

State of Florida



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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: July 9, 2008
TO: Ann Cole, Commission Clerk - PSC, Office of Commission Clerk
FROM: Cheryl A. Johnson, Regulatory Analyst IV, Division of Economic Regulation
RE: Docket No. 080103-WS – Application for certificates to provide water and wastewater service in Hardee and Polk Counties by TBBT Utility LLC.

Please include the attached documents in docket file 080103-WS.

DOCUMENT NUMBER-DATE

05896 JUL -9 8

FPSC-COMMISSION CLERK

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(LICENSED IN NEW YORK ONLY)

July 8, 2008

Ms. Patti Daniel
Chief Bureau of Certification
Division of Economic Regulation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Application for certificates to provide water and wastewater service in Hardee and Polk
Counties by TBBT Utility LLC; PSC Docket No. 080103
Our File No. 42064.01

Dear Ms. Daniel:

I have had several discussions with you and other members of the staff concerning the questions raised in the above-referenced Application. I am forwarding to you several things below and will be sending more tomorrow. I have outlined below the items that I am either responding to with this letter or have attachments hereto for that purpose:

1. Status of Development - The status of the developments in the two counties is as follows:
 - (a) Hardee County - The development of regional impact is known as the Payne Creek development. The formal meetings with the County started with a Pre-Application Meeting in October of 2007. The Application for Development Approval (ADA) is therefore due no later than 12 months after the date of the Pre-Application Meeting. The Pre-Application Meeting included members of the Central Florida Planning Council, Florida Department of Transportation, Southwest Florida Water Management District and Hardee County, and representatives of Payne Creek development and the related

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TBBT Utility LLC. Subsequent meetings have occurred with Hardee County staff and FDOT staff to aid in preparation of all of the elements of the ADA and for the DRI.

On June 19, 2008, Hardee County Board of County Commissioners adopted the text amendment proposed by Shadowlawn LLC to create the "Rural Village Plan" category in the Hardee County Comprehensive Plan. Approval of this proposed amendment demonstrated that there was general support from Hardee County for the project, since this category in the Comprehensive Plan was requested for the Payne Creek DRI, as part of the Large Scale Plan Amendment Application process. This Large Scale Plan Amendment Application will be filed concurrent with the ADA.

In the next few weeks, requests for letters confirming the ability to serve the proposed development have been requested from the sheriff, fire department, hospitals, schools, and various utility companies. Those responses are now being received. A draft ADA for internal review is close to being completed, pending the addition of some exhibits. Following internal review, the team will be directed to make revisions, changes, and additions to their areas of responsibility and a final draft of the ADA will be approved by management and submitted no later than October of 2008. After submittal it is estimated that the review and approval process will proceed expeditiously.

Initially, the application filed by TBBT Utility, LLC anticipated that service would be needed within the Hardee County parcel by the end of 2008. Because of the delay in finalizing the ADA and DRI Applications and the Large Scale Plan Amendment Application, it is currently anticipated that the Utility's initial service will not be provided for approximately six to nine months beyond the originally scheduled date.

- (b) Polk County - The proposed development of the Polk County parcel is less intensive than the Hardee County property, and slightly behind the Hardee County's parcel in its progress to final development approvals. While that property does not appear as though it will require DRI approval, it will require a Large Scale Plan Amendment to the Comprehensive Plan of Polk County. It is the intention of the applicant's related party development entities to proceed

expeditiously with pre-application meetings and formal discussions with the Polk County staff along the lines of the preliminary conceptual design submitted as part of the TBBT Utility LLC application to the PSC, as soon as the DRI and ADA have been finalized and submitted to Hardee County and, therefore, the staff is freed up to begin working on the Polk County side of the development. It is anticipated that a need for service will occur in both parcels, first in the Hardee County property and a few months thereafter in the Polk County parcel. We are anticipating a need for service in Polk County by approximately the end of 2009.

2. Tiered Rate Structure - The Utility is in agreement with the staff position that a tiered rate structure of the nature proposed by the Utility is not very likely to be an effective conservation measure, and since the Water Management District has not been insisting upon such a rate structure in this particular startup situation, the Utility's schedules are being modified in order to recognize a standard base facility charge rate structure with only one tier of usage rates. Those revised schedules will be submitted by tomorrow, Wednesday, July 9, 2008.
3. Operating Expenses - Several categories of operating expenses were questioned by the staff. The Utility is reviewing those but believes that most of the areas where the Commission staff felt adjustment was necessary, the Utility has undertaken to make those appropriate adjustments and will submit those as part of the overall submission. Hopefully those revised schedules will be submitted by tomorrow, July 9th, along with the other schedules related to rate structure.
4. Service Availability Charges - The staff had noted a concern with the proposed methodology utilized for service availability charges and had suggested alternatives of main extension charges only. The Utility is in agreement with the staff position. The Utility is in agreement with a \$263 per ERC water main extension charge, a \$760 per ERC sewer main extension charge, and no plant capacity charges in either system.
5. Legal Descriptions in Electronic Format - The Utility does not have copies of the Polk and Hardee County territory descriptions in Word format, but we are forwarding to the Staff Engineer (at the same time we are forwarding this letter), a copy of those descriptions as a .pdf file separated by the two counties.

