

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Bayside Mobile Home Park)
against Bayside Utilities Services, Inc. regarding)
water and sewer service in an area within a)
territory assigned by the Commission)
_____)

DOCKET NO. 010726-WS

Filed: June 6, 2001

BAYSIDE UTILITY SERVICES, INC.'S
RESPONSE TO COMPLAINT

COMES NOW Bayside Utility Services, Inc., and in response to the complaint filed with the Florida Public Service Commission by Bayside Mobile Home Park, states that:

1. A complaint dated May 10, 2001, and styled "Formal Filing of A Protest" was filed on behalf of Bayside Mobile Home Park, by and through its owner, Dorothy Burton. The complaint seeks the following relief:

I formally ask the Commission to immediately order Bayside Utility Services, Inc. to install the necessary sewer lines, manholes, and water distribution lines in order to supply service to the area within their territory. I would also ask that the Commission order the utility company to reimburse me for the sewer and water engineering costs I have already expended. [Complaint, page 2.]

2. Ms. Burton is not only owner of the mobile home park, but she has been, and upon information and belief, still is, president of J. Jevne, Inc. and of Jevne Enterprises, Inc., which are involved in development in the area of Panama City Beach, Florida.

3. Until 1999, the utility which serves the mobile home park was Bayside Utilities, Inc., of which Ms. Burton was president and owner. In 1999, the assets of the utility, and the right to serve the certificated territory, were transferred from Bayside Utilities, Inc. to Bayside Utility Services, Inc., a wholly owned subsidiary of Utilities, Inc. By Consummating

Order No PSC -99-2040-CO-WS issued on October 18, 1999, in Docket No. 981403-WS, the Florida Public Service Commission approved the transfer of the utility to a Bayside Utility Services, Inc. The City of Panama City Beach provides water and wastewater treatment, and Bayside Utility Services, Inc. is a “pass-through” utility, owning and operating the lines in the service area.

4. The developer/mobile home park now plans to expand its park by what is represented to be a total of 76 additional mobile home and single family residential lots. Upon information and belief, some of the existing mobile home lots were previously sold to the residents and some are still owned by the developer. The developer is expecting to make a profit from the sale of the 76 residential lots.

5. Utilities, Inc. owns and operates many water and wastewater utility systems in Florida, as well as in other states. As a matter of practice and business judgment, Utilities, Inc. has not entered the development business. Its exclusive business is providing water and wastewater services to customers through its subsidiaries in various locations in Florida and elsewhere.

6. Generally, a utility subject to regulation by the Florida Public Service Commission is required to serve customers in its service area. However, there are exceptions to that requirement. One of those exceptions is when the proposed extension is not economically feasible. This is just such an exception. See Rule 25-30-515(7), F.A.C. The utility could not earn a fair return on the cost installing the facilities described in the complaint.

7. Representatives of the utility have communicated with and have even met several times with representatives of the developer. Several copies of correspondence between the

parties were attached to the complaint. However, it should be noted that the tariff attached to the complaint is the tariff in effect when the utility was owned by the owner of the mobile home park.

8. It is roughly estimated that the cost of installing the lines requested by the developer would be at least \$100,000. Originally, the developer also demanded that the utility pay the connection fees (the sum of the “tap-on fee” and the “impact fee”) imposed by the City of Panama City Beach, totaling approximately \$185,000. An agreement has been reached whereby the City will accept payment of the connection fees, on a lot-by-lot basis, to be paid by the new customer when the customer hooks up to the utility service. However, the developer still wants to shift a significant part of the risk of development from itself to Bayside Utility Services, Inc. by requiring it to invest in the water and wastewater lines when there is no assurance that the utility would ever recover any revenues from the “investment”. The investment initially would not be used and useful in providing water and wastewater services because there are no customers for those 76 lots. The utility could be left holding the bag for the developer’s profit-making venture. And even if the Public Service Commission were to agree that the total investment, or even a large portion of it, was used and useful in providing utility services to the current utility customers, that would unfairly shift the developer’s risk, and its cost, to the current utility customers. The developer should bear its own risk for its profit-making venture, and not try to shift its risk either to the utility or to the utility’s customers.

