

Marguerite McLean

From: Bronwyn Revell [BRevell@RSBattorneys.com]
Sent: Friday, August 27, 2010 2:18 PM
To: Filings@psc.state.fl.us
Cc: Robert Brannan; Curt Kiser; barmstrong@ngn-tally.com
Subject: North Fort Myers Utility to Florida Governmental Utility Authority
Attachments: Application for Acknowledgment.pdf; Exhibit A to Application for Acknowledgment.pdf

100388 - WS

- a. The full name, address, telephone number, and e-mail address of the person responsible for the electronic filing:
 Robert C. Brannan
 Rose, Sundstrom & Bentley, LLP
 2548 Blairstone Pines Drive
 Tallahassee, Florida 32301
 (850) 877-6555/(850)656-4029 Fax
- b. The docket number and title if filed in an existing docket:
- c. The name of the party on whose behalf the document is filed:
 North Fort Myers Utility, Inc.
- d. The total number of pages in each attached document: 7 pages in both documents
- e. A brief but complete description of each attached document: Application for Acknowledgment; Exhibit A

BRONWYN S. REVELL
ASSISTANT TO JOHN L. WHARTON &
FREDERICK L. ASCHAUER, JR.

ROSE, SUNDBLSTROM & BENTLEY, LLP
 Attorneys At Law
 2548 Blairstone Pines Drive T: 850.877.6555
 Tallahassee, Florida 32301 F: 850.656.4029
www.rsbattoorneys.com

COM _____
 APA _____
 ECR 1
 GCL 1
 RAD _____
 SSC _____
 ADM _____
 OPC _____
 CLK Grant

DOCUMENT NUMBER-DATE

07171 AUG 27 09

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Transfer)
of Water and Wastewater)
Facilities of North Fort Myers)
Utility, Inc., to the Florida) DOCKET NO.
Governmental Utility Authority,)
and Request for Cancellation of) Filed: August 27, 2010
Water and Wastewater)
Certificates.)

100388-WS

APPLICATION FOR ACKNOWLEDGMENT OF SALE OF
NORTH FORT MYERS UTILITY, INC., LAND AND FACILITIES LOCATED IN
LEE COUNTY, FLORIDA, TO THE FLORIDA GOVERNMENTAL
UTILITY AUTHORITY AND REQUEST FOR CANCELLATION OF CERTIFICATES

Applicant, North Fort Myers Utility, Inc. ("NFMU"), pursuant to § 367.071, Fla. Stat., files this Application for Acknowledgment of Sale of NFMU Land and Facilities Located in Lee County, Florida, to the Florida Governmental Utility Authority ("Authority") and Request for Cancellation of Certificates ("Application") and say as follows:

1. Section 367.071, Florida Statutes, provides that the sale of utility assets to a governmental utility should be approved as a matter of right. Nonetheless, NFMU has submitted in this Application all of the information required as set forth in Rule 25-30.037, Florida Administrative Code (the "Rule"). This Application is submitted without waiving any legal position or

claims that NFMU may have regarding the standards and criteria to be utilized by the Commission in processing this Application.

2. The Rule sets forth the matters that must be included in an application submitted to the Commission regarding the sale of utility assets. The requirements of subsection (2) of the Rule are only applicable to a transfer to a "non-governmental entity." The Authority is a governmental entity, so none of the requirements set forth in subsection (2) are applicable to this Application and only the requirements in subsection (4) of the Rule apply and are addressed herein.