July 8, 2008
Page 4

6. Affidavit of Financial Support - As promised, I am attaching hereto the Affidavit by two of the four principals of the Mooney Family, pledging the assets of the family and their individual assets to ensure proper financing for the Utility as and when needed.
7. Telephonic Discussion - I am attempting to determine who is the best person at the Utility and to coordinate with them for a telephonic discussion with members of the Commission staff within the next few weeks. As soon as I have those dates, I will let you know.

I believe this provides you with all of the information I can provide by today. I intend to provide additional information as noted tomorrow. Please get back with me if you need anything else.

Sincerely,
ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding
For The Firm

FMD/tms

cc: Cheryl Johnson
Lisa Bennett
Tom Walden
Terrie Hall
Bob Nixon, CPA
Paul DeChario, CPA
Robert Stephens
R.J. "Red" Clanton, P.E.

AFFIDAVIT

I, Terrie M. Hall, am a Managing Member of TBBT Water Company, LLC. In that capacity, I am filing this Affidavit in order to assure the Florida Public Service Commission that this entity and I individually will provide or assist TBBT Utility LLC in securing necessary funding to meet all reasonable capital needs and any operating deficits of the Utility, which may arise as the result of the Utility's operation of a certificated water and wastewater Utility in its PSC certificated service territory. Such funding will be provided on an as and when needed basis.

Terrie M. Hall

Terrie M. Hall, Managing Member
TBBT Water Company, LLC

STATE OF Michigan)
COUNTY OF Grand Traverse

The foregoing instrument was acknowledged before me this day of June 16, 2008, by Terrie Hall, who is personally known to me or who has produced drivers License as identification.

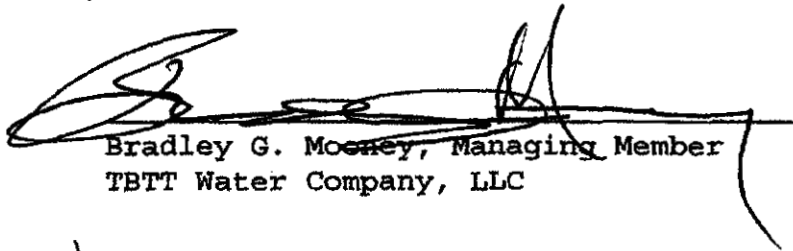
Cathy Haywood

Print Name _____
Notary Public _____
State of _____ at Large
My Commission Expires:

Cathy Haywood
Notary Public, State of Michigan
County of Grand Traverse
My Commission Expires 06-20-2012
Acting in the county of Grand Traverse

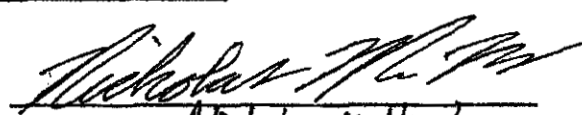
AFFIDAVIT

I, Bradley G. Mooney, am a Managing Member of TBBT Water Company, LLC. In that capacity, I am filing this Affidavit in order to assure the Florida Public Service Commission that this entity and I individually will provide or assist TBBT Utility LLC in securing necessary funding to meet all reasonable capital needs and any operating deficits of the Utility, which may arise as the result of the Utility's operation of a certificated water and wastewater Utility in its PSC certificated service territory. Such funding will be provided on an as and when needed basis.


Bradley G. Mooney, Managing Member
TBBT Water Company, LLC

STATE OF Michigan)
COUNTY OF Eaton)

The foregoing instrument was acknowledged before me this 29th day of May, 2008, by Bradley G. Mooney, who is personally known to me or who has produced himself as identification.


