

REQUEST FOR CHANGE TO COMMISSION CONFERENCE
HAND DELIVER

RECEIVED-FPSC

Date of Request: 2/21/2011

Date of Commission Conference: 2/22/2011

Item No. 6
11 FEB 22 AM 9:03

Docket No.: 100400-WU

Brief Title: O&S transfer and overearnings

Requested by: Staff Other

TWA - Mark Lawson
(Name) COMMISSION CLERK

Please attach a copy of the written documentation filed (IF OTHER)

STAFF's Recommendation to Executive Suite (IF OTHER) Approve Request Deny Request


ACTION REQUESTED [see APM 2.11]


- Defer Item to Conference Scheduled for: _____ Date: _____
- Change Order of Item or Take Up at Time Certain
- Withdraw Item (not expected to return to Agenda)
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) **A copy of the front page of the recommendation must be provided to the Commission Clerk by 12 noon on the regular filing date for use as a place-holder during agenda preparation.**
- Add Item to Published Agenda [see Section 120.525(2), F.S.] – Issue an ADDENDUM and give Legal NOTICE
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] – Issue an ADDENDUM and Give Fair NOTICE


Concise explanation, justification or comments (attach additional sheet if necessary):

Staff recommends that the request for deferral be denied because the grounds for the request are outside of the Commission's jurisdiction and the subject matter of this item.

Signature (Technical Staff):

Initials (Division/Office Director or Designee): 


Signature (Legal Staff): 

Initials (General Counsel or Designee): 

EXECUTIVE DIRECTOR:

Recommendation to the Chairman's Office

Approve Request Deny Request

Initials: 

Date: 2-21-11

Comments:

CHAIRMAN'S OFFICE: 

Approve Request Deny Request

Initials:

Date: 2/22/11

The Executive Suite will forward the original approved form to the Office of Commission Clerk and distribute copies to the OPR division/office director, the Executive Director, the Deputy Executive Director, the General Counsel, the Deputy General Counsel, the Office of Public Information Director, the Commissioners' Assistants, and the attorney assigned to the docket.

**CLK AGENDA
STAFF COPIED**

DOCUMENT NUMBER-DATE

01176 FEB 22 =

Anna Williams

From: Mark Lawson [mlawson@bmolaw.com]
Sent: Monday, February 21, 2011 4:10 PM
To: Anna Williams
Cc: Martin Friedman; John Jenkins
Subject: Matters before FPSC tomorrow concerning O and S Water
Importance: High

We represent the Toho Water Authority (TWA), recent purchaser from O and S Water of its water utility assets. We ask that the docketed items before the Commission tomorrow be deferred or continued for at approximately 30 days, based on the following:

1. At the time of closing (in early December) the O and S Water records were incomplete or otherwise insufficient for either party to determine with accuracy the deposits on hand or accounts receivable. The parties agreed to a cooperative post closing reconciliation within 50 days (which through no particular fault of either party has yet to occur) to address estimated deposits and accounts receivable. TWA has tendered (with substantiation) a demand for \$76,853.01 to Jack Olsen, President of O and S Water, which represents overpayment of the agreed purchase price.
2. Regrettably, O and S Water has a history of not timely paying its obligations to TWA, the Osceola Tax Collector, and the Commission, which is evident in the Commission's records. Official State of Florida corporate records reflect O and S Water has recently dissolved its corporate status. Counsel for O and S Water declined earlier this afternoon to participate in a joint request for deferral or continuance. Please accept our regrets in making this request at this point in time.
3. In an attempt to avoid expending resources before the Commission by counsel for both O and S Water and TWA, and consuming resources of the Commission staff and counsel, this request simply asks for these matters to be deferred or continued so that principals and counsel from O and S Water have the opportunity to respond to and fairly resolve with TWA staff and counsel these unpaid amounts (which were to have been addressed within 50 days after closing), prior to the Commission addressing these docketed items which will relinquish all jurisdiction of the Commission over O and S Water.

Ms. Williams, failing a summary determination that a short deferral will not materially affect O and S Water and a continuance for a short period is reasonable under the circumstances, please assist me in appearing by telephone tomorrow as I have to travel for a public meeting in Brooksville and can not appear in person to suggest in person this is a matter in controversy (and should be deferred as requested).

You may reach me by cell at 850 591 5630.

Thank-you so much.

Mark G. Lawson

Bryant Miller Olive

101 N. Monroe Street, Suite 900

Tallahassee, Florida 32301

(850) 222-8611

(850) 222-8969 (fax)

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