

Ruth Nettles

100085-WU

From: wayne smith [wsmith24@cfl.rr.com]
Sent: Tuesday, March 23, 2010 11:29 AM
To: Filings@psc.state.fl.us
Subject: RE: E-filing Docket No.100085-WU
Attachments: 03-22-10 ltr to Public Service Commission.rtf

Attached are the revised documents. If any more questions arise please feel free to contact me.

Regards,
Wayne Smith

-----Original Message-----

From: Filings@psc.state.fl.us [mailto:Filings@PSC.STATE.FL.US]
Sent: Tuesday, March 23, 2010 9:55 AM
To: wsmith24@cfl.rr.com
Cc: Marguerite McLean; Ruth Nettles
Subject: FW: E-filing Docket No.100085-WU

Dear Mr. Smith:

We are in receipt of your attached e-filing. However, this document is not eligible for electronic filing, and will need to be revised and resubmitted in order to be officially accepted for filing.

Please note that, per the Commission's e-filing requirements, documents are to include an official signature.

Manner of Electronic Transmission:

- Documents shall be signed by typing "s/" followed by the signatory within the document:
s/ First M. Last

A link to the Commission's e-filings requirements is included for your convenience:

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

Please call our office if you have any questions.

Sincerely,

Ruth Nettles
Commission Deputy Clerk II
Office of Commission Clerk
850-413-6770

From: wayne smith [mailto:wsmith24@cfl.rr.com]
Sent: Monday, March 22, 2010 7:24 PM
To: Filings@psc.state.fl.us
Subject: E-filing Docket No.100085-WU

- s/ Wayne Smith, P.O. Box 440, Eustis, Florida 32727-0400- 352-483-9522, blackbearreserve@centurylink.net
- Docket No. 100085-WU, Application for certificate to operate water utility in Lake County by Back Bear Reserve Water Company, Inc.
- Mrs. Barbara Jennings
- 3 pages
- Letter addressing complaint.

DOCUMENT NUMBER - DATE

02056 MAR 23 09

FPSC-COMMISSION CLERK

Black Bear Reserve Water Company

P.O. Box 440
Eustis, Florida 32727-0400
Telephone 352-483-9522 Fax 352-483-9522

March 22, 2010

Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 10085-WU, Application for certificate to operate water utility in Lake County by Black Bear Reserve Water Company Response to Document NO. 01800-10.

Dear Ms. Cole:

As you know, we recently changed counsel. Therefore, in many respects, the following is preliminary in nature. In response to Mrs. Jennings complaint the following hopefully will answer the 4 issues in the complaint.

1) Mrs. Jennings is being billed irrigation by Black Bear Reserve Water Company (Water Company) for the following reasons:

- Water Company has billed for irrigation since its inception. Billing for irrigation by Chalcopyrite began in January 2010. Water Company has received no notice or explanation from Chalcopyrite Investment, Inc. (Chalcopyrite) as to why it is entitled to bill for irrigation. Water Company had a management agreement (attached) with Chalcopyrite that was cancelled in January 2010.¹

- A Policies and Procedures Handbook (Handbook) had been given out (ostensibly since the inception of the irrigation services) by Water Company to customers when they made their initial deposit for water service. On page 2 section 1.4 Irrigation, it states that "The reclaimed system is only operated by contract with Black Bear Reserve Water Company." This Handbook is still in effect. If changes other than address and telephone number were made to it, Water Company is unaware of it. Moreover, Water Company, at the time the Handbook was created and handed out, was

¹ - Note, the Water Company and/or the Master Association have been provided with an alleged Agreement For Operation Of Reuse Water System allegedly between Black Bear Reserve Water Company, Inc., Black Bear Reserve Homeowners Association, Inc. and Rapid Retrieval, Inc., which purports to afford certain rights to Rapid Retrieval, Inc., but not Chalcopyrite. See further discussions herein.

DOCUMENT NUMBER-DATE

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under the control of the Developers who, upon information and belief likewise controlled Rapid Retrieval, Inc., Upson Downs and Chalcopyrite. In fact, upon information and belief, Mark Carson was the president of all 3 entities. Therefore, it appears axiomatic that the Water Company is the proper entity to operate and maintain the irrigation system and bill therefore.

