

ORIGINAL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL



JACK SHREVE  
PUBLIC COUNSEL

c/o The Florida Legislature  
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Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

June 26, 2003

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

JUN 26 4:31 PM '03  
COMMISSION  
CLERK

RE: Docket No. 020010-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens Motion to Order L.P. Utilities to Cease Activities to Sell Utilities for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Burgess  
Deputy Public Counsel

SCB/dsb  
Enclosures

AUS  
CAF  
CMP  
COM 3  
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DOCUMENT NUMBER-DATE  
05711 JUN 26 8  
FPSC-COMMISSION CLERK

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

\_\_\_\_\_ )  
In re: Application for )  
certificates to operate a water )  
and wastewater utility in )  
Highlands County by The )  
Woodlands of Lake Placid, L.P., )  
and for deletion of portion of )  
wastewater territory in )  
Certificate No. 361-S held by )  
Highlands Utilities Corporation. )  
\_\_\_\_\_ )

DOCKET NO. 990374-WS

FILED: June 26, 2003

**CITIZENS MOTION TO ORDER**  
**L.P. UTILITIES TO CEASE ACTIVITIES TO SELL UTILITIES**

The Citizens of the State of Florida, through their attorney, the Public Counsel, hereby move the Commission to order L.P. Utilities to refrain from transferring any assets or facilities, or any portion thereof, until such time as the Commission finalizes the financial issues that have been raised in the current rate case and disposes of all transfer issues being considered in Docket No. 990374-WS. Further, the Citizens move the Commission to require L.P. Utilities to inform its customers of this order and to inform its customers that the Commission has not placed a value on the utility's facilities. As grounds, the Citizens submit:

1. OPC has been informed that Mr. John Lovelette, as president of the Camp Florida Property Owners' Association (POA), has sent a ballot to each of the POA members for them to vote whether to purchase L.P. Utilities for a specified price. The ballot was accompanied by a letter which represented that \$409,959 is "the current value placed on these facilities by the Public Service

Commission.” The ballot and its accompanying letter are attached.

2. The utility should be ordered immediately to cease its involvement in this action for the reasons specified in following paragraphs 3 through 10.

3. When Highvest foreclosed on the utility property owned by Woodlands of Lake Placid, L.P., it was obligated by Section 367.071(6), Florida Statutes, to provide a means for continuity of service. Highvest chose to meet its legal obligation through an arrangement with L.P. Utilities. This transfer of ownership is already being used by the utility as an excuse to avoid refunding illegally collected rates. Any further ownership convolution will be used by the utility simply to add another smokescreen for avoiding a refund. Until the current refund issues are fully resolved, the utility should be prohibited from complicating the matter further.

4. L.P. Utilities does not even have the certificate of authorization necessary to provide utility service on a permanent basis. Since it does not have the certificate of authorization, it obviously cannot transfer the certificate to another party. It is still in the process of seeking PSC approval of for the transfer of the certificate from Woodlands of Lake Placid, L.P. in Docket No. 990374-WS. There are a number of controversial issues that must be resolved in this docket before the status of the certificate is known. The obligations and commitments of both L.P. Utilities and Highvest must be considered by the PSC. All of these transfer issues will be complicated multifold if L.P. Utilities is allowed to sell its utility operations before it even obtains the certificate of authorization. The Commission should first resolve all of the current transfer issues before L.P. Utilities is allowed to sell its utility operations.

5. Although Mr. Lovelette signed the letter as president of the POA, the letter contained several specific representations about the financial value of the utility. Since Mr. Lovelette is manager of

L.P. Utilities, those financial representations naturally are being taken as communication from the utility. Unfortunately, the information about L.P. Utilities is not an accurate reflection of the utility's worth. Two major inaccuracies contained in the letter are:

- (a) the letter fails to recognize more than \$30,000 in CIAC that is at issue and that likely will be deducted from the rate base.
- (b) the letter fails to account for the refund liability that the current owner is obligated to make.

6. Between the two issues (a) and (b), above, the value of the system is overstated by well in excess of \$100,000. This inaccurate financial picture is greatly exacerbated by the representation that the valuation opinion comes directly from the PSC. The utility is using the imprimatur of the PSC to mislead its customers to a false security on the accuracy and objectivity of the valuation numbers. The timing of this letter and ballot appears designed to obtain a purchase price inflated by these inaccuracies. L.P. Utilities should not be allowed to make representations on valuation until all relevant issues are resolved in Docket No. 020010-WS.

7. If the POA purchases the utility under the conditions specified in Mr. Lovelette's letter, the specific customers who are entitled to a refund of the illegally collected rates will not receive their due. Instead, that benefit would simply disappear under the purchase plan proposed by Mr. Lovelette.

