

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

MAY 29, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO) *BA*

FROM: DIVISION OF LEGAL SERVICES (O'SULLIVAN) *OS*
DIVISION OF WATER & WASTEWATER (GALLOWAY, RENDELL, STARLING) *GR* *Q* *M*

RE: DOCKET NO. 961538-WU - WATER MANAGEMENT SERVICES, INC.
COMPLAINT OF BLUE PARROT OCEANFRONT CAFE AGAINST WATER
MANAGEMENT SERVICES, INC. (FORMERLY KNOWN AS ST. GEORGE
ISLAND UTILITY, INC.) REGARDING SERVICE AVAILABILITY
CHARGE ASSESSED

COUNTY: FRANKLIN COUNTY

AGENDA: JUNE 10, 1997 - REGULAR AGENDA - PROPOSED AGENCY ACTION
- INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\WAW\WP\961538WU.RCM

CASE BACKGROUND

Water Management Services, Inc., formerly known as St. George Island Utility Company, Ltd., (Water Management or utility), provides water service to approximately 1,329 residential customers and 38 commercial customers on St. George Island in Franklin County. By Order No. PSC-97-0428-FOF-WU, issued on April 16, 1997, the Commission approved a name change for the utility from St. George Island Utility Company, Ltd. to Water Management Services, Inc.

A customer of the utility, the Blue Parrot Oceanfront Cafe, Inc. (Blue Parrot or restaurant) is a restaurant located on St. George Island. In May of 1996, Mr. Steven Rash purchased the restaurant from its previous owners. On May 15, 1996, the utility notified the Blue Parrot that it intended to assess an additional service availability charge of \$7,657.02, based upon the maximum

DOCUMENT NUMBER-DATE

05373 MAY 29 97

FPSC-RECORDS/REPORTING

DOCKET NO. 961538-WU
MAY 29, 1997

number of seats (60) that the restaurant is permitted for. The Blue Parrot's owner contacted staff who reviewed the situation, and originally advised the utility by letter dated May 21, 1996, that the additional service availability charge was inappropriate. (Attachment B) Staff's original finding was based on the fact that it appeared the only basis for the additional charge was a change in ownership. Staff advised the utility to provide further information if it wished to pursue the matter. The utility responded on May 23, 1996, with a letter to staff indicating that it disagreed with staff's May 21, 1996, letter and that it would pursue the matter.

On October 10, 1996, the utility provided extensive documentation supporting its position to assess an additional service availability charge for the Blue Parrot based on additions to the original structure along with the resulting increase in consumption. The documentation included water consumption data for the site over a six-year period, food service inspection reports from the Department of Professional and Business Regulation (DPBR) stating the permitted seating capacity, building permits from Franklin County allowing additions to the structure, an affidavit from one of the original owners stating that the original structure was a walk-up hot dog stand, and a current advertisement for the location which indicates three separate businesses on the one site. The utility requested that staff address whether any additional charges should be assessed for the restaurant and other businesses operating on the site.

By letter dated December 3, 1996, staff advised the utility that based upon the new information and supporting documentation provided, an additional service availability charge would be appropriate for the restaurant. Staff reviewed several methods of calculating the appropriate charge, concluding that, based upon the current tariffed rate for plant capacity charges, the additional charge should be \$5,553. In this letter, staff also advised both the utility and the Blue Parrot that a docket could be opened and the Commission could formally consider the matter if either party disagreed with the proposed charge. (Attachment C)

On December 6, 1996, the Blue Parrot submitted a letter requesting that a docket be opened and the matter be formally considered by the Commission. Staff believed an informal conference between the parties might prove helpful in resolving the matter. The parties agreed to the informal conference. However,

DOCKET NO. 961538-WU
MAY 29, 1997

due to the complainant's unavailability, an informal conference was not held until March 26, 1997. At the informal conference, held in Apalachicola, Florida, staff and the parties reviewed relevant information, and discussed any possible resolutions to the complaint.

At the beginning of the meeting, the attorney for the Blue Parrot submitted two affidavits from employees who worked at the restaurant prior to, during, and after the May 1996 purchase of the restaurant. Disagreeing with the 60 seat seating capacity descriptions by the utility and by the DPBR reports, the affidavits stated that the "seating in the restaurant" consisted of "37 chairs inside" on and before the May 1996 purchase.

After much discussion about the structural changes to the site, the increase in consumption at the restaurant, the seating capacity of the restaurant, and various other issues surrounding this complaint, it was apparent that the parties would not agree on: 1) how much seating capacity existed; 2) when the seating was added; 3) a suitable additional service availability charge; and 4) who was responsible for the additional service availability charge. Therefore, staff requested that parties file any further information supporting each position by April 10, 1997. Staff informed the parties that once the information was filed and reviewed, a recommendation would be prepared by staff and heard by the Commission for a final vote on the matter.

