

Eric Fryson

From: Vandiver, Denise <VANDIVER.DENISE@leg.state.fl.us>
Sent: Thursday, June 06, 2013 4:01 PM
To: Filings@psc.state.fl.us
Cc: Clarence Prestwood; John Slemkewicz; Kathy Kaproth; Martha Golden; Kelly Thompson; Patti Daniel; Shannon Hudson; Robert Simpson; Martha Brown; Daniel W. Hartman, Esquire (dan@fllegalteam.com); Vandiver, Denise
Subject: Docket No. 120162-WS; Application for transfer of facilities, and Certificate Nos. 524-W and 459-S, from Silver Fox Utility Company, LLC, to Hometown Canada Utility, Inc., in Pasco County
Attachments: Issues for Staff on Transfer.docx

- a. The full name, address, telephone number, and e-mail address of the person responsible for the electronic filing:

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- b. The docket number and title if filed in an existing docket:

Docket No. 120162-WS
Application for transfer of facilities, and Certificate Nos. 524-W and 459-S, from Silver Fox Utility Company, LLC, to Hometown Canada Utility, Inc., in Pasco County

- c. The name of the party on whose behalf the document is filed:

Office of Public Counsel (OPC)

- d. The total number of pages in each attached document:

2 pages

- e. A brief but complete description of each attached document:

Cover letter with attached concern of OPC.

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WILL WEATHERFORD
SPEAKER OF THE HOUSE OF
REPRESENTATIVES

June 6, 2013

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

Re: Docket No. 120162-WS; Application for transfer of facilities, and Certificate Nos. 524-W and 459-S, from Silver Fox Utility Company, LLC, to Hometown Canada Utility, Inc., in Pasco County

Dear Ms. Cole:

Attached is a concern that the Office of Public Counsel has concerning the transfer application filed by Silver Fox Utility Company, LLC. We are filing this letter to provide notice of our concern that may be material to the case and may need additional review. If you should have any questions, please feel free to call or e-mail me.

Respectfully submitted,

s/ Denise N. Vandiver
Denise N. Vandiver
Legislative Analyst

c: Division of Accounting & Finance (C. Prestwood)
Division of Economic Regulation (Slemkewicz,
Kaproth, Golden)
Division of Economics (K. Thompson, P Daniel, S
Hudson)
Division of Engineering (Simpson)
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Hartman Law Firm, P.A.
Mr. Daniel W. Hartman, Esquire

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OPC Issues and Concerns
Silver Fox Utility Company, LLC
Docket No. 120162-WS

Silver Fox Utility Company, LLC filed its application for transfer on May 29, 2012. We have recently reviewed the application and attached exhibits. The application includes a 99-year lease for the utility land. This lease includes an annual escalation clause. While this docket does not establish expense levels to be included in rates, we are concerned and request that any staff recommendation and Commission order that may approve this transfer does not implicitly approve the escalation clauses in the lease.

Commission Order No. PSC-96-0663-FOF-WS stated that "Florida is an original cost jurisdiction and Chapter 367, Florida Statutes, requires that this Commission consider the cost of utility assets at the time those assets were dedicated to public service."¹ Further, Commission Rule 25-30.115, Florida Administrative Code, requires that all water and wastewater utilities maintain their accounts and records in conformity with the NARUC Uniform System of Accounts (USOA). The USOA requires in Accounting Instruction 18 that all amounts "shall be stated at the cost incurred by the person who first devoted the property to utility service." If instead of owning the land, the utility has a 99-year lease for the land, the Commission has a history of limiting the lease expense to recovery of "the annual rate of return, based on the utility's current capital structure, times the original cost of the land when *placed in service*."²

The first evidence we found of a lease for the land for this utility appears in a prior transfer application in Docket No. 050062-WS. This docket stated that the prudence of the annual land rental would be addressed in the utility's next rate proceeding. Subsequently, Docket No. 050274-WS was the utility's first rate proceeding that addressed the prudence of the land rental cost and it established an expense based on the Commission's long-standing requirement to limit rent expense based on the original cost of the land when placed in service (or \$10,152).

Because the current transfer application continues to include a lease regarding the utility land, and that this lease includes escalation clauses, we request that any Commission approval of this transfer put the owners on notice that the Commission is not approving the escalation clauses and that the prudence of the lease is subject to further Commission approval and will be based on the Commission's mandate as an original cost jurisdiction.

¹ Order No. PSC-96-0663-FOF-WS issued May 13, 1996, in Docket No. 950336-WS; Application for rate increase in Charlotte County by Rotonda West Utility Corporation.

² Order No. PSC-02-1168-PAA-WS, Issued August 26, 2002 in Docket No. 010869-WS; Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

See also Order No. PSC-00-0807-PAA-WU, issued April 25, 2000, in Docket No. 991290-WU, Application for staff-assisted rate case in Lake County by Brendenwood Water System; Order No. PSC-00-2054-PAA-WS, issued October 27, 2000, in Docket No. 990939-WS, Application for rate increase in Martin County by Indiantown Company, Inc.; and Order No. PSC-11-0345-PAA-WS, issued August 16, 2011, in Docket No. 100359-WS, Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities, Incorporated.