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STATE OF FLORIDA



MARSHALL WILLIS, DIRECTOR  
DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

Public Service Commission

January 31, 2012

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COMMISSION  
CLERK

Mr. J. Stanley Shirah  
Tymber Creek Utilities, Incorporated  
1951 W. Granda Blvd.  
Ormond Beach, FL 32174

**Re: Docket No. 110317-WS, Application for transfer of majority organizational control of Tymber Creek Utilities, Incorporated, holder of Certificate Nos. 303-W and 525-S in Volusia County, from Steve P. Shirah to Joseph Stanley Shirah.**

Dear Mr. Shirah:

Staff has reviewed the above reference application for transfer of majority organizational control of Tymber Creek Utilities, Incorporated (utility) from Steve P. Shirah to Joseph Stanley Shirah (applicant) and has identified the following deficiencies and additional information necessary to complete the application.

**Deficiencies**

- Noticing.** Rule 25-30.030, Florida Administrative Code (F.A.C.), prescribes the format for noticing an application for transfer of majority organizational control (TMOC). A sample noticing format is available in the TMOC application package that can be found in the "Water and Wastewater Application Packages" on the Commission website [www.floridapsc.com](http://www.floridapsc.com). You can access application packages by selecting the Water and Wastewater drop-down under the "Utility Regulation" tab. Not only does the notice contained in the application not have the required description of territory, the notice does not appear to have been given. Please contact the technical or legal staff listed below for assistance with noticing format and procedures.
- Affidavits of Noticing.** Section 367.045(1)(a), Florida Statutes (F.S.) and Rule 25-30.030(8), F.A.C., require affidavits of noticing. According to your application, you believe this provision is not applicable, possibly because notice was not given. Transfer applications are required to be noticed and the utility must provide proof of the noticing by affidavit. Again, I would suggest you contact the technical or legal staff listed below for assistance with the format and procedures for affidavits of noticing.

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3. **Public Interest.** Rule 25-30.037(3)(f), F.A.C., requires that TMOC applications include a statement indicating how the transfer is in the public interest, including a showing of financial ability. Please provide a showing of your ability to provide service as sole utility owner, such as a recent personal financial statement showing your assets and liabilities.
4. **Ownership of Land.** Rule 25-30.037(3)(i), F.A.C., requires evidence that the utility owns the land upon which the utility treatment facilities are located. Please provide evidence that the utility owns the land upon which the wastewater treatment facility is located, or a copy of an agreement which provides for the continued use of the land. No additional information is need with respect to the utility's water facilities or percolation ponds.
5. **Tariff.** Rule 25-30.037(3)(j), F.A.C., requires an original and two copies of sample tariff sheets reflecting the TMOC. The application contained copies of existing water and wastewater rate schedules. However, all new original water and wastewater tariffs are required to be filed for the transfer. Model water and wastewater tariffs are also available in the "Water and Wastewater Application Packages" on the Commission website. You may also wish to contact technical staff for assistance in preparing the tariffs.

#### **Additional Information**

6. **Utility Name.** According to the application, the name of the utility is Tymber Creek Utilities, Inc. However, the name that appears on Certificate Nos. 303-W and 525-S is Tymber Creek Utilities, Incorporated, which is the name approved for the utility by the Commission in Docket No. 041339-WS, and the name registered for the utility with the Florida Department of State Division of Corporations (Div. of Corps). The Div. of Corps also shows a fictitious name of Tymber Creek Utilities that may apply to the utility, but the Commission has not approved a fictitious name. The name on Certificate Nos. 303-W and 525-S will remain as Tymber Creek Utilities, Incorporated until authorized to change, or be replaced with a fictitious name, by the Commission in a future proceeding. Meanwhile, in all future filings with the Commission, in all customer interactions, and in all business conducted by the utility, you must use the utility's authorized name of Tymber Creek Utilities, Incorporated, as approved by the Commission.
7. **Majority Control.** Pursuant to the application, the TMOC is from Steve P. Shirah to Joseph Stanley Shirah. However, pursuant to the corporate reorganization and name change approved in Order No. PSC-05-0188-FOF-WS, issued February 18, 2005, in Docket No. 041339-WS, the owners of the utility were Messrs. J. Stanley, Steve. P. and Ronald E. Shirah, each retaining 1/3 interest in the utility. Please explain when, and under what circumstances, Ronald E. Shirah relinquished ownership.

Mr. J. Stanley Shirah

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For assistance with the requested information, please contact technical staff, Ms. Patricia Brady at (850) 413-6686 or [pbrady@psc.state.fl.us](mailto:pbrady@psc.state.fl.us), or legal staff, Michael Lawson, Esq., at (850) 413-6076 or [mlawson@psc.state.fl.us](mailto:mlawson@psc.state.fl.us). Otherwise, please file your response to deficiencies and additional information on or before February 29, 2012. Your response should identify the Docket Number and be either filed electronically at [filings@psc.state.fl.us](mailto:filings@psc.state.fl.us) or mailed to:

Ann Cole, Director  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Sincerely,



Patti Daniel  
Public Utilities Supervisor  
Bureau of Certification, Economics, and Tariffs

PD:pb:lr

cc: Division of Economic Regulation (Brady)  
Office of the General Counsel (Lawson)  
Office of Commission Clerk (Docket No. 110317-WS)