



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

November 26, 1996

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Case Nos. 960235-WS
960283-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Response in Opposition to Wedgefield's "Motion to Dismiss or Strike OPC Petition for Hearing". A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

ACK _____

AFA _____

APP _____

CAI _____

CJB:bsr

CHI _____

Enclosure

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2. Wedgefield cites no Commission rule for such a policy, and in fact it can not cite such a rule because none exists. To the extent such a policy exists, it has been enunciated on a case by case basis and applies only to those cases. There is simply no rule or other requirement necessitating an allegation of "exceptional circumstances" in order to be entitled to a hearing.

3. Even if there were such a requirement, the facts alleged in the Citizens' protest of proposed agency action and petition for a §120.57(1) hearing filed on October 28, 1996, easily show such circumstances. The Citizens' petition showed that approximately one year before Econ Utilities Corporation ("Econ") sold its assets to Wedgefield, Econ entered into discussions with the Orange County Public Utilities Division about a possible purchase of Econ. It alleged that an analysis by the Orange County Public Utilities Division conducted in January, 1995, showed why the assets of Econ were worth much less than value at which Econ carried the assets on its books.

4. That analysis showed that Econ had no regular preventative maintenance program in effect and conducted repairs and maintenance only on an emergency basis. One effect of this lack of maintenance was shown by the condition of the wastewater treatment facility's steel structure. This structure showed severe corrosion along the water line and at the base of the chlorine contact tank. A host of repairs and improvements would have been necessary to bring this and other facilities up to the standards of the Orange County Public Utilities Division, according to the analysis.

5. The pleading also alleged that Wedgefield planned to spend a substantial amount of money to bring the utility up to standards, and that customers would ultimately bear the cost of these expenditures. It stated that it would be extremely unfair to require customers to pay for these improvements, brought on by years of neglect, and to also pay Wedgefield an amount in excess of its purchase price for the utility. In effect, it would wrongly require customers to pay for the same thing twice.

6. The Citizens' protest of proposed agency action and petition for a §120.57(1) hearing filed on October 28, 1996, set forth the following specific disputed issues of fact, law, and policy:

- (a) Did Econ Utilities Corporation have in place and practice an adequate preventative maintenance program?
- (b) What was the condition of the assets sold to Wedgefield Utilities, Inc?
- (c) Should Wedgefield Utilities, inc., have the burden of justifying why its actual purchase price should not be utilized in setting rates?
- (d) How should the Commission treat the contingent portion of the purchase price in computing the negative acquisition adjustment?

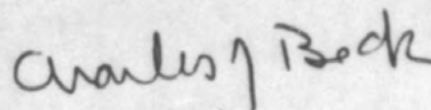
- (e) What is the amount of the negative acquisition adjustment from the sale of assets to Wedgefield Utilities, Inc.?
- (f) Should the Commission recognize a negative acquisition adjustment for the assets purchased by Wedgefield Utilities, Inc.?
- (g) What is the initial rate base of Wedgefield Utilities, Inc., for regulatory purposes?

Wedgefield presents no sufficient basis for denying the Citizens a hearing on these issues. There is no rule governing negative acquisition adjustments, much less any rule or policy requiring an allegation of "exceptional circumstances" in order to be entitled to a hearing. Further, the facts alleged in this case show such exceptional circumstances in any event. Wedgefield's motion should be denied.

WHEREFORE, the Citizens request the Prehearing Officer to deny the "Motion to Dismiss or Strike OPC Petition for Hearing" filed by Utilities, Inc., and Wedgefield Utilities, Inc. on November 22, 1996.

Respectfully submitted,

JACK SHREVE
Public Counsel



Charles J. Beck
Deputy Public Counsel

Office of Public Counsel

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

Attorneys for the Citizens
of the State of Florida

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CERTIFICATE OF SERVICE
DOCKET NOS. 960235-WS and 960283-WS

I HEREBY CERTIFY that a copy of the foregoing has been furnished by
U.S. Mail or hand-delivery to the following parties on this 26th day of November, 1996.

Charles J. Beck
Charles J. Beck

Alice Crosby
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Ben Girtman
1020 E. Lafayette St., #207
Tallahassee, FL 32301-4542

Wedgefield Utilities, Inc.
200 Weathersfield Avenue
Altamonte Springs, FL 32714-4099

Econ Utilities Corporation
664 South Military Trail
Deerfield Beach, FL
33442-3023

Utilities, Inc. Of Florida
200 Weathersfield Avenue
Altamonte Springs, FL
32714-4099