in Charlotte County, Florida and Request for Formal Hearing.

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR 2
- GCL 2
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH Imp.

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this letter and returning same to me at your convenience. Thank you for your assistance in this matter.

Sincerely,

*Martha Young Burton*  
Martha Young Burton  
Assistant County Attorney

MYB/ldl  
Enclosures  
cc: Janette S. Knowlton, County Attorney  
Jeff Pearson, Director of Utilities  
Terri Kesner, Assistant Director of Utilities  
Roger Baltz, Assistant County Administrator  
Mike Konefal, Director of Community Development  
Tom Scott, Planner III, Community Development

DOCUMENT NUMBER-DATE

02425 MAR 16 07

FPSC-COMMISSION CLERK

**ORIGINAL**

**STATE OF FLORIDA  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In re: APPLICATION OF MSM UTILITIES, LLC,  
FOR AMENDMENT OF CERTIFICATES  
611-W AND 527-S TO EXTEND WATER AND  
WASTEWATER SERVICE AREAS TO INCLUDE  
CERTAIN LAND IN CHARLOTTE COUNTY**

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**Docket No. 070109**

**OBJECTION OF THE BOARD OF COUNTY COMMISSIONERS OF  
CHARLOTTE COUNTY, FLORIDA, TO THE APPLICATION OF MSM  
UTILITIES, LLC, FOR AMENDMENT OF CERTS 611-W AND 527-S  
TO EXTEND WATER AND WASTEWATER SERVICES AREAS TO  
INCLUDE CERTAIN LAND IN CHARLOTTE COUNTY AND  
REQUEST FOR FORMAL HEARING.**

The BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, (hereinafter referred to as the "Board"), hereby files this Objection to the Application of MSM Utilities, LLC, (hereinafter referred to as "Applicant"), for an Amendment of Certificates 611-W and 527-S to extend certain land in Charlotte County and Request for Formal Hearing, and states that:

1. This objection relates to the Application of MSM Utilities, LLC for an Amendment of Certificates 611-W and 527-S to extend certain land in Charlotte County filed February 8, 2007 (hereinafter referred to as the "Application").

2. The Board is the governing body of Charlotte County, Florida, a county affected by the Application.

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3. This Objection has been timely filed for purposes of the Board requesting a public hearing on the Application, pursuant to Section 367.045(4), Florida Statutes, in that 30 days has not passed since the mailing of actual notice or publication of the Application to the Board.

4. The Board raises the following objections to the Application filed by Applicant:

- a. The Board and the citizens of Charlotte County would be "substantially affected" by the requested service area extension, as defined by Section 367.045(4), Florida Statutes.
- b. The water and wastewater service area expansion proposed by Applicant represents an illegal encroachment into Charlotte County's utility service area, in that it would extend Applicant's certificated service area into Charlotte County Water and Sewer District No. 2, established by the Board in Resolution No. 2003-190 pursuant to its power as a home rule county and Chapter 153.08, Florida Statutes.
- c. In addition, the Application for extension of water and wastewater service areas is inconsistent with Charlotte County's Comprehensive Plan which provides that planning for extension of potable water and sanitary sewer will influence new development:

"Planning for the extension of these services should therefore be considered an integral part of Charlotte County's Urban Service Area strategy identified in the Future Land Use Element."

Charlotte County Comprehensive Plan 1997 – 2010, Chapter 4.  
Infrastructure Element, p. 4-102

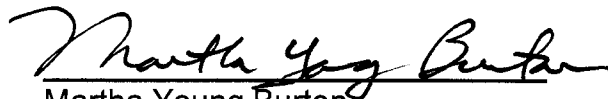
- d. The planned expansion areas are outside of the County's Urban Service Area, thus constituting urban sprawl:

"New Facilities will be located within previously developed or developing urban areas to discourage urban sprawl . . . ."

Charlotte County Comprehensive Plan 1997 – 2010, Chapter 4.  
Infrastructure Element, p. 4-121

- e. Granting of the proposed expansion would weaken the effectiveness of Charlotte County's planning and guidelines for future development and growth consistent with the Comprehensive Plan adopted by the Board of County Commissioners.
5. Wherefore, the Board requests the following relief:
- a. That the Public Service Commission deny the Application;
  - b. That a copy of the Application, and all supporting documents, be forwarded to the Board, c/o Bruce Loucks, Charlotte County Administrator, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094;
  - c. That pursuant to Rule 25-22.029, F.A.C., the Public Service Commission issue a Notice of Proposed Agency Action concerning the Application; and
  - d. If necessary, the Public Service Commission hold a public hearing on the Application in order that the Board may protect the citizens of Charlotte County, such public hearing to be in Charlotte County, Florida, pursuant to Section 367.045(4), Florida Statutes.

Respectfully submitted,



Martha Young Burton  
Assistant County Attorney  
Fla. Bar #398179  
Attorney for Charlotte County, Florida  
Charlotte County Attorney's Office  
18500 Murdock Circle  
Port Charlotte, FL 33948-1094  
(941) 743-1330

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the attached Service List by Overnight Federal Express Mail to Ann Cole and Robert C. Brannan, Esq. and by U.S. Mail to Ralph Jaeger, Esq., and MSM Utilities, LLC, this 15th day of March, 2007.

  
Martha Young Burton

SERVICE LIST

Ms. Ann Cole, Chief  
Division of Records and Reporting  
Public Service Commission  
2540 Shumard Oak Blvd.  
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Ralph Jaeger, Esq.  
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MSM Utilities, LLC  
5660 Bayshore Road, Suite 36  
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Robert C. Brannan, Esq.  
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Tallahassee, FL 32301