

COMMISSIONERS:  
LISA POLAK EDGAR, CHAIRMAN  
MATTHEW M. CARTER II  
KATRINA J. MCMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL  
MICHAEL G. COOKE  
GENERAL COUNSEL  
(850) 413-6199

Public Service Commission

December 21, 2007

COMMISSION  
CLERK

07 DEC 21 AM 11: 55

RECEIVED-FPSC

Akerman Law Firm  
H. McLean/T. Engelhardt, Esquires  
106 E. College Avenue, Ste. 1200  
Tallahassee, FL 32302-1877

Rose, Sundstrom & Bentley, LLP  
M.S. Friedman/C.W. Marcelli, Esq.  
2180 W. State Road 434, Ste. 2118  
Longwood, FL 32279

Rose, Sundstrom & Bentley, LLP  
R. C. Brannan, Esquire  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

**Re: DOCKET NO. 070109-WS - Application for amendment of Certificates 611-W and 527-S to extend water and wastewater service areas to include certain land in Charlotte County by Sun River Utilities, Inc. (f/k/a MSM Utilities, LLC)**

**In re: Use of attached Draft Prehearing Order at the Prehearing Conference scheduled for January 3, 2008, in Docket No. 070109-WS**

Dear Messrs. McLean, Englehardt, Friedman, Brannan and Marcelli:

Attached is my proposed draft of the Prehearing Order which I plan to use at the Prehearing Conference scheduled for 9:30 a.m., on January 3, 2008. Please review and advise of any changes or questions you may have. The Stipulated Issues Section is particularly where I am not sure how we are to proceed. Page 6 of the Order Establishing Procedure specifically states in pertinent part:

Unless a matter is not at issue for that party, each party shall take a position on each issue by the time of the Prehearing Conference or by such later time as may be permitted by the Prehearing Officer. If a party is unable through diligence and good faith efforts to take a position on a matter at issue for that party, it shall explicitly state in its Prehearing Statement why it cannot take a position. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue, and the party's position shall be shown as "no position" in the Prehearing Order.

DOCUMENT NUMBER - DATE

912301111

FPSC-COMMISSION CLERK

December 21, 2007

Upon further review of the testimony, exhibits, and the prehearing statements, staff now believes that it agrees with the utility as regards Issues 2, 3, and 4. I have discussed with the County as to whether they could stipulate to Issues 2 and 3. Also, it appears that Issue 4 might be a stipulation. Even if the County does not agree to a stipulation, the Prehearing Officer could rule that by taking "No Position," these issues could be considered waived by the County and become, in effect, a stipulation between Staff and the utility. In any event, please review closely all sections and advise me of any problems by no later than the close of business on December 26, 2007, if at all possible.

Also, I understand that work is proceeding on development of a demonstrative exhibit that could be used at hearing. I am not sure if we can get everything on one sheet, and someone has suggested using plastic overlays. In addition to a large poster or map that we could put on an easel, I would like to get duplicates of whatever we put on the easel on 11x14" paper that could be available for all Commissioners, staff, and the parties. If I could see what is being proposed by no later than December 27, 2007, I would greatly appreciate it.

The attached Draft Prehearing Order is to be used as a tool and is subject to any rulings by the Prehearing Officer. If you have any questions, I will be back in the office at 7:00 a.m., on December 27, 2007 (leaving at 11:00 a.m., on December 21, 2007 – today). Your attention in this matter is greatly appreciated.

Sincerely,



Ralph R. Jaeger  
Senior Attorney

RRJ

Enclosure

cc: Office of Commission Clerk (w/o enclosure)  
Division of Economic Regulation (Daniel, Walden)  
Charlotte County Attorney (Burton)