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OFFICE OF THE PUBLIC COUNSEL

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September 15, 1997

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. ~~960444~~ AWU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Prehearing Statement.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

- ACK
- AFA 1
- APP _____
- CAF _____
- CMU _____
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- LEG 1 HM:bsr
- 3 Enclosures
- LIN _____
- OPP _____
- RC _____
- SEL 1
- WAS Willis
- OTH _____

Sincerely,

Harold McLean
Associate Public Counsel

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DOCUMENT NUMBER-DATE
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EPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate increase and)
for increase in service availability charges)
in Lake County by Lake Utility Services,)
Inc.)
_____ /

Docket No 960444-WU
Filed: September 15, 1997

CITIZENS' PREHEARING STATEMENT

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, pursuant to Rule 25-22.038(3) and to the provisions of Order PSC-97-0710-PCO-WU, file their prehearing statement as follows:

1. All Known Expert Witnesses:

Hugh Larkin, Jr.
15728 Farmington Road
Livonia, Michigan 48154

2. All Known Exhibits:

None. However, the testimony of Hugh Larkin, Jr. includes appendix I setting forth his qualifications as an expert witness.

3. Basic Position:

Under color of protesting the Commission's proposed agency action (PAA) order, Lake Utility Services, Inc. (LUSI) brings a new case to the commission. Whereas the Commission found support for LUSI's original request lacking, LUSI now brings to the Commission purported support which it should and could have adduced at the outset. In the instant protest, LUSI eschews its earlier used and useful methodology, substituting therefore methodology appropriate to much smaller utilities.

Although LUSI now purports to present support for its earlier request, the

DOCUMENT NUMBER-DATE
09367 SEP 15 97
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purported support does not rise to a quality upon which this Commission can base any decision to increase rates. With respect to used and useful, LUSI is essentially protesting its own filing.

The Citizens of the State of Florida (Citizens) respectfully submit that the protest should be denied and the PAA order should stand without modification.

4. Issues and Citizens' Position:

Questions of fact

Issue 1:

Is the \$103,440 adjustment to plant in service adopted by the Commission in its PAA order appropriate?

Position:

Yes. The Commission should rely on the staff calculation unless the company can provide maps which show errors in calculations were made. (Larkin)

Issue 2:

Is the company-suggested addition to plant in service represented by the interconnection transmission mains of \$901,181.51 appropriate?

Position:

No. The support for the purported investment in the interconnection mains is poorly supported and ought to be disallowed. LUSI had adequate opportunity to present support during the PAA process but inexplicably failed to do so. (Larkin)

Issue 3:

Are the interconnection mains used and useful to the provision of utility service to the public?

Position:

No. Mr. Seidman's testimony alleges that the interconnections cannot be considered in the used and useful calculation, and that the six systems must be evaluated, for used and useful purposes, on a stand alone basis. (Larkin).

Issue 4:

Is the calculation of used and useful as reflected in the PAA accurate insofar as the lot count is concerned?

Position:

Yes. The staff's lot count is accurate based upon the information furnished by LUSI in its MFR's. (Larkin)

Issue 5:

Is the used and useful methodology included in the PAA appropriate?

Position:

Yes. It is the methodology supported by LUSI in the MFR's. Witness Seidman's testimony advocates a methodology materially different from that upon which the PAA is based, which in its turn, was furnished by LUSI itself. The Citizens believe that LUSI should be estopped from impeaching the case it filed originally. (Larkin)

Issue 6:

Is the level of CIAC reflected in the PAA order appropriate?

Position:

Yes. (Larkin)

Issue 7:

Should any additional rate case expense be recognized as a result of LUSI's protest of the PAA order?

Position:

No. LUSI is utilizing the protest procedure to bolster its original filing, and in the case of used and useful methodology, impeach its own case to its own advantage. All of the substance of the protest should have been presented to the Commission in LUSI's original filing. Had it been presented, the Commission could have reflected the credible parts of the now new case in its PAA and the need for protest of the PAA order. The additional rate case expense occasioned by the protest and potential hearing is the fault of LUSI's having neglected much in its original filing, which it now seeks to correct. (Larkin)

Questions of Law

Issue 8:

Is the utility estopped from advocating a used and useful methodology which materially differs from that advocated in its MFR's and which differs from that upon which the Commission relied in its PAA order.

Position:

Yes.

The Citizens are aware of no stipulated items, no pending motions, and no requirement of this prehearing order with which it cannot comply.

Respectfully submitted,

Jack Shreve
Public Counsel

A handwritten signature in black ink, appearing to be 'H. McLean', written over the printed name of Harold McLean.

Harold McLean
Associate Public Counsel

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Attorneys for the Citizens
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CERTIFICATE OF SERVICE
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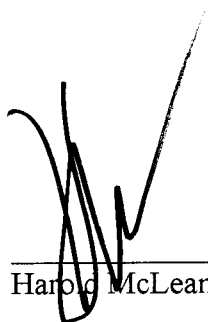
I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S.

Mail or hand-delivery to the following party representatives on this 15th day of September, 1997.

Richard D. Melson
Hopping, Boyd, Green & Sams
123 South Calhoun Street
P.O. Box 6526
Tallahassee, FL 32314

Lake Utility Services, Inc.
200 Weathersfield Avenue
Altamonte Springs, FL 32714-4027

Tim Vaccaro
Division of Legal Services
Fla. Public Service Commission
2740 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



Handwritten signature of Harold McLean, consisting of a stylized, cursive 'H' and 'M'.

Harold McLean