

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL  
FILE COPY

In re: Application for Certificates )  
to provide Water and Wastewater ) DOCKET NO.: 961321-WS  
Service in Clay County by Point )  
Water and Sewer, Inc. ) Date Submitted for  
 ) Filing: June 8, 1997

PREHEARING STATEMENT OF  
THE POINT PROPERTY OWNERS ASSOCIATION, INC.

The Point Property Owners Association, Inc. ("Association"), pursuant to Commission Order No. 97-PSC-0245-PCO-WS, as amended by Commission Order No. 97-346-PCO-WS, by and through its undersigned attorneys, hereby files its prehearing statement in this proceeding with the Florida Public Service Commission ("Commission").

A. WITNESSES

Direct Testimony Witnesses:

1. Steven C. Glenn  
319 Scenic Point Lane  
Orange Park, FL 32067

Subject Matter:

Identify the territory requested to be served ("Requested Area"). Describe the two customers in the Requested Area, the Point and Whitney's Marina ("Whitney"). Provide a history concerning the provision of utility service to the Requested Area and the related companies, including Point Water and Sewer, Inc. ("PWS"), which have provided such service, and the transfers among the utility companies. Discuss the failure of the utility companies and their owners to obtain Commission approval for such transfers. Discuss the relationship of the utility and its owners with the customers of the utility. Explain that neither the Association nor the residents of the Requested Area want PWS to be granted certification to serve the Requested Area. State that the Association desires the Requested Area be served by Clay County Utility Authority ("CCUA" or "Authority"). Comment on a preferred course of action for the Commission in this docket. Discuss certain complaints about the quality of service by PWS. Identify the lack of available fire flow service from PWS for the Requested Area. Comment on PWS's lack of financial ability to provide water and wastewater service in the Requested Area. Explain why it is

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not in the public interest for the Commission to grant the certification to PWS.

2. Mark J. Easterling  
324 Scenic Point Lane  
Jacksonville, FL 32067

Subject Matter:

Identify the Requested Area. Describe the customers in the Requested Area. Identify an alternative source for water and wastewater service to the Requested Area. Comment on the Clay County Comprehensive Plan and its requirements concerning connections of package wastewater treatment plants to regional systems. Provide a comparison of the rates of PWS and CCUA. Comment on the low level of rate base in PWS. Discuss the adverse effect on rates in the event of an alleged investment by PWS. Detail PWS's lack of financial ability to operate the utility system, including discussions of PWS's rate base level, PWS's equity level, current debt level of PWS, future debt level of PWS, PWS's low return on rate base, future losses of PWS, and PWS's lack of economies of scale. Discuss the cost to connect the Requested Area to CCUA's system. Identify other customers which also would connect to CCUA's system in conjunction with the Association's connection. Discuss problems with the quality of service by PWS. Discuss the relationship of the Association and its members with the utility owners and their relatives. Explain that it is not public interest for the Commission to grant PWS's application. Discuss Commission actions which would be in the public interest.

3. Kristen A. Smeltzer  
Florida Department of Environmental Protection  
7825 Baymeadows Way, Suite 200B  
Jacksonville, FL 32256

Subject Matter:

Comment on the type and capacity of the wastewater plant of providing service to the Association and Whitney ("Point Plant"). Confirm the status of the Point Plant's permit. Discuss the usual disposal methods for treated effluent. Confirm that the CCUA has service mains in the vicinity of the Requested Area. Identify which CCUA wastewater treatment plant would serve the Requested Area, its current permit status and whether it has capacity to serve the Requested Area. Discuss the policy of FDEP preferring

connection of package treatment plants to regional wastewater systems, where feasible.

4. Carol Matthews  
Stewards of the Saint Johns River, Inc.  
2744 Old River Road  
Jacksonville, FL 32223

Subject Matter:

Identify the nature of Stewards of the Saint Johns River, Inc. ("Stewards"). State the preference of Stewards for the connection of package wastewater treatment plants which discharge into the St. Johns River to regional systems in lieu of the continued operation of such package plants.