9. In an effort to resolve the matter, the utility even met in mediation with a Staff member of the Public Service Commission, but the matter could not be resolved. The

developer is insistent upon not having to bear the risk of its profit-making venture.

10. Bayside Mobile Home Park is an existing real estate development, and the owner is now developing 76 additional lots adjacent to its existing development. The Park is not an individual customer, although the Park is served by a master meter. Rule 25-30.585, F.A.C. sets out the parameters for establishing service availability charges for real estate developments. The rule requires that:

Subject to the limitation of Rules 25-30.580, service availability charges for real estate developments shall not be less than the cost of installing the water transmission and distribution facilities [Emphasis added.]

Rule 25-30-580, F.A.C., sets guidelines for the minimum and maximum CIAC for the utility as a whole. As long as the charges imposed on the development do not cause the CIAC level for the utility system to be in violation of guidelines, they meet the limitations of 25-30.580, F.A.C.

11. Attachment "A" contains pages F-1(a), F-1(b), and F-2(b) of the Annual Report for Bayside Utility Services, Inc. for the year ending December 31, 2000. It shows that total net utility plant is \$325,442 and total net CIAC is \$14,679. Therefore, the utility's percent CIAC is 4.5%, significantly less than the amount required by the Rules.

12. Bayside Utility Services, Inc. is ready and willing to enter into an agreement with Bayside Mobile Home Park to provide service if the Park either (1) builds the required distribution and collection facilities and contributes them or (2) pays the utility, in advance, the full cost of constructing the necessary distribution and collection facilities. As previously stated, the estimated cost of the necessary facilities is over \$100,000. An

agreement that sets service availability charges that match the cost of the distribution facilities meets the requirement of Rule 25-30.585, F.A.C. and will improve the system's ratio of net CIAC to net plant from 4.5% to approximately 27%.

13. Bayside Utility Services, Inc. denies that there is any basis upon which relief may be granted on the complaint. The utility has explained its action in the disputed matter and the extent to which those actions were consistent with applicable statutes and regulations. It has also describe the attempts to resolve the customer's complaint.

WHEREFORE, Bayside Utility Services, Inc. responds to the complaint filed by Bayside Mobile Home Park and asserts that: 1) it is not economically feasible for the utility to extend the lines to the developer's new development; 2) it is not required that a utility assume all or part of the financial cost, or the risk of failure, of a developer's investment; 3) the developer alone stands to make a profit from the development, and the utility will not profit from the sale of the lots or residences placed thereon; 4) the complaint should be denied.

RESPECTFULLY SUBMITTED, this 6st day of June, 2001.



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Attorney for
Bayside Utility Services, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent to the following by U.S. mail this 6st day of June, 2001.

Bayside Mobile Home Park
Attention: Dorothy Burton
6325 Big Daddy Drive
Panama City Beach, FL 32407

Ralph Jaeger, Esq.
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



Ben E. Girtman

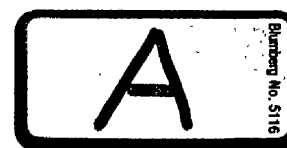
UTILITY NAME: BAYSIDE UTILITY SERVICES INC

YEAR OF REPORT
31-Dec-00

**COMPARATIVE BALANCE SHEET
ASSETS AND OTHER DEBITS**

ACCT. NO. (a)	ACCOUNT NAME (b)	REF. PAGE (c)	PREVIOUS YEAR (d)	CURRENT YEAR (e)
UTILITY PLANT				
101-106	Utility Plant	F-7	\$ 588,078	\$ 587,735
108-110	Less: Accumulated Depreciation and Amortization	F-8	246,226	262,293
Net Plant			\$ 341,852	\$ 325,442
114-115	Utility Plant Acquisition adjustment (Net)	F-7	(80,572)	(78,308)
116 *	Other Utility Plant Adjustments			
Total Net Utility Plant			\$ 261,280	\$ 247,134
OTHER PROPERTY AND INVESTMENTS				
121	Nonutility Property	F-9	\$	\$
122	Less: Accumulated Depreciation and Amortization			
Net Nonutility Property			\$	\$
123	Investment In Associated Companies	F-10		
124	Utility Investments	F-10		
125	Other Investments	F-10		
126-127	Special Funds	F-10		
Total Other Property & Investments			\$	\$
CURRENT AND ACCRUED ASSETS				
131	Cash		\$	\$ -
132	Special Deposits	F-9	150	150
133	Other Special Deposits	F-9		
134	Working Funds			
135	Temporary Cash Investments			
141-144	Accounts and Notes Receivable, Less Accumulated Provision for Uncollectible Accounts	F-11	24,708	26,008
145	Accounts Receivable from Associated Companies	F-12		
146	Notes Receivable from Associated Companies	F-12		
151-153	Material and Supplies			
161	Stores Expense			
162	Prepayments			
171	Accrued Interest and Dividends Receivable			
172 *	Rents Receivable			
173 *	Accrued Utility Revenues			
174	Misc. Current and Accrued Assets	F-12		
Total Current and Accrued Assets			\$ 24,858	\$ 26,158

