

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Highlands County by the Woodlands of Lake Placid, L.P.

DOCKET NO.: 020010-WS


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NOTICE OF FILING

Petitioners, HIGHVEST CORPORATION ("Highvest"), and L.P. UTILITIES CORPORATION ("L.P."), by and through their undersigned attorneys, hereby notices the filing of the Pre-filed Testimony of John Lovelette in the above-referenced docket.

Respectfully submitted on this 31st day of January, 2003, by:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this 31st day of January, 2003, to:

Katherine Echternacht, Esquire
Florida Public Service Commission
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Tallahassee, FL 32399-0850

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By: 

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BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 020010-WS

L.P. UTILITIES CORPORATION

AND

HIGHVEST CORPORATION

DIRECT TESTIMONY OF

JOHN LOVELETTE

REGARDING THE APPLICATION FOR

STAFF ASSISTED RATE CASE

IN

HIGHLANDS COUNTY

1 TESTIMONY OF JOHN LOVELETTE
2 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
3 REGARDING THE STAFF ASSISTED RATE CASE
4 HIGHLANDS COUNTY
5 BY L.P. UTILITIES CORPORATION
6 AND
7 HIGHVEST CORPORATION
8 DOCKET NO. 020010-WS

9 Q. Please state your name, occupation and business address for the record.

10 A. My name is John Lovelette. As it relates to this case, I am a Director of L.P. Utilities
11 Corporation, the current owner of the water and wastewater assets formerly owned
12 by The Woodlands of Lake Placid, L.P.

13 Q. Are you familiar with an entity called "The Woodlands of Lake Placid, L.P."?

14 A. Yes, I am. That is a limited partnership with a Florida corporation named Camper
15 Corral, Inc., as its general partner. Anthony Cozier is the President and sole
16 shareholder of Camper Corral, Inc.

17 Q. Do you hold any position with The Woodlands of Lake Placid, L.P., or Camper
18 Corral, Inc.?

19 A. I was employed by The Woodlands of Lake Placid, L.P., as its manager. I am not a
20 partner nor have I ever been a partner in The Woodlands of Lake Placid, L.P. I have
21 not held any office with Camper Corral, Inc.

22 Q. Are you familiar with the mortgage given by The Woodlands of Lake Placid, L.P.,

1 which was subsequently assigned to Highvest Corporation?

2 A. Yes, I am. In connection with the purchase of The Woodlands development,
3 including the utility, The Woodlands of Lake Placid, L.P., borrowed the purchase
4 price from the Nancy Ayers Charitable Remainder Trust, and executed a mortgage
5 to the Trust. That Trust is unrelated to The Woodlands of Lake Placid, L.P., Camper
6 Corral, Inc., or L.P. Utilities Corporation. When that mortgage went into default,
7 there were some issues regarding the Trust holding a non-performing asset, and the
8 mortgage was assigned to Highvest Corporation, of which Nancy Ayers, individually,
9 is the sole shareholder. Anthony Cozier is President of Highvest Corporation and I
10 am Vice-President.

11 Q. Since you and Mr. Cozier were involved in managing The Woodlands of Lake Placid
12 L.P., why would you foreclose the mortgage as that business' asset?

13 A. As officers of Highvest Corporation, we have a fiduciary duty to the shareholder, and
14 since The Woodlands of Lake Placid, L.P., could not pay the mortgage, which was
15 on the real estate as well as the utility assets, we had no option but to foreclose. They
16 are separate entities with separate owners, and thus, separate interests.

17 Q. What transpired as a result of the foreclosure action?

18 A. On July 3, 2002, a foreclosure complaint was filed with regard to that mortgage and
19 a Final Judgment was entered by the circuit judge on August 7, 2002. The property,
20 which consisted of the real estate and utility assets, was sold on the courthouse steps
21 at a public sale, on September 4, 2002. AS is typically the case, no one bid more
22 than the amount of the Final Judgment and Highvest Corporation purchased the

1 property, which included the utility system. Since Highvest Corporation is not in the
2 business of operating utility systems, nor did it want to, it conveyed the utility assets
3 almost immediately to L.P. Utilities Corporation and took back a Note and Mortgage.
4 Highvest Corporation kept the development lots.

5 Q. Are you familiar with L.P. Utilities Corporation?

6 A. Yes, I, along with my wife and Mr. Cozier, am a director of that corporation. The
7 corporation is owned by Anbeth Corporation which is owned by Mr. and Mrs.
8 Cozier, who are also the directors.

9 Q. Do you dispute the amount of revenue which the Commission Staff believes will be
10 received by L.P. Utilities, Inc., from the Resort's rental R.V. lots.

11 A. Yes, I do. The owner of the R.V. lots has advised that it will physically disconnect
12 those lots from the water and wastewater system. Thus, it is in appropriate to impute
13 any revenue to the R.V. park.

14 Q. Does the Utility operate out of an office?

15 A. Yes, the Utility shares an office with the Camp Florida Sales Office.

16 Q. Does the Utility pay rent for use of that office?

17 A. They have not since taking over the Utility on October 1st of last year because there
18 have been insufficient funds with which to do so.

19 Q. What do you believe to be a reasonable rent?

20 A. Based upon comparable office space, reasonable rent is \$300.00 per month.

21 Q. Has the law firm of Rose, Sundstrom & Bentley, LLP, been retained to represent the
22 Utility in this proceeding?

1 A. Yes. And we have agreed to pay \$225 per hour plus reimbursement of reasonable
2 expenses.

3 Q. Do you have an estimate of rate case expense to complete this proceeding through
4 final Commission action?

5 A. Yes, we estimate legal rate case expense in the amount of \$60,000.00.

6 Q. Have you compared the revenues which the Utility would have received based upon
7 the metered rates with the flat rate which the Utility was previously charging.

8 A. Yes. In October, 2002, based upon the flat rate the Utility would have received
9 \$6,326.00, and based upon the PSC recommended rates, the Utility would have
10 received \$7,420.26. Thus, the Utility had a deficit of \$1,094.26 for October, 2002.
11 In November, 2002, the flat rate would have yielded revenues of \$6,326.00 and the
12 metered rates would have yielded revenue of \$7,649.74 for a deficit of \$1,323.74.
13 In December, 2002, the flat rate would have yielded revenues of \$6,326.00, and the
14 metered rates would have yielded revenues of \$9,907.52 for a deficit of \$3,581.52.
15 The total deficit for the quarter was \$4,691.52. Since the flat rates yielded less
16 revenues than the metered rates, how could the Utility's existing rates be excessive,
17 and thus subject to refund?

18