

Diamond Williams

From: James Minnes [minnes.j@gmail.com]
Sent: Monday, October 24, 2011 12:37 PM
To: Filings@psc.state.fl.us
Cc: Martin Friedman; Keino Young; Steve Reilly
Subject: Docket No. 110061-WS: Aquarina Utilities, Inc. Application for a Transfer of assets from SMS
Attachments: reply to response to motion to compel.docx
From: James Minnes [minnes.j@gmail.com]

Sent:

To: Filings@psc.state.fl.us

Attachments: Reply to AUI Response to Motion to Compel.docx

Electronic Filing

Monday, October 24, 201 1

cc. Martin Friedman; Keino Young; Steve Reilly

Subject: Re: **110061-WS** Electronic filing James I . Minnes Motion to Compel1 Production of Documents byAquarina Utilities, Inc.

a. Person responsible for this electronic filing:

James I. Minnes

25 Grovehurst Dr., Ottawa, Ont., Canada

K2G 6W1

minnes.j@gmail.com

(819)-671-6732

b. Docket No. 1 1006 1 -WS

In Re: Application for Authority to Transfer the Assets of Service Management Systems, Inc., and Certificates Nos. 517-W and 450-S in Brevard County, Florida to Aquarina Utilities, Inc.

10/24/2011

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c. Document being filed on behalf of James I. Minnes.

d. There are a total of 3 pages attached.

e.. The document attached for electronic filing is James I. Minnes' Reply to AUI's Response to Motion to Compel Production of Documents by Aquarina Utilities, Inc., with Certificate of Service attached.

James I. Minnes

e-mail: minnes.j@gmail.com

(819)-671-6732

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Authority to Transfer) Docket No. 110061-WS
the Assets of Service Management Systems, Inc.,)
and Certificate Nos. 517-W and 450-S in Brevard County,)
Florida to Aquarina Utilities, Inc.)

James I. Minnes' Reply to Aquarina Utilities Inc.

Response to Motion to Compel

1. **Aquarina Utility, Inc. ("AUI")**
relies upon and makes use of the personal financial statement in its repetitive argument that it is material and probative of financial ability by reason of: "In fact, Office of Public Counsel has reviewed the financial statement and advised Mr. Minnes that the Commission was not going to deny the AUI application based on financial or technical ability." The financial statement of the sole shareholder and sole funder of AUI is absolutely crucial to establishing whether or not the applicant has the financial ability and pursuant to R. 25-30.037(2) k, F.A.C. "... shall include their personal financial statements."
2. **AUI's choice of location for its**
head office in Jensen Beach, Fl. was solely out of convenience to its officers, directors and shareholder, all of whom reside in Jensen Beach, FL. The location of the sole business activity carried out by AUI is in Aquarina, Melbourne Beach, FL. That is the location of the utility plant, its operators and, importantly, all of the customers/ ratepayers of the utility. Requiring examination of documents anywhere other than Aquarina, Melbourne Beach, FL. would cause undue hardship to an objecting customer without reason or justification other than the mere convenience of the applicant.
3. **The utility was built in or**
about 1984 by the original developer of the residential community of Aquarina to service the purchasers of its homes. The Declaration between the developer and the community association contemplated the transfer of the utility to the association upon the ultimate withdrawal of the developer. While the developer retained the right to sell the utility to a third party, the general understanding between the developer and the association was that the utility would be transferred to the association. The third successor developer acquired the development in or about 2000 and became bankrupt in or about 2008. The mortgage of its utility lands and facility in Aquarina were foreclosed. In order to retain control of the utility,

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operation within the community a nonprofit corporation was incorporated in which all customers/homeowners would be members and on behalf of which a purchase of the utility assets from a sale under the foreclosure was attempted.

- 4. James I. Minnes was the incorporator and a first director, until such time as the first meeting of members of the nonprofit corporation was held. James I. Minnes has no knowledge of any threat as alleged or otherwise.**

All of which is Respectfully Submitted this 24th day of October, 2011 by:

s/James I. Minnes

James I. Minnes

25 Grovehurst Drive, Ottawa, Ont

819-671-6732

minnes.j@gmail.com

Certificate of Service

Docket No. 110061-WS

I Hereby Certify that a true copy of the foregoing Reply to AUI's Response to Motion to Compel has been filed with the PSC Clerk and furnished to the following parties by e-mail and regular mail this 24th day of October, 2011:

Martin Friedman

Rose, Sundstrom & Bentley

766 N Sun Drive, Suite 4030

Lake Mary, Fl 32746

Keino Young

Office of General Counsel

Public Service Commission

2540 Shumard Oak Blvd.

Tallahassee, Fl. 32399-0850

Stephen Reilly

Office of Public Counsel

c/o The Florida Legislature

111 W. Madison St. Room 812

Tallahassee, Fl 32399-1400

s/James I. Minnes

James I. Minnes