* Not Applicable for Class B Utilities



UTILITY NAME: BAYSIDE UTILITY SERVICES INC

YEAR OF REPORT 31-Dec-00

**COMPARATIVE BALANCE SHEET
ASSETS AND OTHER DEBITS**

ACCT. NO. (a)	ACCOUNT NAME (b)	REF. PAGE (c)	PREVIOUS YEAR (d)	CURRENT YEAR (e)
	DEFERRED DEBITS			
181	Unamortized Debt Discount & Expense	F-13	\$ _____	\$ _____
182	Extraordinary Property Losses	F-13	_____	_____
183	Preliminary Survey & Investigation Charges		_____	_____
184	Clearing Accounts		_____	_____
185 *	Temporary Facilities		_____	_____
186	Misc. Deferred Debits	F-14	_____	-
187 *	Research & Development Expenditures		_____	_____
190	Accumulated Deferred Income Taxes		_____	-
	Total Deferred Debits		\$ _____ -	\$ _____ -
	TOTAL ASSETS AND OTHER DEBITS		\$ <u>286,138</u>	\$ <u>273,292</u>

* Not Applicable for Class B Utilities

NOTES TO THE BALANCE SHEET

The space below is provided for important notes regarding the balance sheet.

UTILITY NAME: BAYSIDE UTILITY SERVICES INC

**COMPARATIVE BALANCE SHEET
EQUITY CAPITAL AND LIABILITIES**

ACCT. NO. (a)	ACCOUNT NAME (b)	REF. PAGE (c)	PREVIOUS YEAR (d)	CURRENT YEAR (e)
DEFERRED CREDITS				
251	Unamortized Premium On Debt	F-13	\$ _____	\$ _____
252	Advances For Construction	F-20	_____	_____
253	Other Deferred Credits	F-21	_____	_____
255	Accumulated Deferred Investment Tax Credits		-	-
Total Deferred Credits			\$ <u> -</u>	\$ <u> -</u>
OPERATING RESERVES				
261	Property Insurance Reserve		\$ _____	\$ _____
262	Injuries & Damages Reserve		_____	_____
263	Pensions and Benefits Reserve		_____	_____
265	Miscellaneous Operating Reserves		_____	_____
Total Operating Reserves			\$ <u> -</u>	\$ <u> -</u>
CONTRIBUTIONS IN AID OF CONSTRUCTION				
271	Contributions in Aid of Construction	F-22	\$ <u> 52,911</u>	\$ <u> 52,911</u>
272	Accumulated Amortization of Contributions in Aid of Construction	F-22	36,715	38,232
Total Net C.I.A.C.			\$ <u> 16,196</u>	\$ <u> 14,679</u>
ACCUMULATED DEFERRED INCOME TAXES				
281	Accumulated Deferred Income Taxes - Accelerated Depreciation		\$ <u> 2,674</u>	\$ <u> 4,001</u>
282	Accumulated Deferred Income Taxes - Liberalized Depreciation		_____	_____
283	Accumulated Deferred Income Taxes - Other		1,476	3,563
Total Accumulated Deferred Income Tax			\$ <u> 4,150</u>	\$ <u> 7,564</u>
TOTAL EQUITY CAPITAL AND LIABILITIES			\$ <u> 286,138</u>	\$ <u> 273,292</u>