

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Bluefield Utilities, LLC  
to operate a water and wastewater utility  
in Martin and St. Lucie Counties, Florida

DOCKET NO. 090459-WS

RECEIVED-FPSC  
10 MAR 25 PM 2:17  
COMMISSION  
CLERK

**BLUEFIELD'S MOTION TO COMPEL DISCOVERY**

Bluefield Utilities, LLC, by and through its undersigned attorneys, hereby files its Motion to Compel against Fort Pierce Utility Authority and would state as follows:

1. On January 19, 2010, Bluefield served requests for production and interrogatories on Fort Pierce Utility Authority by facsimile. Pursuant to Rule 28-106.206, Florida Administrative Code, responses were due on February 18, 2010. As of this date, nothing has been filed in response to either the request for production or the interrogatories.<sup>1</sup>

2. Rule 28-106.204(3) requires that Motions include a statement that the movant has conferred and shall state whether the party has any objection to the Motion. Attached find a letter sent via facsimile (over two weeks after the discovery responses were due) providing that a Motion to Compel would be filed if no discovery to the response was forthcoming. The letter provided that a Motion to Compel would be the resort of last choice. Unfortunately, no information was produced as a result of the properly tendered discovery nor as a result of the letter.<sup>2</sup>

3. Rule 28-106.206, Florida Administrative Code, provides that "after commencement of a proceeding, parties may obtain discovery through the means and in the

manner provided in Rules 1.280 through 1.390, Florida Rules of Civil Procedure. In this case,

COM \_\_\_\_\_  
APA \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
RAD \_\_\_\_\_  
SSC \_\_\_\_\_  
ADM \_\_\_\_\_  
OPC \_\_\_\_\_  
CLK \_\_\_\_\_

<sup>1</sup> The request for production was also a public records request. While the non-response to the public records request is not within the realm of the Commission's jurisdiction, it is troubling nonetheless.  
<sup>2</sup> Nor as result of the public records request.

no substantive authority or argument is provided in support of the specific discovery which is the subject of this Motion because this is a case of non-response (by objection or otherwise).

WHEREFORE, and in consideration of the above, Bluefield respectfully requests that the Fort Pierce Utility Authority be directed, within five days of any Order granting this Motion, to produce responses to the discovery without objection; and, within seven days of the date of any Order granting this Motion, to produce any responsive documents (whether provided as responsive to Interrogatories or Requests to Produce) in the offices of Tallahassee counsel for Bluefield.

Respectfully submitted this 25th day of  
March, 2010, by:



JOHN L. WHARTON  
FL BAR ID NO. 563099  
F. MARSHALL DETERDING  
FL BAR ID NO. 515876  
ROSE, SUNDBSTROM & BENTLEY, LLP  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301  
(850) 877-6555  
(850) 656-4029 FAX

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished  
via facsimile and U.S. Mail this 25th day of March, 2010, to:

Caroline Klancke, General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Theresa J. Fontana, Assistant City Attorney  
121 S.W. Port St. Lucie Boulevard  
Port Saint Lucie, FL 34984

Michael Minton  
Lee Dobbins  
1903 South 25<sup>th</sup> Street, Suite 200  
Fort Pierce, FL 34947

Fort Pierce Utilities Authority  
c/o R.N. Koblegard, III  
200 S. Indian River Drive, Suite 201  
Fort Pierce, FL 34950

Stephen Fry, Martin County Attorney  
2401 Southeast Monterey Road  
Stuart, FL 34996

Daniel S. McIntyre, County Attorney  
2300 Virginia Avenue  
Fort Pierce, FL 34982



JOHN L. WHARTON

f:\bluefield\motion to compel discovery mcbooc

LAW OFFICES

**ROSE, SUNDBSTROM & BENTLEY, LLP**

www.rsbatorneys.com

Please Respond to the Tallahassee Office

FREDERICK L. ASCHAUER, JR.  
CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, P.A.  
JOHN J. FUMERO, P.A.  
BRIDGET M. GRIMSLEY  
JOHN R. JENKINS, P.A.  
KYLE L. KEMPER  
CHRISTIAN W. MARCELLI

STEVEN T. MINDLIN, P.A.  
THOMAS F. MULLIN  
CHASITY H. O'STEEN  
BRIAN J. STREET  
WILLIAM E. SUNDBSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON

ROBERT M. C. ROSE, (1924-2006)

March 4, 2010  
VIA FACSIMILE

R. N. Koblegard, III  
200 South Indian River Drive  
Suite 201  
Fort Pierce, FL 34950

Re: Grove Land Utilities, LLC; PSC Docket No. 090445-WS - Our File No. 44072.01  
Bluefield Utilities, LLC; PSC Docket No. 090459-WS - Our File No. 44073.01

Dear Mr. Koblegard:

On January 19, 2010, FPUA received Request for Production and Interrogatories from this office in both of the above-referenced dockets. Your responses were due on February 18, 2010. Please see Rule 28-106-206, Fla. Admin. Code. As of this date, we have heard nothing from you with regard to this discovery. While we would prefer not to resort to a Motion to Compel or such other action under the statutes as is appropriate for public records requests (as our Requests for Production were clearly labeled), if we have not received complete responses to our discovery from you by next Wednesday, March 10, 2010, we will have no choice but to file a Motion to Compel. If FPUA does not intend to continue to participate in these cases as a party, please so clearly indicate on the record and you may thereafter consider our discovery and the public records requests withdrawn.

Please be advised that given this inexplicable lack of response to our discovery and public records requests, any objection to either our discovery or the public records requests will not be well received.

---

2548 BLAIRSTONE PINES DRIVE, TALLAHASSEE, FLORIDA 32301 (850) 877-6555 FAX (850) 656-4029

2180 WEST STATE ROAD 434, SUITE 2118 LONGWOOD, FLORIDA 32779 (407) 830-6331 FAX (407) 830-8522

950 PENINSULA CORPORATE CIRCLE, SUITE 2020 BOCA RATON, FL 33487 (561) 982-7114 FAX (561) 982-7116

---

March 4, 2010  
Page 2

Thank you in advance for your attention to this matter. We look forward to your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Wharton". The signature is fluid and cursive, written in a professional style.

ROSE, SUNDSTROM & BENTLEY, LLP  
John L. Wharton  
For The Firm

JLW/tms

cc: Ralph Jaeger, Esq.  
Caroline Klancke, Esq.