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JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
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ORIGINAL
FILE COPY

September 19, 1994

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, FL 32399-0863

RE: ~~Docket No.~~ 930256-WS

Dear Ms. Bayo:

Enclosed please find the original and fifteen (15) copies of Citizens' Motion to Cancel Hearing and Approve Stipulation 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.

RECEIVED & FILED	ACK	_____
<i>Max</i>	AFA	<u>1</u>
FPSC-BUREAU OF RECORDS	APP	_____
	CAF	_____
	CMU	_____
	CTR	_____
	ETG	_____
	LEG	<i>O'Sullivan</i>
	LIN	<u>4</u>
	CPC	_____
	RCH	_____
	SEC	<u>1</u>
	WAS	<i>Rendell</i>
	OTH	_____

Sincerely,

Stephen C. Reilly
Associate Public Counsel

SCR/gr
Enclosures

DOCUMENT NUMBER-DATE
09592 SEP 19 94
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a Rate Increase
in Seminole County by SANLANDO UTILITIES
CORPORATION

)
) DOCKET NO. 930256-WS
) FILED: September 19, 1994
)

FILED
SEP 19 1994

MOTION TO CANCEL HEARING AND APPROVE STIPULATION

The Citizens of the State of Florida (Citizens) on behalf of the ratepayers and all of the other parties to this proceeding hereby request the Commission to cancel the hearing scheduled for September 26 and 27, 1994 and approve the attached Stipulation resolving the issues in this docket, and state:

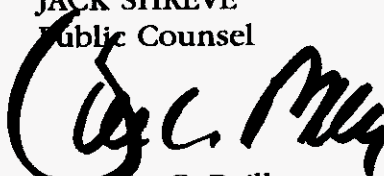
1. On this same day, September 19, 1994 all of the parties to this proceeding entered into a Stipulation Agreement, attached hereto and made a part hereof, resolving all of the issues presented in this docket.
2. In light of the above Stipulation the Commission should cancel the hearing scheduled for September 26 and 27, 1994.
3. The Commission's Staff should review the attached Stipulation and prepare a recommendation concerning the Stipulation to be considered by the panel at an Agenda Conference to be scheduled as soon as is practical.
4. If the Commission votes to approve the Stipulation we request that it issue a final order consistent with the Stipulation and conduct further proceedings, if and when necessary, as provided in the Stipulation.

5. The Citizens expressly represent that all of the parties to this proceeding have reviewed this motion and join with the Citizens in filing this motion with the Commission.

WHEREFORE, all of the parties to this proceeding hereby respectfully request the Commission to cancel the hearing scheduled for September 26 and 27, 1994 and to approve the attached Stipulation and issue a final order in this docket consistent with the Stipulation.

Respectfully submitted,

JACK SHREVE
Public Counsel



Stephen C. Reilly
Associate Public Counsel

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

(904) 488-9330

Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 930256-WS**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or *hand-delivery to the following parties in this 19th day of September, 1994.

JOHN F. LOWNDES, ESQUIRE
CLEATOUS J. SIMMONS, ESQUIRE
Lowndes, Drosdick, Doster, Kantor
& Reed, P.A.
215 North Eola Drive
Orlando, FL 32801

*MAGGIE O'SULLIVAN, ESQUIRE
Division of Legal Services
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101 E. Gaines Street
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JACK HIATT
1816 Wingfield Drive
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ROBERT E. SWETT
106 Wyndham Court
Longwood, FL 32779



Stephen C. Reilly

ORIGINAL
FILE COPY

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE:)
)
Petition of SANLANDO UTILITIES)
CORPORATION For A Limited)
Proceeding to Implement Water)
Conservation Plan in)
Seminole County)
)

DOCKET NO.: 930256-WS

STIPULATION

THIS STIPULATION is made and entered into among Sanlando Utilities Corporation (Sanlando, utility or company), the Florida Audubon Society (Audubon), Friends of the Wekiva River (Friends), St. Johns River Water Management District (SJRWMD), Office of the Public Counsel (Citizens), Tricia A. Madden, individually and as President of the Wekiva Hunt Club Community Association, Inc. (Association), Jack R. Hiatt (Hiatt), and Robert E. Swett (Swett).

