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Public Service Commission

September 24, 2009

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COMMISSION
CLERK

Mr. Terry Blackmon
Bimini Bay Utilities Corporation
101 Golden Malay Palm Way
Davenport, Florida 33897

Re: Docket No. 090424-WS - Application for certificates to provide water and wastewater service in Polk County by Bimini Bay Utilities Corporation

Dear Mr. Blackmon:

Your application for certificates of authorization has been received and reviewed by Commission staff. Staff has identified the following deficiencies and additional information needed to complete our processing of the application.

Deficiencies

1. Pursuant to Rule 25-30.020, Florida Administrative Code (F.A.C.), the filing fee for a utility that has the existing or proposed capacity to serve up to 500 ERCs is \$750 for each system. Please submit the required filing fee of \$1,500 for both water and wastewater.
2. Pursuant to Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, F.A.C., the utility must provide notice of the application and affidavits that the notice was given to (1) customers, (2) the governing bodies and privately owned water and wastewater utilities contained in the list provided by staff, and (3) published in a local newspaper of general circulation. Refer to Rule 25-30.030, F.A.C., for the style and content requirements of the notice. The legal description of the proposed territory must be consistent with the provisions of Rule 25-30.030(2), F.A.C. The application indicated that a copy of the affidavits that the notices were given and published in the local newspaper would be provided as late filed Exhibits A-21, A-22, and A-23. Please provide a copy of the notice of the application and the affidavits of noticing. A list of the governing bodies and privately owned water and wastewater utilities to be noticed is being provided under separate cover.
3. Pursuant to Rule 25-30.033(1)(g), F.A.C., provide the date and under what circumstances the utility started providing water and wastewater service. While the application indicates that service was provided free until February 2008, it does not indicate when and under what circumstances the utility initially began providing water and wastewater service without certificates from the Public Service Commission. In addition, Schedule 6 of the utility's application contains the current approved rates and charges for water and

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wastewater service. Please explain when these rates and charges went into effect and the authority that approved them.

4. Pursuant to Rule 25-30.033(1)(l) and (m), F.A.C., provide 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., and an official county tax assessment map, with a scale such as 1" = 200' or 1" = 400', showing the proposed territory.
5. Pursuant to Rule 25-30.033(1)(n) and (o), F.A.C., provide a detailed system map showing the existing and proposed water and wastewater facilities, including the transmission, distribution, and collection lines, and a description of the capacity of the existing and proposed facilities in terms of ERCs and gallons per day. While your application indicated that you anticipate 360 residential and 2 commercial customers, the information provided was unclear as to the number of existing customers being served and the capacity of the existing lines.
6. Pursuant to Rule 25-30.033(1)(r), F.A.C., provide an income statement for the preceding calendar or fiscal year, using the National Association of Regulatory Utility Commissioners (NARUC) uniform system of accounts (USOA). The Customer Summary Report for January through December 2008 did not have descriptions for each line. Please note that the utility's books and records will have to be set up in accordance with the NARUC USOA.
7. Pursuant to Rules 25-30.033(1)(t), (u), (v), and (w), F.A.C., provide a cost study supporting all proposed rates and charges, including the base facility charges, gallonage charges (first and second tier), and all miscellaneous service charges. The cost study should include schedules showing (1) the projected cost of the existing and proposed water and wastewater facilities, accumulated depreciation, contributions in aid of construction, and accumulated amortization, (2) projected operating expenses, and (3) projected capital structure when 80 percent of the designed capacity of the system is being utilized. The information should be provided using the NARUC USOA. A sample cost study is contained in the original certificate application package.
8. Pursuant to Rule 25-30.033(1)(s), F.A.C., provide a list of all entities, including affiliates, upon which the utility is relying to provide funding, as needed, to support the utility in the initial years of the development when the monthly rates for service may not allow the utility to fully recover its operating expenses and earn a return on its investment. Include a description of the proposed funding, personal financial statements of the utility's officers, as well as personal guarantees.

Addition Information

1. Provide documentation to show whether the cost of the distribution and collection lines are depreciated or written off to the cost of goods sold on Bimini Bay Utilities Corporation's tax returns. If the lines are being depreciated, provide a copy of the depreciation schedule from the utility's most recent tax return. Note that the utility's net investment in water and wastewater facilities (original cost net of accumulated depreciation, contributions in aid of construction, and accumulated amortization) is the basis for determining the allowed return on investment. Further, pursuant to Rule 25-30.570, F.A.C., the value of the distribution and collection system may not be included as

utility investment if the utility cannot demonstrate that those assets have been depreciated, instead of written off to cost of goods sold. While the utility's application reflects total fixed assets of \$298,173.81 for water and \$1,115,864.88 for wastewater on Schedules 1A and 1B and on the utility's balance sheet as of December 31, 2008, the amounts are not provided by NARUC USOA or supported by documentation to show that the investment was made by Bimini Bay Utilities Corporation and that those amounts have not been written off to cost of goods sold on the developers tax return.

2. Provide a copy of all Department of Environmental Protection (DEP), Polk County Health Department, and water management district permits.
3. Provide the current number of water and wastewater customers served by the utility by meter size and customer class. Are the existing commercial account meters 5/8" x 1 1/2" or 5/8" x 3/4" or 1 1/2"?
4. According to the application, a well will be installed in the service area for commercial customers, but it will not be owned by Bimini Bay Utilities. When will the well be installed? Who is paying for the well and who will own it? Will the water from the well be used to supplement the water demand included in the estimated commercial demand used to develop the utility's proposed rates? Will the commercial customers that connect to the well require wastewater services or will they use septic tanks?
5. Exhibit A-5 is an agreement between Island Club Resort Development and Bimini Bay Utilities Corporation which states that Exhibit A is an attachment that describes property owned by Island Club Resort Development; however, Exhibit A was not included with the application. Please provide a copy of Exhibit A and a description of the other facilities that are referred to in the agreement.
6. Provide a list of the duties and responsibilities for each of the utility's salaried and hourly employees listed on Schedule 33..
7. Provide a list of the duties and the responsibilities of all contract service providers and the associated annual fees included in the projected operating expenses.
8. Provide copies of the monthly bills from Polk County to Bimini Bay Utilities for purchased water and wastewater service, a schedule showing Polk County's rates and charges for water and wastewater service, a summary of the monthly gallons of water and wastewater service purchased, and a summary of the monthly amounts billed (gallons and dollars) to customers for water and wastewater service, including all miscellaneous, administrative, and late fees from January 2008 to present. Provide an explanation as to how the information provided is reflected in the income statement required above, pursuant to Rule 25-30.033(1)(r), F.A.C.
9. Provide an explanation of the basis for the proposed rental expense of \$700, including a description of whether the facilities are shared with a related company.
10. Provide a description of all periodic reporting and testing required by DEP, the Polk County Health Department, or the water management district and the associated annual costs.

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The original and four copies of the response to the information requested in this letter should be filed with the Commission on or before **October 23, 2009**. When filing the response, please be sure to refer to the docket number and direct the response to:

Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Should you have any questions concerning the information in this letter, please contact Tom Walden at 850-413-6950 or Cheryl Johnson at 850-413-6984.

Sincerely,



Patti Daniel
Public Utilities Supervisor
Bureau of Certification, Economics & Tariffs

PD/CAJ:kb

cc: Division of Economic Regulation (Johnson, Walden)
Office of the General Counsel (Bennett)
Office of Commission Clerk (Cole)