Print Name Nicholas McNew
Notary Public
State of Michigan at Large
My Commission Expires: 10/23/14

NICHOLAS MCNEW
NOTARY PUBLIC EATON CO., MI
MY COMMISSION EXPIRES OCT 23, 2014
ACTING IN EATON CO. MI

Polk County

LEGAL DESCRIPTION:

That part of the West Half of the Southwest Quarter of Section 33, Township 31 South, Range 25 East, and that part of the East Half of Section 32, Township 31 South, Range 25 East, all lying and being in Polk County, Florida and described as follows:

Begin at the Northeast corner of the West Half of the Southwest Quarter of Section 33, Township 31 South, Range 25 East; thence South $00^{\circ}05'16''$ East along the east line of said West Half of the Southwest Quarter a distance of 2833.14 feet to the southeast corner of said West Half of the Southwest Quarter; thence South $89^{\circ}53'39''$ West along the south line of said West Half of the Southwest Quarter a distance of 870.00 feet; thence North $00^{\circ}04'54''$ West a distance of 782.41 feet; thence South $89^{\circ}53'39''$ West a distance of 680.22 feet; thence North $34^{\circ}40'23''$ West a distance of 677.93 feet; thence North $30^{\circ}23'49''$ West a distance of 1538.00 feet to a line 35 feet north of and parallel with the south line of the Northeast Quarter of said Section 32, Township 31 South, Range 25 East; thence North $89^{\circ}53'49''$ East along said parallel line a distance of 727.27 feet to the east line of the West Half of the East Half of the Northeast Quarter of Section 32; thence South $00^{\circ}05'16''$ East along said east line of the West Half of said East Half of the Northeast Quarter a distance of 35.00 feet to the southeast corner of said West Half of said East Half of the Northeast Quarter; thence North $89^{\circ}53'49''$ East along the south line of the East Half of the East Half of the Northeast Quarter a distance of 862.90 feet to the northwest corner of the West Half of the Southwest Quarter of Section 33, Township 31 South, Range 25 East; thence North $89^{\circ}54'55''$ East along the north line of said West Half of the Southwest Quarter a distance of 1320.94 feet to the Point of Beginning.

Hardee County

IN TOWNSHIP 33 SOUTH, RANGE 24 EAST, HARDEE COUNTY,
FLORIDA;

SECTION 1:

The West ½
The West ½ of the SW ¼ of the NE ¼
The North ½ of the NE ¼ of the SW ¼ of the NE ¼
The North ½ of the SE ¼ of the NE ¼
The NW ¼ of the SE ¼
The NE ¼ of the SW ¼ of the SE ¼
The North ½ of the NE ¼ LESS the North 300.00 feet of the
East 435.80 feet of the NE ¼ of the NE ¼.

SECTION 2:

The NE ¼, LESS the West 264 feet of the North 1,280.4 feet
of the East ½ of the NE ¼
The East ½ of the NW ¼
The East ½ of the SW ¼ of the NW ¼
The part of the SW ¼ of the SW ¼ of the NW ¼ lying south of
a ditch centerline, which ditch centerline begins on the west
boundary of said SW ¼ of the SW ¼ of the NW ¼ to a point
lying 496.75 feet (measured along said west boundary) north of
the southwest corner thereof and runs easterly to the east
boundary of said SW ¼ of the SW ¼ of the NW ¼ at a point
lying 517.76 feet (measured along said east boundary) north of
the southwest corner thereof.
The South ½

SECTION 3: The NE ¼ of the SE ¼; LESS East 30 feet thereof

SECTION 11:

The NE ¼ of the NW ¼
The NW ¼ of the NE ¼
The NE ¼ of the NE ¼ LESS and except the following two
parcels:

Commence at the SE corner of the NE ¼ of the NE ¼ and run
thence West along the South line of said NE ¼ of the NE ¼ a
distance of 465 feet to P.O.B.; continue thence West along said
south line a distance of 150 feet; thence run North,
perpendicular to said South line, a distance of 125 feet; run
thence East and parallel with said South line a distance of 150
feet; run thence South, perpendicular to said South line a
distance of 125 feet to P.O.B.

AND

Commence at the SE corner of said NE ¼ of the NE ¼ and run
thence West along the South line of said NE ¼, a distance of
804.44 feet to P.O.B.; continue thence West along said South
line, 220 feet; thence run North perpendicular to said South line
a distance of 345 feet; run thence East and parallel with said
South line a distance of 220 feet; run thence South
perpendicular to said South line, a distance of 345 feet to
P.O.B.; LESS East 30 feet for road right-of-way.

