

M E M O R A N D U M

September 1, 1999

TO: DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: JENNIFER S. BRUBAKER, DIVISION OF LEGAL SERVICES JSB

RE: DOCKET NO. 981781-SU - APPLICATION FOR AMENDMENT OF  
 CERTIFICATE NO. 247-S TO EXTEND SERVICE AREA BY THE  
 TRANSFER OF BUCCANEER ESTATES IN LEE COUNTY TO NORTH FORT  
 MYERS UTILITY, INC.

Please place the attached stipulation and original signature page signed by Jack Shreve of OPC in the docket file. The document was hand-delivered to staff on August 30, 1999. Also, please place in the docket file the attached letter from North Ft. Myers Utility, Inc., with its original signature page. This letter was delivered to the Division of Legal Services on August 31, 1999.

JSB/lw

Attachment

cc: Division of Water and Wastewater (Messer, Redemann)

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_ i:\buc-memo.jsb
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

10601 SEP-28

FPSC-RECORDS/REPORTING

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into by and among the Office of Public Counsel ("OPC"), Ronald Ludington, Donald Gill, Joseph Devine, and North Fort Myers Utility, Inc. ("NFMU").

WHEREAS, NFMU has filed an application ("Application") with the Florida Public Service Commission to extend its wastewater service area to serve Buccaneer Estates Manufactured Home Community ("Buccaneer Estates"); and

WHEREAS, OPC, Ludington, Gill and Devine have filed objections to NFMU's Application; and;

WHEREAS, recognizing the expense and uncertainty of continuing this proceeding, the parties desire to effectuate a settlement.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. The foregoing recitations are true and correct and incorporated herein by this reference.
2. OPC, Ludington, Gill and Devine shall voluntarily dismiss their objections to NFMU's Application, and shall support the granting of the Application.
3. Commencing with service rendered on and after September 1, 1999, NFMU will bill each resident of Buccaneer Estates based upon NFMU's approved Residential Service rate schedule, i.e., a base facility charge (currently \$10.98 per month) plus a charge per thousand gallons of water registered on the meter (currently \$3.98 per 1,000 gallons). The parties acknowledge that NFMU obtains water meter reading information from Buccaneer Water Company.
4. NFMU waives any right to collect its service availability charges from the residents of Buccaneer Estates. NFMU warrants that it alone owns all of Snowbirdland Vistas, Inc. and MHC-

DeAnza Financing Limited Partnership's (collectively, "Park Owner") right, title and interest to any pass-through charges that could ever be collected from the residents of Buccaneer Estates, under Chapter 723, Florida Statutes, concerning Buccaneer Estates' interconnection with NFMU wastewater collection and treatment system. As the sole owner of this right to collect any pass-through charges collectible from the residents, pursuant to this change of wastewater provider, NFMU does hereby waive the collection of any such pass-through charges from the residents. NFMU also expressly cancels, as if paid, any such pass-through charges that could be collected from the residents, pursuant to this interconnection, forever holding the residents harmless from the payment of any pass-through charges, potentially collectible under Chapter 723, Florida Statutes, relating to Buccaneer Estates' interconnection with NFMU's system.

5. The residents shall not pay for wastewater service through August 31, 1999.

6. This agreement does not affect the rights of the residents of Buccaneer Estates to pursue their contract rights against the Park Owner under Chapter 723, Florida Statutes.

7. The parties agree that this Settlement Agreement is entered into to resolve a unique situation and shall not be relied upon as precedence in any future proceeding.

8. The parties agree to recommend that the Order to Show Cause proceeding against NFMU should be dismissed without penalty to NFMU.

9. The signatories warrant and represent that they have the authority to execute this Agreement and to bind their respective parties.

10. This Settlement Agreement shall be submitted to the Commission panel at the September 7, 1999 agenda.

NORTH FORT MYERS UTILITY, INC.

OFFICE OF PUBLIC COUNSEL

\_\_\_\_\_  
By: A.A. Reeves, IIII, Vice President

\_\_\_\_\_  
By: Jack Shreve

\_\_\_\_\_  
Ronald Ludington

\_\_\_\_\_  
Donald Gill

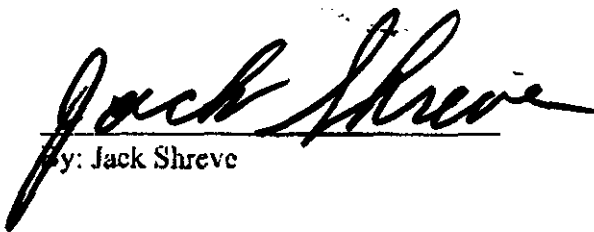
\_\_\_\_\_  
Joseph Devine

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NORTH FORT MYERS UTILITY, INC.

OFFICE OF PUBLIC COUNSEL

\_\_\_\_\_  
By: A.A. Reeves, III, Vice President

  
\_\_\_\_\_  
By: Jack Shreve

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Donald Gill

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August 31, 1999

ROBERT M. C. ROSE  
OF COUNSEL

Jennifer Brubaker, Esquire  
Florida Public Service Commission  
Legal Division  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 981781-SU; Application for Extension of Service in  
Lee County, Florida to Buccaneer Estates  
Our File No. 16319.29

Dear Jennifer:

Enclosed please find the original signature page of A.A.  
Reeves, III, from the Settlement Agreement which Marty asked me to  
forward to you. Should you have any questions, please do not  
hesitate to give me a call.

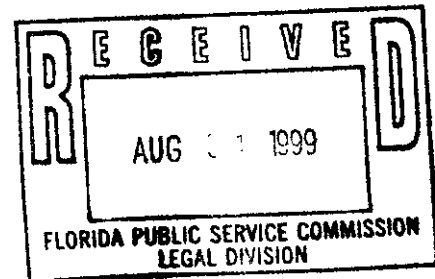
Very truly yours,



Bronwyn S. Revell Moderau  
Secretary to  
MARTIN S. FRIEDMAN  
For the Firm

/brm

cc: Steve Reilly, Esquire (via fax)



10. This Settlement Agreement shall be submitted to the Commission panel at the August 31, 1999 agenda.

NORTH FORT MYERS UTILITY, INC.

OFFICE OF PUBLIC COUNSEL

  
By: A.A. Reeves, III, Vice President

\_\_\_\_\_  
By: Jack Shreve

\_\_\_\_\_  
Richard Ludington

\_\_\_\_\_  
Donald Gill

\_\_\_\_\_  
Joseph Devine

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