

Marguerite McLean

090521-WS

From: Menges, Susan [Susan.Menges@charlottefl.com]
Sent: Thursday, January 07, 2010 3:34 PM
To: Filings@psc.state.fl.us
Cc: Burton, Marty; Lafferty, Lynda D.
Subject: RE: Electronic Filing regarding Docket No. 090521-WS [please see attached document for filing in this matter]
Importance: High
Attachments: Charlotte County's Objection to Application of North Fort Myers Utility for Extention of Water and Wastewater Service in Charlotte County, Florida - January 7, 2010.pdf

Dear Ms. McLean:

Thank you for your email. Per your instructions below, attached is the revised document for filing in this case. I am filling in today for an ill colleague and am not familiar with the PSC requirements. I apologize for any difficulties this oversight may have caused. Should anything further be required, please contact the undersigned.

Susan Menges, Legal Assistant
 Charlotte County Attorney's Office
 18500 Murdock Circle, 5th Floor
 Port Charlotte, Florida 33948
 ☎941.743.1330, 📠941.743.1550
 ✉Susan.Menges@Charlottefl.com

Done
1/11/10
RWR

"To Exceed Expectations in the Delivery of Public Services"

From: Filings@psc.state.fl.us [mailto:Filings@PSC.STATE.FL.US]
Sent: Thursday, January 07, 2010 3:24 PM
To: Menges, Susan
Subject: FW: Electronic Filing regarding Docket No. 090521-WS [please see attached documents for filing in this matter]
Importance: High

Dear Ms. Menges:

We are in receipt of your filing below. Per the Commission's e-filing requirements, any cover letter or certificate of service must be included in the electronic document to which it relates, and shall not be submitted as a separate attachment to the e-mail.

The link to the Commission's e-filing requirements is included for your convenience:

<http://www.psc.state.fl.us/dockets/e-filings/>

Your filing will need to be revised and resubmitted in order to be officially accepted for filing.

Please feel free to call our office if you have any questions.

Marguerite H. McLean
 Commission Deputy Clerk II
 Office of Commission Clerk
 850-413-6770

1/7/2010

DOCUMENT NUMBER-DATE

10161 JAN-7 2010


FPSC-COMMISSION CLERK

From: Menges, Susan [mailto:Susan.Menges@charlottefl.com]
Sent: Thursday, January 07, 2010 2:22 PM
To: Filings@psc.state.fl.us
Cc: Burton, Marty; Lafferty, Lynda D.; Knowlton, Janette; Kesner, Terri; Baltz, Roger; Ruggieri, Jeff; Ann Cole; Caroline Klancke; Erik Saylor; mfriedman@rsbattorneys.com
Subject: Electronic Filing regarding Docket No. 090521-WS [please see attached documents for filing in this matter]
Importance: High

January 7, 2010

Dear Clerk:

Please see the attached for filing in the matter of **North Fort Myers Utility, Inc's. Application for Extension of Water and Wastewater Service in Charlotte County, Florida, Docket No. 090521-WS**. Please direct any questions concerning this electronic filing to the undersigned. I will await confirmation of this filing. Thank you for your assistance in this matter.

Susan Menges, Legal Assistant
Charlotte County Attorney's Office
18500 Murdock Circle, 5th Floor
Port Charlotte, Florida 33948
☎941.743.1330, 📠941.743.1550
✉Susan.Menges@Charlottefl.com
"To Exceed Expectations in the Delivery of Public Services"
 **Please print only when necessary!**

Please note: Florida has a very broad public records law. Most written communications to or from officials regarding county business, are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.



Charlotte County Government

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

www.CharlotteCountyFL.com

January 7, 2010

Via E-mail (filings@psc.state.fl.us)

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

**Re: Docket No. 090521-WS
Application North Fort Myers Utility, Inc. for Extension of Water and
Wastewater Service in Charlotte County, Florida**

Dear Ms. Cole:

Attached is a scanned PDF document wherein Charlotte County Objects to the Application of North Fort Myers Utility, Inc. for Extension of Water and Wastewater Service in Charlotte County and Request for Formal Hearing.

It is our understanding that we will receive an email acknowledgement from the Public Service Commission. Should you have any questions or concerns, please contact the undersigned. Thank you for your assistance in this matter.

Sincerely,

Martha Young Burton
Assistant County Attorney

MYB/sm
Attachments (as described)

cc: Janette S. Knowlton, County Attorney
Terri Kesner, Interim Director of Utilities
Roger Baltz, County Administrator
Jeff Ruggieri, Manager, Growth Management

P:\WPDATA\BURTON\ pleadings\Ft Myers Utilities\Letter to Ann Cole re e-filing - January 7, 2010.doc
LR2009-736

COUNTY ATTORNEY'S OFFICE

18500 Murdock Circle, Suite 573 | Port Charlotte, FL 33948-1068
Phone: 941.743.1330 | Fax: 941.743.1550

DOCUMENT NUMBER DATE

00161 JAN-7 2010

FPSC-COMMISSION CLERK

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

**IN RE: Application of)
NORTH FORT MYERS UTILITY, INC.)
for extension of water and wastewater)
service in Charlotte County, Florida.)**

Docket No. 090521-WS

**OBJECTION OF THE BOARD OF COUNTY COMMISSIONERS OF
CHARLOTTE COUNTY, FLORIDA, TO THE APPLICATION OF NORTH FORT
MYERS UTILITY, INC. FOR EXTENSION OF WATER AND WASTEWATER SERVICE
IN CHARLOTTE COUNTY, FLORIDA**

The BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, (hereinafter referred to as the "Board"), hereby files this Objection to the Application of North Fort Myers Utility, Inc., (hereinafter referred to as "Applicant"), to extend its Water and Wastewater Service Area in Charlotte County, Florida and Request for Formal Hearing, and states that:

1. This objection relates to the Application of North Fort Myers Utility, Inc., (hereinafter referred to as "Applicant") to extend its Water and Wastewater Service Area in Charlotte County, filed December 2, 2009 (hereinafter referred to as the "Application").
2. The Board is the governing body of Charlotte County, Florida, a county affected by the Application.
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. Pursuant to Florida Statutes, Section 367.171(1), on September 25, 2007, the County adopted Resolution No. 2007-143, rescinding Public Service Commission jurisdiction over investor-owned water and wastewater systems within the County and, as required by Chapter 367, on December 18, 2007, the County adopted Ordinance No. 2007-092 updating the County Code concerning investor-owned water and wastewater utilities.
- c. 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.
- d. Should a need for utility service in the planned expansion areas within Charlotte County be established, the County is ready, willing, and able to provide water and wastewater service to any persons who have requested service from Applicant.
- e. 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

- f. 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

- g. 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 Roger Baltz, 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
Tel: (941) 743-1330, Fax: 941-743-1550

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed with the Public Service Commission at filings@psc.state.fl.us and also served this 7th day of January, 2010 to:

Via e-mail to:

Ann Cole, Office of Commission Clerk (acole@psc.state.fl.us)

Via regular U.S. Mail to:

Caroline Klancke, Esq. and Erik Saylor, Esq., Public Service Commission Staff

Via facsimile and regular U.S. mail to:

Martin S. Friedman, Esq.
Rose Law Firm
Sanlando Center
2180 West State Rd. 434, Suite 2118
Longwood, FL 32779
Fax: 407-830-8522
mfriedman@rsbattorneys.com
(Counsel for North Fort Myers Utility, Inc.)

By: 
Martha Young Burton