5. Roy R. Lewis, III  
Lewis Environmental Services  
5454 Jet View Circle  
Tampa, FL 33634

Subject Matter:

Discuss the results of his inspection of the waters of the St. Johns River adjoining the Requested Area, including the decline in the size of the tape grass meadow. Discuss the impact that the destruction of the tape grass will have on the environment. Discuss whether it is in the public interest for PWS's outfall line to continue to discharge into the St. Johns River. Explain why it is not in the public interest for PWS to serve the Requested Area.

**B. EXHIBITS**

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
MJE-1	Mark J. Easterling	Letter & Maps from Authority
MJE-2	Mark J. Easterling	Clay Comprehensive Plan Excerpts
MJE-3	Mark J. Easterling	Map of Small Water Plants
MJE-4	Mark J. Easterling	Map of Small Wastewater Plants
MJE-5	Mark J. Easterling	Map of Urban Service Areas

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
MJE-6	Mark J. Easterling	Map of Centralized Service Areas
MJE-7	Mark J. Easterling	Map of Regional Water Plants
MJE-8	Mark J. Easterling	Map of Regional Wastewater Plants
MJE-9	Mark J. Easterling	Authority Resolution No. 96/97-01
MJE-10	Mark J. Easterling	SARC Staff Recommendation
MJE-11	Mark J. Easterling	Rate Comparison-PWS and Authority
MJE-12	Mark J. Easterling	April 29, 1997 Letter from Kemp
MJE-13	Mark J. Easterling	Impact of Investment on Revenues
SCG-1	Steven C. Glenn	SARC Staff Recommendation
SCG-2	Steven C. Glenn	Letter and Proposed Sale Agreement
SCG-3	Steven C. Glenn	Vanda Yonge Note
RRL-1	Roy R. Lewis III	Resume of R. Lewis

The Association reserves the right to utilize exhibits obtained during discovery in this matter, provided in the testimony of others, used by other parties in this matter, or to be used for cross examination.

**C. STATEMENT OF BASIC POSITION**

The Commission should deny PWS's application for a certificate to serve the Requested Area. PWS has not met its burden of proof to be granted a certificate. Furthermore, it is not in the public interest for the Commission to grant PWS's application and allow PWS to serve the Requested Area. Connection of the package treatment plants, like the Point Plant, to regional systems will be required in the future. Such a connection can be accomplished

now by denying PWS's application, requiring PWS to connect to CCUA's system, and requiring PWS to transfer its utility facilities to CCUA. PWS has almost no investment in the system except pro forma plant (i.e., plant which has not been invested yet), working capital, and its projected costs of this certification. PWS does not have the financial ability to pay its debts. PWS does not have the financial ability to own and operate the utility system. PWS and the customers are in a very adversarial relationship, with both sides suing each other. The rates charged by PWS are staggeringly high, especially when a regional utility with normal rates and charges is 150 feet away. It is in the public interest for CCUA, and not PWS, to serve the Requested Area.

**D. STATEMENT OF ISSUES AND POSITIONS - QUESTIONS OF FACT**

**ISSUE 1:** Is the application for an original certificate ("Application") to serve a certain area ("Requested Area") by Point Water and Sewer, Inc. ("PWS"), in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for an original certificate?

**Position:** No.

**ISSUE 2:** Does PWS have the financial ability to own and operate the utility system?

**Position:** No.

**Witnesses:** Glenn and Easterling.

**ISSUE 3:** Does PWS have the technical ability to own and operate the utility system?

**Position:** No.

**ISSUE 4:** Is the quality of service provided by PWS satisfactory?

**Position:** No.

**Witnesses:** Glenn and Easterling.

**ISSUE 5:** Does PWS provide an adequate level of fire flow service?

Position: No.

Witness: Glenn.

ISSUE 6: Is water and wastewater service available from another utility?

Position: Yes.

Witnesses: Glenn, Easterling, and Smeltzer.

ISSUE 7: Can the public in the Requested Area be adequately served by modifying or extending the current system of Clay County Utility Authority ("CCUA")?

