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Public Service Commission

March 7, 2008

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COMMISSION
CLERK

Ralph Horak
Utility Corporation of Florida, Inc.
100 Clubhouse Lane
Sebring, FL 33876

Re: Docket No. 080079-SU, Application for certificate to provide wastewater service in Highlands County by Utility Corporation of Florida, Inc.

Dear Mr. Horak:

Thank you for taking time on February 29, 2008, to discuss the above-referenced application with Commission staff. As you are aware, the utility is providing service for compensation without a certificate of authorization from the Commission in apparent violation of Section 367.031, F.S. Also, according to the application, the utility placed a rate increase into effect on January 1, 2008. Listed below are items for which a response is needed for staff to more fully understand these circumstances. In addition, listed below are deficiencies to the application which need to be cured before the application can be considered filed. Finally, listed below are additional items of information needed by staff to complete its the review of the application. Since many of the items listed will refer to rules in Chapter 25-30, Florida Administrative Code (F.A.C.), a complete copy of that chapter is enclosed with this letter.

Apparent Violation of Section 367.031, Florida Statutes

It appears that the utility has been subject to Commission regulation since September of 1988. According to informal information provided to staff, Utility Corporation of Florida, Inc. (UCFI) purchased the utility facilities effective January 1, 2008, from its parent, Spring Lake Club, Inc. (SLCI), which acquired the facilities about a decade ago from the original developer. In order to more fully understand the circumstances under which the utility has been in existence and the extent to which it has been charging for service without a certificate of authorization, please provide the best information available for the following items.

1. Provide the name of the original developer.
2. Describe any rates for service charged by the original developer.
3. Describe the reason the developer did not apply for a certificate of authorization from the Commission.

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4. Provide the date on which SLCI acquired the utility facilities from the original developer.
5. Describe the reason SLCI did not apply for a certificate of authorization from the Commission when it acquired the utility facilities.
6. Provide the names of the community(ies) being provided wastewater service when SLCI acquired the facilities. The description for each community should include the following information:
 - 6a. Name of the community or customer.
 - 6b. Date service was first provided to the community or customer by the original developer.
 - 6c. Number and type (villas, clubhouse, etc.) of connections being served by the original developer at the time of the transfer to SLCI.
 - 6d. If the community or customer was not being charged by the developer, describe when SLCI first began charging for service and the rate charged.
7. Describe the service areas added by SLCI subsequent to acquiring the utility facilities. The description for each addition should include the following information:
 - 7a. Name of the community, general service customer, or developer.
 - 7b. Date service was first provided.
 - 7c. Number and type (villas, clubhouse, etc.) of existing connections, current connections, and total proposed connections.
 - 7d. Describe when SLCI began charging for service in each addition and the rate charged.
8. For all of the areas being served by SLCI, describe any changes to the rates charged prior to the January 1, 2008, rate increase. The description should identify:
 - 8a. The community or general service customers receiving the rate increase.
 - 8b. The date of the rate increase.
 - 8c. The amount of the rate increase.

January 1, 2008, Rate Increase

Exhibit 6 to the application indicated that a monthly unit rate increase from \$22.00 to \$32.00 was put into effect on January 1, 2008, but that UCFI was going to escrow the rate increase pending Commission ruling. Staff needs a response to the following items in order to determine the extent to which customers have been informed about the escrow account and protections have been put into place.

- 9a. Provide copies of any notices given to customers explaining that the rate increase is subject to refund pending Commission approval.
- 9b. Provide a copy of the most recent bank statement for the escrow account.
- 9c. Provide a schedule which shows the number of connections which have paid the rate increase and the amount collected each month from January 2008, to date.

Deficiencies

10. **Legal Description and Territory Maps.** Pursuant to Rule 25-30.034(h), F.A.C., the application must contain a description of the territory to be served, using township, range and section references as specified in Rule 25-30.030(2), F.A.C. Pursuant to Rule 25-30.034(j), F.A.C., the application must also contain one copy of an official county tax assessment map, or other map, with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning. The legal description provided in Attachment 7 to the application does not match the proposed territory shown on the maps.

Please provide a detailed legal description of the territory you propose to serve and plot the legal description on the maps. As described in Rule 25-30.030(2), F.A.C., a metes and bounds description must begin and end with a defined point of reference from a section corner and transverse the entire perimeter of the service area. If you have any questions about the legal description or territory maps, please contact Mr. Richard Redemann at (850) 413-6999 or rredeman@psc.state.fl.us.

Note: Once the Commission has approved UCFI's request for service area, it will be a violation of Section 367.045, Florida Statutes (F.S.), for a utility to serve outside the service area, no matter how minor the extension. Instead, the utility must file an application for amendment to the service territory **prior** to serving outside its territory. If service outside the service territory is needed to a small area under emergency circumstances, contact staff for procedures to file for a "Quick-take" amendment.

11. **System Maps.** Pursuant to Rule 25-30.034(i), F.A.C., the application must contain one copy of a detailed system map showing the lines, treatment facilities and the territory to be served. The maps provided with the application clearly show the treatment facilities. However, the maps do not show the collection lines and lift stations nor do they have the service territory plotted.

Please provide revised territory maps which show the collection lines and lift stations and which have the territory plotted. If you have any questions on the system maps, please contact Mr. Richard Redemann at (850) 413-6999 or rredeman@psc.state.fl.us.