- Note, Water Company and/or the Black Bear Reserve Homeowners Association, Inc. (Master Association) have been provided with an alleged Agreement for Operation of Reuse Water System (Agreement) allegedly between Black Bear Reserve Homeowners Association, major stockholder of Water Company and Rapid Retrieval, Inc., which purports to afford certain rights to Rapid Retrieval, Inc., but not Chalcopyrite. See further discussions herein below.

- The Master Association believes such Agreement is totally and completely invalid, void, void able and/or unenforceable for a multitude of reasons. While we point out the alleged existence of this Agreement to avoid even potentially misleading the Public Service Commission even if such Agreement was valid, binding and enforceable, Chalcopyrite has no claims or entitlement thereunder.²

- The Capacity Development Financial and Managerial Operational Plan (hereinafter referred to as the "Plan") filed with the Department of Environmental Protection PWS Id # 3354938 filed July 29, 2003 for Black Bear Water Company, Inc., includes a 2004 to 2008 Operating Budget. In this budget item O. for Capital Equip. Purchases line 3. Shows a Reuse water dist. sys. fund. for \$60,000.00. This clearly shows that Mr Carson, who was President of the Water Company intended for the Water Company to build and fund the reuse water distribution system. To further substantiate that Chalcopyrite has no claim, please note that the Plan on page 1 shows it is for "Black Bear Water Company, Inc.", not Chalcopyrite or any other Developer related entity. Moreover, please note in the Water Company's annual budgets the monthly as well as yearly line items for "Renewal and Replacement Fund". (See attached) Please understand, these budgets and specifically such line items were likewise created by and/or at the direction of the Developer, all of which ostensibly provides for operation, maintenance and replacement of the irrigation system by the Water Company, not Chalcopyrite. As such, the irrigation, in all respects, was to be provided by the Water Company and correspondingly billed for by the Water Company.

2) Currently Clayton and McCulloh, attorneys for the Water Company, are in the process of requesting documentation from Chalcopyrite justifying their rights to bill for irrigation to Water Company customers. See attached correspondence. Previous counsel, Larsen & Associates also asked for clarification of why Chalcopyrite can bill for irrigation.

² - Note, we have omitted the various reasons why the Agreement should be void, void able, invalid, etc. as Chalcopyrite is not even a party thereto. Nevertheless, we can supply the basis of the Water Company's and Master Association's position if needed.

Upon information and belief, prior to the turnover and control of the Water Company as set forth above, the bills/invoices recited that water (e.g., potable and irrigation) would be disconnected after 3 days notice. Unfortunately, the new/current Board (i.e., the non-Developer Board) simply perpetrated this practice (of the Developer) without question and without recognizing the issue. Of course, this practice has ceased.

3) Upon information and belief, all prior bills and invoices for irrigation and potable water were invoiced by and/or in the name of the Water Company, not Chalcopyrite. The Board members of the Water Company are elected, appointed and/or controlled by the Board of Directors of the Master Association. The Master Association Board recalled/removed the Developer controlled Board members of the Water Company after turnover of the Master Association. Once the Developer and/or its affiliates lost the power and ability to control the Water Company and therefore the ability to continue what the Master Association and the Water Company believed to be improper acts and operation, Chalcopyrite one of the Developer controlled entities all of a sudden claimed to have the right to bill, obtain and retain funds from the water system/operations (i.e., both for potable and irrigation).³ Of course, only the Water Company should have this right. The Water Company mailed invoices on March 3, 2010, which were due 25 days from billing. The 25 days is more than the 21 days stipulated in 25-30.355 to indicate when an account is past due. We will list the due date on the next billing. As to 25-30.320, once an account is past due 5 days written notice will be given thru U.S. Mail before disconnection will occur. We will change our invoices to include this statement.

4) Attached is a copy of David Jennings billing dated March 3, 2010. The due date was 25 days from March 3rd. This is March 28th and is 4 days longer than the 21 days required by the Public Service Commission. We failed to include the service period for this billing. It is for February 1st through March 3, 2010. The service period will be listed on all future billings for all Water Company customers.

Sincerely,

s/ Herman W. Smith

Wayne Smith
Black Bear Reserve Water Company

cc: Mrs. Barbara Jennings (with attachments)
Martin S. Friedman, Esq. (with attachments)
Neil McCulloh, Esq. (with attachments)
Ms. Patricia Daniel (with attachments)

³ - Note, Chalcopyrite previously was simply a management company operating for the benefit of the Water Company. All of a sudden, it is in competition with the Water Company and claims it has all the rights rather than the Water Company.