WITNESSETH:

WHEREAS, on March 10, 1993 Sanlando filed a Petition for a Limited Proceeding to implement a water conservation plan which proposes to establish inclining block water rates which would generate additional revenues to be put in an escrow account; and

WHEREAS, the funds in the escrow account would be devoted to the construction of reuse facilities to divert a substantial amount of the utility's wastewater from the Wekiva River to three golf courses and other reuse users; and

WHEREAS, the Florida Public Service Commission (Commission) on December 10, 1993, issued Order No. PSC-093-1771-FOF-WS approving Sanlando's Petition for Limited Proceeding to implement the water conservation plan and requiring the utility to file a proposed

DOCUMENT NO.
07592-94
9/19/94

charge for reclaimed water; and

WHEREAS, Hiatt, Association and Swett filed timely protests to the Commission's Order PSC-93-1771-FOF-WS, the Citizens filed their Notice of Intervention, and the SJRWMD, Audubon and Friends' Petitions to Intervene were granted; and

WHEREAS, after the protests were filed in this docket, the Florida Legislature passed Committee Substitute for House Bill 1305, which was signed into law by Governor Chiles on May 25, 1994 and became Chapter 94-243, Laws of Florida; and

WHEREAS, Chapter 94-243, Laws of Florida, amends Chapter 367, 373, and 403, Florida Statutes, to encourage and promote water conservation and the reuse of reclaimed water in the State of Florida; and

WHEREAS, Chapter 94-243, Laws of Florida, creates Chapter 367.0817, Florida Statutes, which requires the Commission to review utilities' reuse project plans and determine whether the projected costs are prudent and whether the proposed rates are reasonable and in the public interest; and

WHEREAS, Chapter 367.0817, Florida Statutes, requires that all prudent costs of approved reuse facilities shall be recovered in rates and that this recovery can be from the utility's water, wastewater or reuse customers or any combination thereof; and

WHEREAS, Chapter 367.0817, Florida Statutes, authorizes the Commission to approve rates based upon projected costs and permits the rates to be implemented when the reuse project plan is approved or when the project is placed into service.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. The parties agree that a not for profit corporation (the "Corporation") shall be established for the purposes of encouraging water conservation and reuse and for the education of the public on the use of water. The Corporation shall apply for 501-c (3) tax exempt status. Each Sanlando water customer shall be entitled to be a member of the Corporation. The initial Board of Directors of the Corporations shall be composed of nine (9) members, to be constituted as follows:

A. One representative to be appointed by each of the following homeowners associations:

- a. Wekiva Hunt Club Community Association
- b. The Springs Community Association
- c. Wingfield Reserve Homeowners' Association
- d. Wekiva Cove Homeowners Association
- e. Sweetwater Oaks Homeowner's Association
- f. Sable Point Master Association

B. Two representatives to be selected by the six (6) above directors, who are not eligible to be members of any of the above six (6) associations.

C. One representative to be selected by the six (6) above directors, who is a commercial water customer.

At the first annual meeting of the membership a new board of

directors shall be elected by the membership pursuant to the terms of the Bylaws.

The Chief Operating Officer of the Corporation shall be selected by the Corporation, subject to the approval of the Commission and shall be authorized to disburse monies from the escrow account on behalf of the Corporation pursuant to orders of the Commission. The SJRWMD shall be responsible for preparing the Articles of Incorporation, which Articles must be approved by all parties hereto. The SJRWMD shall also be responsible for preparing the initial draft of the Bylaws for the Corporation, which Bylaws must be approved by all parties hereto before final approval by the Corporation. The Articles of Incorporation and Bylaws of the Corporation shall be approved, and modified if necessary by the Commission.

2. The stipulated reuse facility surcharge reflecting the conservation inclining block water rates as set out in Paragraph 9 shall be implemented with all of the subject surcharge being placed in an interest bearing escrow account in the name of the Corporation. The Corporation shall be responsible for and shall pay from the escrow account all prudent expenses, including any and all taxes imposed against the Corporation or Sanlando, fees and permits associated with the collection of the surcharge, establishment of the escrow account, or funding and construction of the reuse facilities. There shall be no tax liability incurred by

Sanlando for acting as the collection agent for the surcharge. Any federal or state income taxes assessed or imposed against Sanlando with respect to the surcharge or the reuse facility shall be paid from the Escrow Account.