On April 7, 1997, the Blue Parrot submitted further documentation in support of their position that the prior owners were responsible for the structural additions and the 60 seat capacity. In addition to the two affidavits submitted at the informal conference, a third affidavit was provided from the prior owners, Mr. Rick H. Rucker and Mrs. Kathrine Rucker, and stated that the restaurant was sold on May 8, 1996 and at the time of the sale, "the restaurant was operating under a food service license allowing up to 60 seats." The documentation provided by the Blue Parrot also included a letter dated August 9, 1995, from the Franklin County Health Department, which stated that the septic system was brought up to code "for a full service restaurant with a seating capacity of 60 seats."

On April 10, 1997, the utility filed additional information which included a letter from the Franklin County Health Department to the utility stating that Mr. Rash intended to expand his deck

DOCKET NO. 961538-WU
MAY 29, 1997

and increase seating capacity from 68 seats to 100 seats. The utility also included further documentation from the DPBR which, among other things, defines "seating" to include indoor and outdoor seats. In addition to the letter and information, the Articles of Incorporation for SGI Rentals, Inc. (a jet ski business owned and operated by Mr. Rash located behind the restaurant) was included along with the purchase contract between Mr. Rash and the previous owners. Mr. Rash operated the jet ski business prior to his purchase of the restaurant, and apparently used water supplied to his business by the Blue Parrot.

This recommendation defines the issues surrounding this complaint and addresses whether the utility can collect an additional service availability charge from the restaurant.

DOCKET NO. 961538-WU
MAY 29, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission permit Water Management Services, Inc. to collect an additional service availability charge from the Blue Parrot Oceanfront Cafe, Inc., and if so, what is the appropriate charge?

RECOMMENDATION: Yes, the Commission should allow the utility to collect an additional service availability charge from the Blue Parrot Oceanfront Cafe, Inc. The appropriate total amount of additional service availability charge based upon increased consumption at the site, is \$3,712. However, of this amount, the current owner, Mr. Steven Rash, is responsible for \$763. (GALLOWAY, STARLING, O'SULLIVAN)

STAFF ANALYSIS: Service availability charges generally are approved by this Commission to allow a utility to assess a one-time charge for a given amount of capacity dedicated to a particular customer. A utility is prohibited from assessing additional charges on capacity that already has been paid for by a prior customer. However, a utility is permitted to assess charges on capacity that has not been previously paid for and reserved by a customer. For the Commission to consider allowing an assessment of an additional service availability charge to an existing customer, evidence should exist that capacity reserved by the initial charges paid is insufficient. Further, for such consideration, an extreme change in circumstance, such as structural change, change in demand on the system along with an extreme change in consumption, should be presented.

As stated in the case background, staff's May 21, 1996 letter to the utility stated that a mere change in ownership did not qualify as grounds to assess an additional charge. Staff still adheres to that policy. However, once documentation was submitted by the utility which confirmed that structural additions had been made and an annual consumption increase of over 100% had occurred, staff was compelled to consider allowing an additional service availability charge. Such consideration presented the problems of: a) whether an additional charge should be allowed; and if so, b) how the additional charge should be calculated; and, c) who should be responsible for the charge.

After considerable analysis of the documentation that was provided by the utility, staff believed that under the very

DOCKET NO. 961538-WU
MAY 29, 1997

specific circumstances of change in character of the service along with structural additions and large increases in annual consumption, an additional service availability charge is appropriate. Staff performed various calculations for an additional service availability charge and reviewed the different scenarios surrounding the possible charges. Staff presented three of these scenarios in our December 3, 1996 letter to the utility. (Attachment C)

Initially, staff decided that the fairest scenario considered the incremental increase in seating capacity. Further support for this opinion was provided in the utility's tariff which bases service availability charges for a restaurant on seating capacity. The finding in our December 3, 1996 letter was based on seating capacity as reported in three different DPBR food service inspection reports. Based upon information contained in these reports, the number of seats and inspection date confirmed that between March 12, 1996 and August 13, 1996, seating capacity increased by 46 seats. The March 12, 1996 report stated that seating capacity was 14 and the August 13, 1996 report stated that seating capacity was 60 seats. The resulting calculation was an additional service availability charge based on the additional 46 seats (the difference between the two seating capacity figures) and the approved plant capacity charge per seat as provided in the utility's tariff. Given that the sale of the Blue Parrot to Mr. Rash occurred in May of 1996, staff assessed the incremental calculation entirely to Mr. Rash.