8. The Citizens are also concerned that if the sale proceeds before the Commission grants approval, there will be certain aspects that cannot be reversed, even if later ordered by the Commission. With its majority control, Highvest can dictate the sale and levy and collect the initial cost from the POA members. Even if the Commission later voids the sale, the POA members might not get their money back.

9. Finally, if L.P. Utilities is allowed to go forward at this point, the new sale would raise the same questions that have not yet been resolved for the existing transfer docket. These issues could be complicated greatly if another transaction is thrown into the mix.

10. Section 367.071(1), Florida Statutes, prohibits a utility from selling its certificate or any portion of its facilities without approval of the PSC and a determination that the sale is in the public interest. Since it is currently involved in a transfer docket, L.P. Utilities is well aware of this statutory requirement. While the statute does allow a sale to occur contingent upon Commission approval, that provision is entirely inappropriate under the current circumstances. L.P. Utilities is currently involved in a transfer docket. All issues surrounding Certificate No. 361-S, as well as any other asset transfer issues involving L.P. Utilities are currently under the direct control of Docket No. 990374-WS. Accordingly, under the auspices of that docket, the Commission has the authority to order L.P. Utilities and its officers to refrain from any further activity that involves the transfer of any of its utility assets or certificate No. 361-S. Further, there are several unresolved rate issues currently under consideration in Docket No. 020010-WS. In particular, the proper treatment for refunding illegally collected rates will be resolved in that docket. The Commission should thwart L.P. Utilities' transparent effort to prevent the Commission from imposing the proper refund treatment. The Commission has a regulatory obligation to the customers to ensure that these issues are brought to completion. Under the auspices of Docket No. 020010-WS, the Commission has authority to prevent L.P. Utilities from erecting this roadblock to proper regulation.

11. For all of the foregoing reasons specified in paragraphs 3 through 10, above, the Commission should order L.P. Utilities and its officers and employees to cease from activities directed toward the sale of L.P. Utilities, or the transfer of certificate No. 361-S. Further, the Commission should require

L.P. Utilities to send a letter to its customers informing them of this order and informing them that its previous valuation numbers do not reflect the opinion of the PSC.

WHEREFORE, the Citizens of the State of Florida respectfully move the Commission to impose on L.P. Utilities the requirements specified in paragraph 11, above.

Respectfully submitted,

JACK SHREVE  
Public Counsel



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Stephen C. Burgess  
Deputy Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

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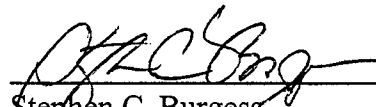
Attorneys for the Citizens of the  
State of Florida

**CERTIFICATE OF SERVICE  
DOCKET NOS. 020010-WS and 990374-WS**

I HEREBY CERTIFY that a true and exact copy of the above and foregoing CITIZENS MOTION TO ORDER L.P. UTILITIES TO CEASE ACTIVITIES TO SELL UTILITIES has been furnished by hand delivery or U.S. Mail to the following parties of record this 26th day of June, 2003.

Lawrence Harris, Esquire\*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
600 S. North Lake Boulevard, Suite 160  
Altamonte Springs, FL 32701

  
\_\_\_\_\_  
Stephen C. Burgess  
Deputy Public Counsel

Camp Florida Property Owners Association, Inc.

100 Shoreline Drive  
Lake Placid, FL 33852

June 6, 2003

Dear Property Owner:

As you are aware, L.P. Utilities, Inc. (LPU) is the current owner of the water and sewer utilities servicing Camp Florida Resort. These utilities are for sale and as the manager I am responsible for dealing with prospective buyers who are presently showing an interest in purchasing these utilities.

As President of the Association and a homeowner in the community, I met with Evelyn Clough, President of the Camp Florida Commons Recreation Association, to discuss the possibility of the POA giving consideration to purchasing these utilities on behalf of the property owners of Camp Florida Resort.

We have met with Mr. Cozier, the President of the corporation who owns LPU, to discuss the terms and conditions by which the POA could effect such a purchase. We give below the terms and conditions agreed upon:

1. LPU would sell the water and sewer plant and land thereon for the price of \$409,959.00, (plus closing costs), which is based on the current value placed on these facilities by the Public Service Commission.

The water plant is valued at \$218,618.00.

The sewer plant is valued at \$191,341.00.

2. Financing of 100% of the purchase price would be made available at a guaranteed rate of 6.99% interest, over a period of 120 months or 180 months – covering whichever term the Association agreed upon.

3. The purchase price over 120 months, based on 397 property owners, would be \$11.64 per month.

4. The purchase price over 180 months, based on 397 property owners, would be \$9.01 per month.

This means that Camp Florida Resort would now become a community serviced by utilities that is controlled by its property owners, not some outside corporation.