Notwithstanding the above, the Corporation or the Office of the Public Counsel, on behalf of the citizens of the State of Florida, shall immediately seek an opinion from the Internal Revenue Service that the collection and remittance by Sanlando of the reuse facility surcharge and the construction of the reuse facility for the Corporation is not taxable. Until this opinion is rendered the reuse facility surcharge shall not be implemented. If the IRS should decide that taxes would be due and owing on the surcharge if implemented, then this matter will be presented to the Commission for further action.

3. The escrow account shall be owned by the Corporation. Reasonable expenses to operate the Corporation shall be paid from the escrow account. If for any reason the reuse facilities are not constructed or completed, unused escrowed funds shall be returned to the customers. Any funds remaining in the escrow account in excess of the cost of the reuse facilities shall be returned to the customers.

4. Sanlando shall function as a collection agent for the Corporation. Sanlando shall be responsible for collecting the surcharge on behalf of the Corporation and depositing them into the

escrow account. The Commission shall be the only entity having control over expenditures from the escrow account. Sanlando, the Corporation and the Commission shall enter into a Tri-Party agreement ("Tri-Party Agreement") which shall specify terms and conditions of making deposits into and withdrawals from the escrow account and the conditions upon which the reuse facilities shall be designed and constructed. Prior to entering into any contract with an engineer, construction company or other party or entity providing services to Sanlando in connection with the design or construction of the reuse facilities, Sanlando will submit the proposed contract for those services to the Commission for its approval. After any contract has been approved by the Commission the Corporation shall, from the escrow account, pay invoices which have been presented pursuant to an approved contract. Any withdrawals of funds from the escrow account shall be subject to the prior approval of the Commission through the Director of the Division of Records and Reporting. The Tri-Party Agreement shall provide, in part, the following:

- a. Sanlando will, at such time as it reasonably believes will give sufficient time to timely complete all design, permitting and other pre-construction tasks, engage an engineering firm of its choice to do engineering design, construction drawings and specifications for the reuse facility. The charges for the engineering work will be paid by the Corporation out of the escrow account upon submittal by Sanlando of invoices received by Sanlando

from the engineer.

- b. Sanlando will be responsible for filing for and obtaining permits for the construction and operation of the reuse facility. All fees for such permits will be paid by the Corporation out of the escrow account. All engineering work required to file for and obtain the permits, together with any legal services required to obtain the permits will be paid for by the Corporation out of the escrow account. Sanlando shall be authorized to engage legal counsel of its choice to perform such legal services without requirement for approval and to incur reasonable legal fees, to be paid from the escrow account.
- c. At such time as the monies in the escrow account equal the estimated cost of construction as determined by the engineer based upon the engineering design, construction drawings and specifications, Sanlando will contract with a construction contractor to install the reuse facility pursuant to the plans and specifications prepared by the engineer and requisite permits issued by state agencies. The cost of construction of the reuse facilities will be paid by the Corporation out of the escrow account as invoices are received by Sanlando from the contractor.

Administering this Stipulation and the Tri-Party Agreement, as well as any contracts between Sanlando and contractors or engineers shall be a ministerial function of the Commission. Sanlando shall

be entitled to meet with the Commission in ex-parte meeting for such administration. Sanlando shall provide courtesy pre-meeting telephonic notice to the Corporation, Executive Director of SJRWMD and Public Counsel who shall be entitled to attend such meetings.

5. The escrow account shall be established pursuant to an agreement between the Corporation and a financial institution, and subject to the terms and conditions of the Tri-Party Agreement. Sufficient surcharge shall be collected and deposited in the escrow account to fund the construction of the reuse facilities (which is estimated to be approximately 1.2 million dollars) and to pay for other necessary incidental expenses, including those mentioned in paragraph 11 below. Sanlando shall obtain no ownership interest in connection with entering into contracts and constructing the reuse facilities as provided for in the Tri-Party Agreement.

6. In addition to being responsible for collecting the surcharge for the Corporation, Sanlando shall also be responsible for constructing and operating the reuse facilities pursuant to the terms and conditions of the Tri-Party Agreement.

7. The reuse facilities shall be owned by the Corporation, with Sanlando being given full authority to operate the reuse facilities pursuant to a lease agreement entered into between Sanlando and the Corporation. The lease shall be in the form of a triple net lease and shall provide that the lessee shall be responsible for maintaining reasonable liability and property damage insurance naming the lessee and the Corporation as insured. The rental for use of the reuse facilities by Sanlando shall be

\$1.00 per year plus, after the escrow account is closed, such additional amounts reasonably necessary to effectively operate the Corporation, including but not limited to annual filings and other administrative costs. All prudent expenses and revenues associated with the operation and maintenance of the reuse facilities and rental paid therefore shall be included in the operating expenses of Sanlando, and be a part of any calculation to determine the utility's revenue requirement for rate setting purposes.

