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March 4, 1993

JOHN R. WODRASKA
SPECIAL CONSULTANT
(NOT A MEMBER OF THE FLORIDA BAR)

Mr. Steve Tribble, Director
Division of Records & Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

RE: Turkey Creek Utilities, Inc.
Docket No. [REDACTED]


Dear Mr. Tribble:

Enclosed please find the original and fifteen copies of a
Petition On Proposed Agency Action filed on behalf of our client,
Turkey Creek Utilities, Inc.

Should you have any questions or concerns regarding the
above, please do not hesitate to contact me at your earliest
convenience.

Sincerely,

ROSE, SUNDBSTROM & BENTLEY


John L. Wharton, Esq.
For The Firm

ADR ✓
ATA _____
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AEP _____
CAF _____
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CCT ✓ JLW/lm
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: Application for certificates)
to provide water and wastewater)
service in Alachua County under)
grandfather rights by TURKEY CREEK,)
INC. & FAMILY DINER, INC. d/b/a)
TURKEY CREEK UTILITIES)
_____)

DOCKET NO. 921098-WS

PETITION ON PROPOSED AGENCY ACTION

Turkey Creek Utilities, by and through undersigned counsel, and pursuant to Rule 25-22.036, Fla. Admin. Code, hereby files this Petition On Proposed Agency Action and in support thereof would state and allege as follows:

1. The name and address of the applicant is:

Turkey Creek Utilities
2900 Turkey Creek Boulevard
Alachua, Florida 32615

2. The Utility's authorized representative for the filing of this Petition is:

John L. Wharton, Esquire
Rose, Sundstrom & Bentley
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

3. On February 10, 1993, this Commission issued its Notice Of Proposed Agency Action Order Granting Certificate Nos. 550-W And 480-S, Approving Rates And Requiring Refund. Turkey Creek states and alleges that its substantial interests have been and will be affected by any finality of this Commission Order and that the following disputed issues of law and/or fact exist:

A. Whether the proposed rates, fees, and charges for Turkey Creek are less than the rates, fees, and charges to which Turkey Creek is entitled as a matter of fact and law.

On June 30, 1992 the Board of County Commissioners of Alachua County adopted a resolution pursuant to § 367.171, Fla. Stat., declaring that, as of June 30, 1992, the water and wastewater utilities in that county would become subject to the provisions of Chapter 367, Fla. Stat. Prior to that time, Turkey Creek operated in a de facto regulatory vacuum in which it notified, pursuant to informal agreement, the City of Alachua of the status of its rates, fees and charges and any changes or proposed changes thereto. However, the City, as a matter of law and fact, had no regulatory authority over the Utility, nor was there any lawful or factual requirement (or right) for the City to "approve" Turkey Creek's rates.

Pursuant to Chapter 367, Fla. Stat., and established Commission policy, Turkey Creek was entitled to have "grandfathered" its authority to assess those rates, fees and charges which it was entitled to assess on June 30, 1992. The Commission's PAA proposes to allow Turkey Creek to assess certain rates, fees and charges which are less than those which Turkey Creek was authorized to charge on June 30, 1992.

B. Whether under Chapter 367, Fla. Stat., and ample Commission precedent, Turkey Creek is entitled to be "grandfathered" its entire service territory.

Section 367.171 (2)(b), Fla. Stat. requires that a utility applying for a grandfather certificate shall file with the Commission both "a map of its existing system . . ." and "a description of the area served by the system . . ." (emphasis added). The territory which the Commission proposes to certificate to Turkey Creek is less than the territory served by the Turkey Creek system and is less than the territory to which Turkey Creek is entitled under law and Commission precedent. Turkey Creek's physical plant and appurtenant facilities were specifically designed to serve a well-delineated and established service area and, in point of fact, no other utility exists or is proposed to exist which could serve those areas. Turkey Creek alleges, on information and belief, that the Commission utilized a non-rule policy in determining the amount of territory that Turkey Creek should be granted.

C. Whether the Commission's Order contains an ambiguity as to whether Turkey Creek can continue to assess certain rates, fees or charges, including those on which there is apparently no dispute that Turkey Creek was both authorized and actually charging said rates, fees or charges on June 30, 1992.

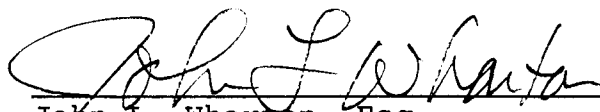
Turkey Creek alleges that the Commission's proposed order, as constructed, could deprive Turkey Creek of its ability to assess certain rates, fees, or charges to which it is entitled under law and Commission precedent.

D. Whether the Commission's Order, in all respects, is in compliance with Florida law, any rules or non-rule policies of the Commission, and Commission precedent.

4. Turkey Creek is entitled, under law and Commission precedent, to be "grandfathered" all of the rates, fees and charges which it was authorized to charge on June 30, 1992, and to have "grandfathered" all of that "area served by the system", pursuant to Section 367.171(2)(b), Fla. Stat.

WHEREFORE, and in consideration of the above, Turkey Creek respectfully requests the Commission grant such relief as requested herein and such other relief as the Commission deems proper.

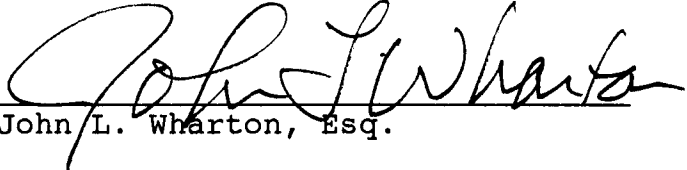
DATED this 4th day of March, 1993.



John L. Wharton, Esq.
Rose, Sundstrom & Bentley
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(904) 877-67555

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been by Regular U.S. Mail to Karen Asher-Cohen, Esq., Division of Legal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32301 on this 4th day of March, 1993.


John L. Wharton, Esq.