As stated in the case background, on December 6, 1996, the Blue Parrot disagreed with staff's decision and requested that a formal docket be opened.

Informal Meeting and Results

Staff scheduled an informal meeting between the parties and from that meeting, it became apparent that discrepancies existed as to when the seating capacity was increased and exactly how much seating capacity was available. Both parties provided conflicting information regarding the amount of seating capacity and when the change in seating capacity occurred. Among other differences of opinion, the parties disagreed about whether or not outdoor seating was included in the definition of "seating capacity." The restaurant agreed that the indoor seating capacity was 38 seats and approximately 20 additional seats existed outside the restaurant on

DOCKET NO. 961538-WU
MAY 29, 1997

the deck. However, the restaurant did not believe that the 20 additional seats should be included in the definition of "seating capacity. The utility disagreed with the restaurant and maintained that the total seating capacity for the restaurant, inside or outside, according to documentation, was 60 seats. As discussed in the case background, realizing the discrepancies in information presented, staff requested that the parties submit any further information which might support their position by April 10, 1997.

Positions of the parties

Summary of utility position

In its October 10, 1996, letter, the utility submitted several documents and summarized the information which it believed supported its contention that the Blue Parrot should be assessed an additional service availability charge. The utility contends that the character, size, and usage of the building has changed over the years, from a walk-up hot dog stand with no seating in the 1980's, to a full service restaurant with a bar, T-shirt shop and jet-ski rental service. Water Management points out that the DPBR inspection reports indicate that the restaurant increased in seating size, and that the new owner, when applying for water service, indicated that the restaurant seated 60 persons.

The utility asserts that while the initial owner may have paid a service availability charge, the growth in water consumption of the site and increased demands indicate that an additional service availability charge should be assessed.

Summary of Blue Parrot's position

The Blue Parrot contends that the seating in the restaurant has not increased since Mr. Rash bought the restaurant. Through the documentation provided, it is apparent that the employees and the prior owners substantiate that the restaurant had 60 seats when the sale took place on May 8, 1996. In his letter, counsel for the Blue Parrot states the restaurant's position as "not contesting the utility's right" to assess the additional charge, but "contesting the utility's right to charge the person who is not responsible for the changes."

DOCKET NO. 961538-WU
MAY 29, 1997

Staff's Conclusion

After the informal meeting, in an effort to determine when the changes in seating capacity occurred and who was responsible for the changes to the restaurant, staff made numerous phone calls, speaking with different state and local officials. From our conversations with DBPR, staff determined that the December 3, 1996 opinion was based upon inaccurate data. It was determined that 60 seats were indeed in place at the time of the sale of the restaurant. It was determined that outside seating should always be considered as part of the establishment's seating capacity. Further, it was confirmed that the restaurant's seating capacity was 60 seats, including 38 seats inside the restaurant and approximately 20 seats outside the restaurant.

Therefore, holding Mr. Rash responsible for the entire additional service availability charge as stated in staff's December 3, 1996 letter was not appropriate. However, it is still staff's belief that an additional service availability charge is appropriate for the same reasons as stated prior to the informal meeting: structural additions were made to the restaurant and consumption increased consistently and extremely.

Below is Table No. 1 which shows the consumption for the restaurant site since 1991 and the corresponding percentage increases:

12-MONTH INCREMENTS	YEARLY CONSUMPTION	GALLONS PER DAY	PERCENTAGE INCREASE
6/91 - 5/92	86,110	236	
6/92 - 5/93	142,827	391	65.68%
6/93 - 5/94	154,295	423	8.18%
6/94 - 5/95	416,900	1,142	169.98%
6/95 - 5/96*	571,000	1,564	36.95%
6/96 - 5/97**	686,040	1,880	20.20%

*Change of ownership occurred 5/8/96
**Annualized - staff received actual consumption for the beginning 10 months of this 12 month period

DOCKET NO. 961538-WU
MAY 29, 1997

The table above summarizes the monthly consumption data provided by the utility. (Attachment A) From the table, it is clear that since 1991, a consistent increase in annual consumption has occurred. More importantly, the percentage increase in consumption for this restaurant between 1991 and present is approximately 697%. Considering this substantial increase and all of the information above, staff believes that an additional service availability charge is appropriate. Consequently, two further issues must be resolved: 1) who should be responsible for the additional charge; and 2) how the additional charge should be calculated.