What is required to operate these facilities?

The servicing of the utilities is presently undertaken by Short Utilities. They are responsible for the testing and documentation as required by the State and are licensed operators by the State of Florida.



Answers to some questions you may have about the proposed purchase of the utility.

**Will my utility bill be lower after the purchase?** More than likely, depending on your monthly use of water, also the Association will have less expense than the current owner and will ask the PSC for a Staff Assisted Rate Case (SARC) to determine a new rate. One reason being the debt service will be less and the POA doesn't need the 7.11% rate of return the PSC set for the existing utility. The wastewater system can be separated and taken out from PSC jurisdiction saving 4.5% every year.

**Who will operate the system?** The system has to be operated by a licensed operator as it currently is. The day to day operations can be handled by a part-time person under the Boards supervision, and someone to read meters once a month.

**Who will handle maintenance and repairs?** Simple repairs such as a broken line to a faucet will be done by the person doing the day to day operations. Major repairs will have to be done by a contractor as is the practice now.

**Who benefits from this purchase?** The members of the POA first and foremost. The members get to control the water and wastewater system that they use and depend on. It could be sold to a firm who is not based here in Lake Placid and is impersonal.

**What happens if the Association does not purchase the utility?** That is hard to say, but currently the utility owner has little or no interest in owning or operating these utilities. The utilities are for sale and the owner has had contact with persons interested in the possible purchase of the utility.

**Who determined the value of the system?** The PSC set the value of the system for the current rate case after gathering information from many sources and using their staff to arrive at the value.

Basic information on the current system and the existing rates and proposed rates.

The system is all in good working condition with the system being in operation for approximately 13 years. There are two wells, a 6" and a 10" well with a stand by generator. There are no outstanding deficiencies for either system and both the water and waste water systems are operating under permitted capacity.

Per the Florida Public Service Commission (PSC) the following are the current rates and proposed rates based on three different consumption levels:

Gallons	Existing Rates		Recommended Rates (Single Family)	
	water	wastewater	water	wastewater
3,000	\$22.00	\$13.00	\$13.19	\$11.61
5,000	\$22.00	\$13.00	\$17.69	\$15.12
10,000	\$22.00	\$13.00	\$28.94	\$23.91

The accounting, banking and payment of invoices are presently undertaken by Colley Financial Services.

The day-to-day operation of the utilities could, therefore, be under the direction of the Association. I presently manage the utilities and I am familiar with the operation. I would be available to continue to carry out these duties until such time as the Board chooses.

However, most importantly, the ownership of these utilities could also be a major factor in supporting a manager for the Resort, which members have indicated the desire to have. Some of the duties as a manager could be the day to day operations, minor repairs and reading meters and as such the costs would be a part of the monthly utility bill.

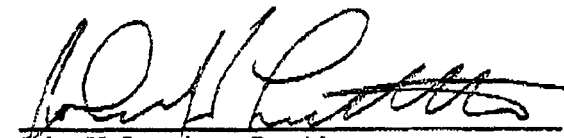
To effect such a purchase in accordance with the By-Laws of the Camp Florida Property Owners Association and because the purchase price would be in excess of \$5,000.00, the Board would require prior approval of the majority of members of the Association.

Will the developer vote on this issue? As a property owner, each lot is entitled to one vote, per our governing documents. This is America and if you choose not to vote that is your choice, if the developer chooses to vote, that is his choice. I urge each and everyone to vote, because every vote counts. We don't have hanging chads to worry about and there isn't an electoral vote involved, just a simple majority of those that vote. So your vote will count, so take the time to read this information. Call me if you have questions, but vote. By voting you have a say in this issue.

As such, we are enclosing a ballot and the Board is asking that you exercise your right to vote and return the ballot in the enclosed stamp, self addressed envelope no later than June 30<sup>th</sup>, 2003.

Your immediate attention is appreciated.

For and on behalf of the Board of Directors of  
Camp Florida Property Owners Association



John H. Lovelette, President

# BALLOT

\_\_\_\_\_ I vote **IN FAVOR** of purchasing the water and sewer plant and land thereon for the purchase price of \$409,959.00, plus closing costs.

\_\_\_\_\_ I **DO NOT** vote **IN FAVOR** of purchasing the water and sewer plant and land thereon for the purchase price of \$409,959.00.

\* \* \* \* \*

If you vote against this purchase, please write your reasons below in order for the Board to take your concerns into consideration and to contact you with resolution (if necessary).

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**ONCE AGAIN**, please take a few minutes and cast your vote. It costs you nothing as a stamped, self-addressed envelope is provided for your convenience.

**PLEASE RETURN NO LATER THAN June 30, 2003.**

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Lot Number(s)