

Marguerite McLean

From: James Minnes [minnes.j@gmail.com]
Sent: Friday, November 04, 2011 6:07 AM
To: Filings@psc.state.fl.us
Cc: Martin Friedman; Keino Young; Steve Reilly
Subject: Docket No. 110061-WS: Application for Authority to Transfer Assets and PSC Certificates from SMS to AUI
Attachments: response to Motion to Dismiss.docx

From: James Minnes [minnes.j@gmail.com]

Sent:

To: Filings@psc.state.fl.us

Attachments: Response to AUI Motion to Dismiss Reply

Electronic Filing

Friday, November 4th, 2011

cc. Martin Friedman; Keino Young; Steve Reilly

Subject: Re: **110061-WS** Electronic filing James I. Minnes Response to AUI's Motion to Dismiss Minnes' Reply

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. 110061-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.

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11/4/2011

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' Response to AUI's Motion to Dismiss Reply, 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' Response to Aquarina Utilities Inc.

Motion to Dismiss Reply

James I. Minnes hereby responds to Aquarina Utilities, Inc., ("AUI") Motion to Dismiss my Reply to AUI's Response to My Motion to Compel AUI to Produce Documents as follows:

1. AUI's Response raises new issues and allegations which make it necessary and appropriate in these circumstances to join issue by way of a Reply.
2. AUI has chosen to raise in its Response issues and allegations pertaining to: (i) the incorporation of a non-profit community corporation the members of which are customers of the utility, (ii) an attempt by the non-profit corporation to purchase the utility on behalf of and for the members of the community, (iii) an inadmissible and ambiguous opinion from OPC on the Burges financial statement, and (iv) inflammatory allegations of threats and harassment, of which I have no knowledge and a presumptive conclusion of a future breach of confidentiality for which there is no reason or basis given.
3. AUI by raising such allegations and issues in its Response, as they are in dispute, must necessarily be joined, denied and a brief factual description of the actual circumstances be provided by Reply, free of AUI's fictional surmising of motive, intention, and future conduct.
4. AUI has made the bald statement that AUI's and the Burges financial documentation is "proprietary confidential information", and relies solely upon that statement for its request for confidentiality. While such a claim is necessary for a confidentiality request pursuant to Rule 25-22.006 (4)(c), F.A.C. and Section 364.183 (3), Florida Statutes, it is not sufficient to overcome the Florida law presumption that documents submitted to governmental agencies shall be public records.

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5. For AUI to be entitled to an Order from the Commission granting AUI's request for confidential classification of these financial documents, it is by statute, the further burden of AUI to demonstrate how and that the "... disclosure of the financial information sought will cause AUI or its ratepayers harm." (Section 364.183, Florida Statutes). At no time has AUI done so or even attempted to do so. This failure of AUI is fatal to its request and its request for confidentiality ought to be denied by the Commission.
6. No documents have been produced by AUI to date.

All of which is respectfully submitted this 4th day of November, 2011, by:

s/James I. Minnes
25Grovehurst 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 Response to AUI's Motion to Dismiss Reply has been filed with the PSC Clerk and furnished to the following parties by e-mail and regular mail this 4th day of November, 2011:

Martin Friedman

Rose, Sundstrom & Bentley

766 N Sun Drive, Suite 4030

Lake Mary, FL 32746

Keino Young

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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