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June 17, 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, SUNDSTROM & BENTLEY



John L. Wharton, Esq.  
For The Firm

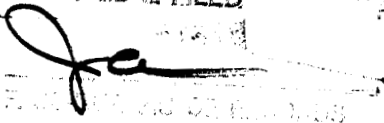
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cc. Mr. Norwood Hope

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DOCUMENT NUMBER-DATE

06533 JUN 17 88

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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. [REDACTED]

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 May 27, 1993, this Commission issued its Notice Of Proposed Agency Action Order Requiring Reduction In Utility Charges, Refund Of Accrued Interest On Customer Deposits, Installation Of Irrigation Meters, Replacement Of Certain Residential Meters, And Revision Of Service Application. 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:

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A. Whether the proposed rates, fees, charges, and conditions of service for Turkey Creek are less than or different than the rates, fees, charges, and conditions of service 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 precedent and policy, Turkey Creek was entitled to have "grandfathered" its authority to assess those rates, fees, charges, and conditions of service which it was entitled to assess or operate under on June 30, 1992. The Commission's PAA proposes to authorize Turkey Creek to implement certain rates, fees, charges, and conditions of service which are less than or different than those which Turkey Creek was authorized to charge or operate under on June 30, 1992.

B. Order No. PSC-93-0816-FOF-WS proposes to disallow certain public fire protection charges assessed by the Utility to the Turkey Creek Master Owners Association on both a retroactive and prospective basis. The Commission's decision in this regard was arbitrary, capricious, unsupported by the facts, and contrary to the Commission's statutory and duly enacted rule-making authority. Additionally, the Order did not accurately reflect the Commission's vote on the issue which was rendered at the Commission's May 4, 1993 Agenda Conference.

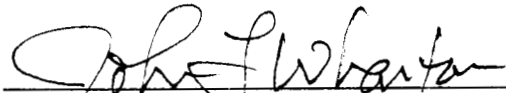
C. Order No. PSC-93-0816-FOF-WS proposes to reduce, or otherwise alter, Turkey Creek's miscellaneous service charges, customer deposits, late payment fees, and various other service availability charges to other than those rates, fees, charges, and conditions of service which were duly in effect on the date Alachua County transferred jurisdictional authority over the water and wastewater utilities within its boundaries to the PSC. The Commission's decision in this regard was arbitrary, capricious, unsupported by the facts, and contrary to the Commission's statutory and duly enacted rule-making authority.

D. Order No. PSC-93-0816-FOF-WS proposes to order Turkey Creek to alter or modify its methods of operation and conditions of service regarding unmetered irrigation uses, meter replacement and applications for service. The Commission's decision in this regard was arbitrary, capricious, unsupported by the facts, and contrary to the Commission's statutory and duly enacted rule-making authority.

4. Turkey Creek is entitled, under law and Commission precedent, to be "grandfathered" all of the rates, fees, charges, and conditions of service which it was authorized to charge or operate under 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 Turkey Creek the authority to implement each and every rate, fee, charge, and condition of service under which Turkey Creek operated or under which Turkey Creek was authorized to operate, on June 30, 1992, and such other as the Commission deems proper.

DATED this 17<sup>th</sup> day of June, 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 Matthew J. Feil, Esq., Division of Legal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32301 on this 17<sup>th</sup> day of June, 1993.

  
\_\_\_\_\_  
John L. Wharton, Esq.

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