SECTION 12: The NW ¼ of the NW ¼ LESS the following parcel:
Begin at the SE corner of East ½ of said NW ¼ of the NW ¼ of
said Section 12; run thence West along the South boundary of
said NW ¼ of NW ¼ a distance of 417.5 feet; run thence North
along a line parallel to the East boundary line of said NW ¼ of
NW ¼ a distance of 417.5 feet; run thence East along a line
parallel to the South boundary line of said NW ¼ of NW ¼ a
distance of 417.5 feet to the East boundary line of said NW ¼
of NW ¼; run thence South along the East boundary line of said
NW ¼ of NW ¼ to P.O.B.

LESS THE FOLLOWING FOUR PARCELS

A portion of Sections 1 and 12, Township 33 South, Range 24
East, Hardee County, Florida, described as follows:

Commence at the northwest corner of said Section 12; thence
South 00°06'42" East along the west line of the northwest
quarter of the northwest quarter of said Section 12 a distance
of 413.05 feet to the POINT OF BEGINNING; thence South
89°56'23" East a distance of 502.43 feet; thence North
00°14'38" West a distance of 188.48 feet; thence North 15°34'18"
East a distance of 187.40 feet; thence North 34°34'37" East a
distance of 159.51 feet; thence South 89°15'00" East a distance
of 100.67 feet; thence South 03°11'11" East a distance of 151.48
feet; thence North 89°44'56" East a distance of 489.56 feet;
thence North 01°27'10" West a distance of 142.03 feet; thence
North 84°06'34" East a distance of 86.64 feet to the east line
of the southwest quarter of the southwest quarter of said
Section 1; thence South 00°15'09" East along said east line of
the southwest quarter of the southwest quarter a distance of
75.28 feet to the northeast corner of the northwest quarter of
the northwest quarter of said Section 12; thence South
00°05'09" East along the east line of said northwest quarter of
the northwest quarter a distance of 908.20 feet to the north

northwest quarter; thence North 89°39'27" West along said north line of the South 417.50 feet of the northwest quarter of the northwest quarter a distance of 417.51 feet to the west line of the East 417.50 feet of said northwest quarter of the northwest quarter; thence South 00°05'09" East along said west line of the East 417.50 feet of the northwest quarter of the northwest quarter; thence South 00°05'09" East along said west line of the East 417.50 feet of the northwest quarter of the northwest quarter a distance of 417.51 feet to the south line of said northwest quarter of the northwest quarter; thence North 89°39'27" West (erroneously referred as "thence North 89°39'27" West?" in Deed recorded in OR Book 530, Page 41, public records of Hardee County, Florida) along said south line of the northwest quarter of the northwest quarter a distance of 901.36 feet to the southwest corner of said northwest quarter of the northwest quarter; thence North 00°06'42" West along the west line of said northwest quarter of the northwest quarter a distance of 912.10 feet to the POINT OF BEGINNING. Less and Except the West 30.00 feet thereof for Tolley Road; Subject to the unrecorded maintained right-of-way for C.R. 664 on the south side.

A portion of Section 11, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:
Commence at the northeast corner of said Section 11; thence South 00°06'42" East along the east line of the northeast quarter of the northeast quarter of said Section 11 a distance of 221.80 feet to the POINT OF BEGINNING; thence continue South 00°06'42" East along said east line of the northeast quarter of the northeast quarter a distance of 1103.35 feet to the southeast corner of said northeast quarter of the northeast quarter; thence South 89°46'25" West along the south line of said northeast quarter of the northeast quarter a distance of 465.00 feet to the east line of the West 150.00 feet of the East 815.00 feet of said northeast quarter of the northeast quarter; thence North 00°06'42" West along said east line of the West 150.00 feet of the East 815.00 feet of the northeast quarter of the northeast quarter a distance of 125.00 feet to the north line of the South 125.00 feet of said northeast quarter of the northeast quarter; thence South 89°46'25" West along said north line of the South 125.00 feet of the northeast quarter of the northeast quarter a distance of 150.00 feet to the west line of the East 815.00 feet of said northeast quarter of the northeast quarter; thence South 00°06'42" East along

A portion of Section 11, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:
Commence at the southeast corner of the northeast quarter of the northwest quarter of said Section 11; thence South 89°47'40" West along the south line of said northeast quarter of the northwest quarter a distance 633.48 feet to the POINT OF BEGINNING; thence continue South 89°47'40" West along said south line of the northeast quarter of the northwest quarter a distance of 683.11 feet; thence North 00°23'52" East a distance of 388.36 feet; thence South 88°13'58" East a distance of 519.38 feet; thence South 65°08'30" East a distance of 179.99 feet; thence South 00°23'52" West a distance of 294.23 feet to the POINT OF BEGINNING. Subject to the unrecorded maintained right-of-way for C.R. 664 on the south side.