8. Prior to the reuse facilities being placed into service Sanlando shall file with the Commission a proposed charge for the reclaimed water. Upon receiving Sanlando's proposal the Commission shall determine a fair and equitable charge for the reclaimed water.

9. The stipulated conservation inclining block rates (60% of the increase approved by the PAA Order, representing the estimated 1.2 million dollar cost to construct the reuse facilities) to be implemented are:

GALLONAGE CHARGE

USER CLASS	PAA Approved Charge Plus Surcharge per 1,000 gallons	Calculated Surcharge	40% Reduction in Surcharge	Reduced Surcharge	Final Stipulated Rates, Including Surcharge
0 to 10,000 gallons per month (gpm)	\$0.37 *	\$0.00	\$0.00	\$0.00	\$0.37
10,001 to 20,000 gpm	.50	.13	.052	.078	.448
20,001 to 30,000 gpm	.65	.28	.112	.168	.538
over 30,000 gpm	.85	.48	.192	.288	.658
General Service, multi-family and bulk sale users	.60	.23	.092	.138	.508

* Includes \$0.015 for indexed rate increase. Rates in all categories will be subject to index, pass through, or full rate increase adjustments whenever they occur.

10. Sanlando shall file monthly reports and documentation, including but not limited to the calculations setting forth the amount of surcharge collected and the amount of surcharge deposited into the escrow account. When the escrow account is fully funded to construct the approved reuse facilities, the utility shall cease collecting the surcharge and file an amendment to its tariff reflecting at a minimum the following reduction in rates:

GALLONAGE CHARGE

USER CLASS	Removal of Surcharge per 1,000 gallons
0 to 10,000 gallons per month	\$ 0.00
10,001 to 20,000 gallons per month	.078
20,001 to 30,000 gallons per month	.168
over 30,000 gallons per month	.288
General Service, multi-family, and bulk sale users	.138

11. The Commission shall determine Sanlando's reasonable rate case expense for this docket. This approved rate case expense shall be reimbursed from funds deposited into the escrow account. The Wekiva Hunt Club Community Association's and the Florida Audubon Society's and Friends of the Wekiva River's rate case expenses shall also be paid from funds deposited into the escrow account, which shall include continuing expenses to implement all aspects of this Stipulation. .

IN WITNESS WHEREOF, the parties have executed this Stipulation in several counterparts.

Signed, sealed and delivered in the presence of:

W. Jerry Costello
 Name: W. Jerry Costello

Terri Irvin
 Name: Terri Irvin

John F. Lowndes, Esquire
 JOHN F. LOWNDES, ESQUIRE
 Attorney for Sanlando Utilities Corporation

Date: 9-19-94

Judy P. Raulerson
Name: Judy P. Raulerson

Jennifer L. Burdick
Name: Jennifer L. Burdick

Bonnie J. Hart
Name: Bonnie J. Hart

Cheryl A. Markst
Name: CHERYL A. MARKST

Steph. Mally
Name: STEPHEN C. REILLY

Victoria Stalls
Name: VICTORIA STALLS

Pauline Christenson
Name: PAULINE CHRISTENSON

Eileen O. Randall
Name: EILEEN O. RANDALL

Robert E. Swett
Name: _____
Name: _____

P. Vincent
Name: _____

P. Vincent
Name: _____
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Nancy B. Barnard
NANCY B. BARNARD, ESQUIRE
Attorney for St. Johns River
Water Management District

Date: 9-20-94

Charles Lee
CHARLES LEE
Senior Vice President,
Florida Audubon Society and
Representative, Friends of the
Wekiva River

Date: 9/19/94

Jack Shreve
JACK SHREVE, ESQUIRE
Public Counsel on Behalf of the
Citizens of the State of Florida

Date: 9/19/94

Robert L. Taylor
ROBERT L. TAYLOR, ESQUIRE
Attorney for Tricia A. Madden
and Wekiva Hunt Club Community
Association, Inc.

Date: 9/19/94

Robert E. Swett
ROBERT E. SWETT

Date: 9-16-94

Jack Hiatt
JACK HIATT

Date: 9/18/94