Position: Yes.

Witnesses: Glenn and Easterling.

ISSUE 8: Do the customers in the Requested Area support the application of PWS to serve the Requested Area?

Position: No. The customers in the Requested Area desire to be served by CCUA.

Witnesses: Glenn and Easterling.

ISSUE 9: Should the utility system serving the Requested Area be connected to a regional system when it is available?

Position: Yes.

Witnesses: Glenn, Easterling, Smeltzer, Lewis, and Matthews.

ISSUE 10: Is it in the public interest for the Florida Public Service Commission ("Commission") to grant PWS's application for an original certificate?

Position: No.

Witnesses: Glenn, Easterling, Lewis, Smeltzer, and Matthews.

ISSUE 11: Should the Commission require PWS to connect to CCUA's system and transfer its utility system to CCUA?

Position: Yes.

Witnesses: Glenn and Easterling.

ISSUE 12: Should the Commission require PWS to refund the funds it has collected from its customers?

Position: Yes.

Witnesses: Glenn and Easterling.

ISSUE 13: Did PWS and its related predecessors obtain a certificate from the Commission prior to providing service?

Position: No.

Witness: Glenn.

ISSUE 14: Should the Commission issue a show cause order why PWS, its owners, and related parties should not be fined for failure to obtain a certificate prior to providing service?

Position: Yes.

Witness: Glenn.

ISSUE 15: Did PWS and its related predecessors obtain Commission approval of their transfers of utility assets, certificates, or majority organization control?

Position: No.

Witness: Glenn.

ISSUE 16: Should the Commission issue a show cause order why the utility, its owners, and related parties should not be fined for failure to obtain Commission approval prior to transfers?

Position: Yes.

Witness: Glenn.

ISSUE 17: Do PWS's books and records comply with the Uniform System of Accounts?

Position: No.

E. STATEMENT OF ISSUES AND POSITIONS - QUESTIONS OF LAW

Questions of Law are interwoven with the Questions of Fact identified herein. For convenience, the Association has left those issues in that section rather than repeating them here.

F. STATEMENT OF ISSUES AND POSITIONS - QUESTIONS OF POLICY

Questions of Policy are interwoven with the Questions of Fact and Law identified herein. For convenience, the Association has left those issues in their respective sections rather than repeating them here.

G. STATEMENT OF ISSUES THAT HAVE BEEN STIPULATED TO BY THE PARTIES

There are no issues stipulated at this time by the Association, PWS, and the Staff.

H. STATEMENT AS TO PENDING MOTIONS AND OTHER MATTERS

There currently is pending before the Commission the Association's Motion for Leave to Amend Testimony of Steven C. Glenn by Point Property Owners Association, Inc.

I. STATEMENT AS TO PROCEDURAL REQUIREMENTS THAT CANNOT BE COMPLIED WITH, AND THE REASONS THEREFORE

The Association is aware of no requirements of the Order Establishing Procedure entered in this matter with which the Association has not complied.

Respectfully submitted this 8th day of June, 1997.

HAYES & LINDELL, P.A.  
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Attorneys for The Point Property  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that an original and fifteen copies of the Prehearing Statement of the Point Property Owners Association, Inc. have been furnished to Blanca Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Betty Easley Conference Center, Room 110, Tallahassee, Florida 32399-0850, by Express Mail, this 8th day of June, 1997, and copies of the foregoing Prehearing Statement of the Point Property Owners Association, Inc. have been furnished to J. Michael Lindell, Esquire, Hayes & Lindell, P.A., 233 E. Bay Street, Suite 620, Jacksonville, Florida 32202; Kathleen M. Johnson, Staff Counsel, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; Margaret O'Sullivan Parker, Staff Counsel, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; and Douglas H. Reynolds, Esquire, Cox & Reynolds, 4875 North Federal Highway, 10th Floor, Fort Lauderdale, Florida 33308, Attorneys for Point Water and Sewer, Inc., by U.S. Mail, this 8th day of June, 1997.

Scott G. Schildberg  
Attorney