12. **Noticing.** Pursuant to Rule 25-30.030(1), F.A.C., when a utility applies for a certificate of authorization, it must provide notice of that application in the manner and to the entities described in that rule. Included in the notice must be an accurate description of the proposed service territory. Once staff has received and approved the legal description provided in

response to Item 10, above, it will provide you with a list of utilities and governing bodies to be noticed. The notice must be given within 60 days from the date printed on the list. In addition to the list provided by staff, notice must be given to all customers, or property owners, in the territory proposed to be served and published in a newspaper of general circulation in the area of the utility. Finally, affidavits of all three notices must be filed with the Commission.

13. **Tariff.** Pursuant to Rule 25-30.034(f), F.A.C., the application must include a proposed tariff containing all rates, classifications, charges, rules, and regulations, consistent with Chapter 25-9, F.A.C. (a copy of this chapter is enclosed herewith). The information provided in Attachment 6 to the application does not meet the requirements of this rule.

Please provide a proposed wastewater tariff consistent with the rule. To assist you in completing this requirement, there is a model wastewater tariff posted on the Commission's website.

Note. Pursuant to Section 367.081(1), F.S., a utility may only charge rates and charges that have been approved by the Commission. As noted above, the utility is already in apparent violation of this statute. Therefore, on a going-forward basis, the utility should ensure that it does not create any new charges, nor change any existing charges, until **first** approved by the Commission.

14. **Financial Ability.** Pursuant to Rule 25-30.034(d), F.A.C., the application must contain a statement regarding the financial ability of the applicant to continue to provide service. In Attachment 4 to the application, you have indicated that the utility will be relying on SLCI's financial support.

Please provide financial statements for SLCI along with an affidavit from SLCI pledging financial support to UCFI. Also, please provide copies of any financial agreements between UCFI and SLCI.

15. **Lease.** Pursuant to Rule 25-30.034, F.A.C., the application must contain evidence that the utility owns the land upon which the utility treatment facilities are located or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. Attachment 5 to the application contained a copy of a 5-year lease agreement with SLCI that has provisions for renewal of the lease for "one extended term of 5 years." It is staff's opinion that such a lease does not constitute continued use of the land.

- 15a. Please file a lease which has provisions for long-term use of the land upon which the utility treatment facilities are located.

Also, the lease provided in Attachment 5 indicates that UCFI will provide treatment for wastewater generated by Spring Lake Club House and the Bobcat Clubhouse in exchange for rent. Please be aware that all customer receiving wastewater service must be billed for service. If the amount billed is not collected by the utility, then it must be imputed as though it were collected. The annual cost of the lease should then be recorded as an operating cost.

- 15b. Please revise Schedule 3 to the application to show the annual cost of the lease under the utility's 2008 projected operating costs.

Additional Information and/or Clarifications

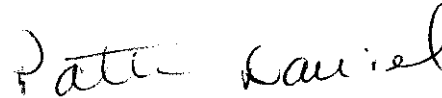
16. **Water Service.** Please indicate what entity is providing water service to UCFI's service area and the extent to which water service is metered.
17. **Equivalent Residential Connections (ERCs).** Staff will need additional information in order to determine the appropriate number of ERCs to assign to the clubhouses. For each clubhouse currently served, or proposed to be served by UCFI, provide the following information.
- 17a. The name of each clubhouse.
- 17b. Description of clubhouse functions, i.e., restaurants, bars, etc.
- 17c. A copy of water bills for each clubhouse for the previous 12 months.
18. **CIAC.** Page 2 of Schedule 2 to the application indicates Contributions in aid of construction (CIAC) in the amount of \$112,500.
- 18a. Please provide a schedule showing the amount and date of any donated property or CIAC collected for service from the inception of the utility facilities to the present.
- 18b. In addition, please provide a copy of SLCI's most recent tax return and depreciation schedule showing any utility assets that are being depreciated.
19. **Service Availability Charges.** It is staff's understanding that the utility is not currently charging any service availability charges. Service Availability is described in Part VI of Rule 25-30, F.A.C. If the utility wishes to apply for service availability charges in this docket, it must provide a service availability policy, proposed charges, and cost justification for the charges. (Attached is a sample schedule for cost justification.)
20. **Miscellaneous Service Charges.** Rule 25-30.460, F.A.C., describes the standard miscellaneous service charges. If the utility wishes to apply for these charges in this docket, it must provide cost justification as required by Section 367.091(6), F.S.
21. **Customer Deposits.** Rule 25-30.311, F.A.C., contains a description of the conditions under which existing customers may be charged a customer deposit and the method to be used to calculate the appropriate amount. However, customer deposits for new customers must be established by the Commission. Please indicate whether or not the utility wishes to apply for new customer deposits in this docket.

Your response to the information requested above should be filed with the Commission Clerk on or before April 7, 2008. If you are not able to complete your response by that date, please contact staff to request an extension of time. Except as noted above, please contact Ms.

Ralph Horak
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Patricia Brady, at (850) 413-6686 or pbrady@psc.state.fl.us for any general questions you may have regarding the requested information. Any legal questions should be addressed to Ms. Caroline Klancke, Esq., at (850) 413-6220 or cklancke@psc.state.fl.us.

Sincerely,



Patti Daniel
Public Utilities Supervisor
Division of Economic Regulation

Attachment and enclosures

PB:pb

cc: (Without attachment and enclosures)

J. Timothy Sheehan, Esq.

Caroline Klancke, Esq.

Kathy Kaproth

Richard Redemann

Pat Brady

Office of the Commission Clerk ✓