3. NFMU operates under Water Certificate No. 353-W in Lee and Charlotte Counties, Florida.

4. NFMU operates under Wastewater Certificate No. 247-S in Lee and Charlotte Counties, Florida.

5. The name and address of NFMU and its authorized representative, for purposes of this application, are:

North Fort Myers Utility, Inc.
5660 Bayshore Road, Suite 51
North Fort Myers, Florida 33917

Authorized Representative:

Robert C. Brannan, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blaiirstone Pines Dr.
Tallahassee, Florida 32301
Phone: 850-877-6555

6. The name and address of the Authority and its authorized representative, for purposes of this application, are:

Florida Governmental Utility Authority
c/o Government Services Group, Inc.
1500 Mahan Drive, Suite 250
Tallahassee, Florida 32308

Authorized Representative:

Brian P. Armstrong, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
Phone: 850-224-4073

The Authority is a governmental authority exempt from regulation by the Commission pursuant to Sections 367.022(2) and 163.01(7)(g)(1), Florida Statutes. The Authority was created by Interlocal Agreement pursuant to Chapter 163, Florida Statutes.

7. On June 17, 2010, the Authority conducted a public hearing in accordance with § 125.3401, Fla. Stat., in which it considered (a) the most recent available income and expense statements for NFMU; (b) the most recent available balance sheet for NFMU, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon; (c) a statement of the existing rate base of NFMU for regulatory purposes; (d) the physical condition of NFMU's facilities being purchased; (e) the reasonableness of the purchase price and terms; (f) the impacts of the purchase on utility

customers, both positive and negative; (g) any additional investment required and the ability and willingness of the Authority to make that investment; (h) the alternatives to the purchase and the potential impact on Aloha's customers if the purchase is not made; and (i) the ability of the Authority to provide and maintain high-quality and cost-effective utility service.

8. The Authority found the transaction to be in the public interest and issued Resolution No. 2010-23 ("Resolution") approving the Agreement for Purchase and Sale of Water and Wastewater Assets ("Agreement"). A copy of the Resolution is attached hereto as Exhibit A.

9. The transaction closed on July 29, 2010.

10. This Application must be approved as a matter of right as a sale to a governmental authority pursuant to § 367.071(4)(a), Fla. Stat.

11. Subsequent to the closing of this transaction, NFMU will retain no assets that would constitute a system providing or proposing to provide water or wastewater service to the public for compensation.

12. The Authority obtained from NFMU its most recent available income and expense statement, balance sheet, statement of

rate base for regulatory purposes, and contributions-in-aid-of-construction.

13. NFMU has submitted a final bill to its customers and has credited its customers or refunded excess deposits to its customers as appropriate and required by this Commission or by law.

14. There are no outstanding issues relevant to NFMU's water and/or wastewater facilities pending before the Commission. NFMU will pay any and all outstanding regulatory assessment fees and file the final Regulatory Assessment Fee Return with the Division of Administration of this Commission within the time period required by the rules of this Commission.

15. After a diligent search of its records, NFMU has been unable to located Original Water Certificate No. 353W and Wastewater Certificate No. 247S.

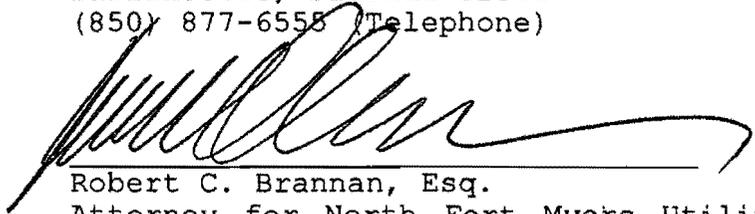
17. This Application is submitted without waiving any legal position or claims that NFMU may have regarding the standards and criteria to be utilized by the Commission in processing this Application.

WHEREFORE, NFMU respectfully requests that the Commission:

1. Acknowledge the sale of NFMU's water and wastewater facilities to the Authority as set forth in this Application; and
2. Cancel the Certificates of NFMU attached hereto as Exhibit A.

Respectfully submitted,

ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555 (Telephone)



Robert C. Brannan, Esq.
Attorney for North Fort Myers Utility,
Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-mail this 27th day of August, 2010 to:

S. Curtis Kiser
General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 301J
Tallahassee, Florida 32399-0850

Brian P. Armstrong, Esq.
NABORS, GIBLIN & NICKERSON, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308

G:\NFMU\Sale to FGUA\Closing Documents\Application to PSC Approving Transfer and Termination of Certificates 082610).doc