AND ALSO LESS AND EXCEPT THE FOLLOWING PARCELS OF LAND: IN TOWNSHIP 33 SOUTH, RANGE 24 EAST, HARDEE COUNTY, FLORIDA

SECTION 1:

The south 30.00 feet of the N 3/4 of the W 1/2.
The north 30.00 feet of the S 1/4 of the W 1/2.
The west 30.00 feet of the S 1/2 of the W 1/2, LESS, the north 30.00 feet thereof.
The north 30.00 feet of the NE 1/4 of the SW 1/4 of the SE 1/4.
The south 30.00 feet of the NW 1/4 of the SE 1/4.

SECTION 2:

A strip of land 60.00 feet in width the centerline of which being the centerline of the pavement (as it exists on January 1, 1995), for "Payne Creek Road", said road running generally north-south through the center of the N 1/2 of the E 1/2. LESS, any part thereof lying within the north 1280.40 feet of the west 264.00 feet of the NE 1/4 of the NE 1/4, which is intended to be those lands owned by Paynes Creek Primitive Baptist Church and Cemetery, AND LESS any part thereof lying in the south 30.00 feet of the N of said Section 2.

The south 30.00 feet of the N 1/2.
The north 30.00 feet of the S 1/2.
The west 30.00 feet of the NW 1/4 of the SW 1/4.

of the northeast quarter a distance of 125.00 feet to said south line of the northeast quarter of the northeast quarter; thence South 89°46'25" West along said south line of the northeast quarter of the northeast quarter a distance of 189.44 feet to the east line of the West 220.00 feet of the East 1024.44 feet of said northeast quarter of the northeast quarter; thence North 00°06'42" West along said east line of the West 220.00 feet of the East 1024.44 feet of the northeast quarter of the northeast quarter a distance of 345.00 feet to the north line of the South 345.00 feet of said northeast quarter of the northeast quarter; thence South 89°46'25" West along said north line of the South 345.00 feet of the northeast quarter of the northeast quarter to the west line of the East 1024.44 feet of said northeast quarter of the northeast quarter a distance of 220.00 feet; thence South 00°06'42" East along said west line of the East 1024.44 feet of the northeast quarter of the northeast quarter a distance of 345.00 feet to the south line of said northeast quarter of the northeast quarter; thence South 89°46'25" West along said south line of the northeast quarter of the northeast quarter and along the south line of the northwest quarter of the northeast quarter of said Section 11 a distance of 472.60 feet; thence North 01°46'42" West a distance of 303.50 feet; thence North 39°22'58" East a distance 631.14 feet; thence North 88°50'31" East a distance of 598.11 feet; thence North 58°52'14" East a distance of 591.97 feet to the POINT OF BEGINNING.

Less and Except the East 30.00 feet thereof for Tolley Road; Subject to the unrecorded maintained right-of-way for C.R. 664 on the south side.

A portion of Section 11, Township 33 South, Range 24 East, Hardee County, Florida, described as follows:
Begin at the southwest corner of the southwest quarter of the northeast quarter of said Section 11; thence North 00°04'32" West along the west line of said northwest quarter of the northeast quarter a distance of 384.77 feet; thence South 89°33'47" East a distance of 380.57 feet; thence South 45°55'53" East a distance of 49.70 feet; thence South 00°04'32" East a distance of 325.65 feet to the south line of said northwest quarter of the northeast quarter; thence South 89°46'25" West along said South line of the northwest quarter of the northeast quarter a distance of 416.22 feet to the POINT OF BEGINNING. Subject to the unrecorded maintained right-of-way for C.R. 664 on the south side.

The west 30.00 feet of the following described parcel:

That part of the SW 1/4 of the SW 1/4 of the NW 1/4 lying south of a ditch centerline, which ditch centerline begins on the west boundary of said SW 1/4 of the SW 1/4 of the NW 1/4 at a point lying 498.75 feet (measured along said west boundary) north of the southwest corner thereof and runs easterly to the east boundary of said SW 1/4 of the SW 1/4 of the NW 1/4 at a point lying 517.78 feet (measured along said east boundary) north of the southeast corner thereof.

The east 30.00 feet of the SE 1/4 of the SE 1/4.

SECTION 3:

The east 30.00 feet of the NE 1/4 of the SE 1/4.

SECTION 11:

The east 30.00 feet of the NE 1/4 of the NE 1/4; subject to the right-of-way for County Road 664 along the south side thereof.

SECTION 12:

The west 30.00 feet of the NW 1/4 of the NW 1/4; subject to the right-of-way for County Road 664 along the south side thereof.