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# Public Service Commission

June 24, 2010

Mr. Charlton Andrews  
7822 Ladue Glen  
Fort Wayne, IN 46804

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

Dear Mr. Andrews:

The Florida Public Service Commission is in receipt of your March 31, 2010 letter of objection to the issuance of original water and wastewater certificates to Bimini Bay Utilities Corporation (Bimini Bay). In your letter, you state that you object to the issuance of a certificate to Bimini Bay Utilities Corporation but you did not request an administrative hearing before the Public Service Commission pursuant to Sections 120.569 and 120.567, Florida Statutes. I need to understand whether you are requesting a hearing or whether your letter of objection is for purposes of informing the Commission of your concerns regarding this utility.

If a customer merely objects to the issuance of the certificate, the letter of objection is placed in the docket file here at the Commission, and remains available for review and informational purposes. If a customer timely objects to the issuance of a certificate and requests a hearing, that customer becomes a party to the proceeding and is entitled to a full evidentiary hearing before the Commission. The utility will also be a party to the proceeding. If you choose to ask for a hearing, you will have *certain rights and responsibilities to put on your case*, including filing written testimony, participating in motion practice and formal discovery, and attending the hearing where your witness would possibly be subject to cross-examination.

As you are determining whether to pursue your right to an evidentiary hearing, keep in mind that denying Bimini Bay a certificate does not guarantee that another utility company will provide service to your property. If the Commission finds good cause to deny a certificate, there would still be an issue of who would provide water and sewer service to the customers and at what costs. The current utility owner, even without a certificate from the Commission, would still own the utility system (pipes, meters, treatment facilities, etc.). If a new provider could be found to take over the system, that new utility provider would be required to purchase the assets of Bimini Bay. That purchase price would then be passed on to the customers.

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Rather than recommending denial of a certificate, generally the Public Service Commission staff strives to gain compliance with all applicable utility statutes and rules. One of the goals of regulation is assisting the utility in coming into compliance. The Commission staff educates the utility in the principles of utility service and rates. If a utility owner fails or refuses to comply with Commission rules, or orders, the Commission has several tools at its disposal which it uses to gain compliance. Those tools include a customer complaint system, orders defining what the utility may and may not charge, fines for failure to comply with Commission rules and ultimately court intervention if the utility willfully fails to comply with Commission directives.

While your letter was an objection to the issuance of certificates, you also complained of certain dealings of the condominium developer and the condominium seller. I did want to make certain that you understood that the Public Service Commission only has the authority to regulate utilities. Your letter mentioned potential violations of other laws and or codes. Those potential violations may be regulated by one of several state or local agencies. For instance, the sale of condominiums and timeshares is regulated by the Division of Florida Condominiums, a Division of Florida's Department of Business and Professional Regulation. The Division may be contacted by phone at 850-488-1122 or by mail at

Division of Florida Condominiums, Timeshares, and Mobile Homes  
1940 North Monroe Street  
Tallahassee, Florida 32399

For complaints regarding violation of consumer protection laws, you may wish to contact the state of Florida's Attorney General. The website for the Attorney General's office is <http://myfloridalegal.com/>. You may reach the office by telephone at 850-414-3300 or by mail at

Office of Attorney General  
The Capital PL-01  
Tallahassee, FL 32399-1050

Finally, local county or city laws also may govern the construction of condominiums. You may wish to contact the Polk County Building Division, through the Polk County Board of County Commissioners. The telephone number is 863-534-6000. They may be reached by mail at

Polk County Board of County Commissioners  
330 West Church Street  
Bartow, FL 33830

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After reviewing, the above, please let me know no later than July 9, 2010, if you intend to pursue a full evidentiary hearing or if you wish your letter to be placed in the docket file to be considered by the Commission in its decision to grant or deny an original certificate to Bimini Bay Utilities Corporation. If you have not responded by July 9, 2010, your letter will be placed in the docket file and we will not pursue an evidentiary hearing. After you have reviewed this letter, if you have any additional questions, you may contact me at 850-413-6230.

Sincerely,



Lisa C. Bennett

Senior Attorney

Florida Public Service Commission

LCB:th

cc: Florida Attorney General (with attachments)  
Division of Florida Condominiums, a Division of Florida's Department of Business and Professional Regulation (with attachments)  
Office of Commission Clerk  
Economic Regulations (Daniel, Clapp)