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Public Service Commission

February 14, 2003

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COMMISSION
CLERK

Herbert Hein
13880 East Highway 40
Silver Springs, FL 34488

Herbert Hein
East Marion Sanitary Systems, Inc.
4225-G Miller Road, #190
Flint, MI 48507-1227

Re: Lease Submitted in Docket No. 010869-WS - Application for Staff-Assisted Rate Case in Marion County by East Marion Sanitary Systems, Inc.

Dear Mr. Hein:

As I stated in my "fax" sent to you on February 7, 2003, a copy of the signed lease must be mailed to:

Division of the Commission Clerk and Administrative Services
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
Reference: Docket No. 010869-WS

Also, as I stated in that "fax", such a lease must be recorded pursuant to Section 695.01, Florida Statutes, and staff needs proof that the lease has been recorded.

Upon review of the lease, I have several concerns and will meet with staff to discuss those concerns. However, my primary concern is with Section 32, entitled "No Construction." That Section states, "No construction shall be commenced on any portion of either parcel without the prior written consent of Lessor." This seems to contradict Section 4, which gives the Lessee the right to "alter, improve, repair, rebuild, remove, replace, construct, reconstruct, operate and maintain Systems . . . as may be necessary for efficient delivery of utility services If the Department of Environmental Protection, or some other regulatory agency (including this Commission), requires improvements or expansion and there is space on the parcels in question, does the utility first have to obtain permission of the Lessors? Please explain how the parties to this agreement interpret

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Herbert Hein
Page 2
February 14, 2003

these provisions, and under what conditions would the lessors be able to block or deny such construction.

Please submit a copy of the lease, written proof of recording, and a response to the above-noted questions concerning Sections 4 and 32 by no later than March 17, 2003.

Sincerely,



Ralph R. Jaeger
Senior Attorney

RRJ:jb

cc: Division of the Commission Clerk and Administrative Services
Division of Economic Regulation (Moniz, Davis, Fitch, Lingo, Rendell, Willis)

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