I. WHO SHOULD BE RESPONSIBLE FOR THE ADDITIONAL CHARGE

In reviewing the documentation submitted by both parties, staff believes that a shared obligation exists between the current owner of the restaurant and the prior owners of the restaurant for the additional charges. While Mr. Rash did not increase the seating capacity, nor make the additions which changed the structure, he has contributed to the substantial increase in consumption. Mr. Rash's contribution to the increased consumption is apparent upon review of the monthly consumption data after the purchase in May 1996. The peak month prior to Mr. Rash's purchase of the restaurant occurred in January of 1996 and was 81,300 gallons. The peak month after Mr. Rash's purchase occurred in August of 1996 and was 152,000 gallons. The resulting percentage increase between these two peak months is 86.96%.

The 86.96% increase associated with Mr. Rash along with his operation of the jet ski business further supports the position that Mr. Rash has contributed to the increased consumption. At the informal meeting discussed earlier, Mr. Rash agreed that he was the owner and operator of SGI Rentals, Inc. (a jet ski business) located behind the restaurant since May of 1995. Mr. Rash further agreed that the prior owners of Blue Parrot allowed his business to use their water to wash the jet skis at the end of the day. The jet ski business was and is a separate operation from the restaurant even though the ownership currently is the same.

Staff was concerned about the amount of consumption associated with a jet ski operation. The utility also expressed this concern. Because staff has no consumption data for a jet ski business, we spoke with an independent jet ski operator who confirmed that very little water is used for operations. His estimation was

DOCKET NO. 961538-WU
MAY 29, 1997

approximately 10 gallons per jet ski per day. Staff estimated a potential daily usage figure of 60 gallons per day (gpd). Since the amount of water consumption for a jet ski operation is low and since this amount of water was included in the Blue Parrot's water bill, staff believes that the jet ski business simply adds to the argument that Mr. Rash is indeed responsible for a portion of the additional service availability charge.

Staff believes the prior owners should have been assessed an additional charge shortly after the consumption increased by over 100%. Staff believes that along with Mr. Rash, the prior owners are responsible for the additional service availability charge for several reasons. On three separate occasions during 1994, the prior owners were issued building permits from the Franklin County Planning and Building Department. The utility's documentation included copies of these permits. Staff did not rely on these permits as any basis for responsibility of the additional service availability charge because the permits stated that no additional seating would be added. However, it appears that a direct correlation exists between the increase in consumption by over 100% between 1994 and 1995 and the structural changes that took place over the same time frame.

While it is staff's determination that during Mr. and Mrs. Rucker's ownership of this restaurant, the seating went from a "walk-up hot dog stand" to a 60 seated capacity restaurant, staff is unable to determine exactly when this change took place. Staff concludes that certainly, the prior owners have a shared responsibility with Mr. Rash for the additional service availability charges. However, with respect to the previous owners, staff believes the utility could pursue collection of the charges through court action.

The Commission, however, can approve the collection of any additional service availability charges from the current owner. Section 367.101, Florida Statutes, requires the Commission to set just and reasonable charges and conditions for service availability. Upon reviewing all of the information provided, staff believes that allowing the utility to collect an additional service availability charge for the increased capacity will result in a just and reasonable charge. This recommendation is consistent with the Commission's past decisions in Order No. PSC-95-1032-FOF-WU, issued August 21, 1995 in Docket No. 950467-WU, In Re: Complaint by Mr. Carpenter against Ocean City Utilities, Inc. at

page 5.

II. HOW THE ADDITIONAL CHARGE SHOULD BE CALCULATED

According to the utility, the original owners paid service availability charges in the amount of \$500.00. The utility could not provide an exact date as to when these charges were paid. However, it was the utility's determination that these charges were paid before 1990. This information was necessary for staff to determine the amount of the additional charge.

Staff's calculations to determine the additional charges consisted of two parts. First, a determination was needed as to how much capacity was included in the original service availability charges. Second, a comparison was needed between the original "paid for" capacity and the current "total" capacity. Taking the difference between these two capacity amounts gives the "additional" capacity for which a charge must be assessed. Staff reviewed the utility's original tariff and calculated the original "paid for" capacity from the charges provided on Original Sheet 27.0. (Attachment D) Our determinations regarding the originally reserved capacity follows:

A) ORIGINAL SERVICE AVAILABILITY CHARGES - per utility tariff

Tap Fee and Meter Installation Fee	\$250.00
System Capacity Charge	\$250.00
(\$.73 per gallon demand)	
Original Charges	<u>\$500.00</u>

Note: Dividing the \$250.00 charge by \$.73 results in approximately 342.5 gallons per day which is used in staff's calculation below (see (B) - Additional Service Availability Charges).

Throughout these discussions, it has been staff's belief that no additional main extension charge should be assessed. While it is clear through documentation that structural changes occurred at the site and consumption increased (resulting in an increased capacity demand), no additional lines are necessary to serve the existing customer. Therefore, staff believes that: 1) no additional main extension charges should be assessed; and 2) plant capacity charges

DOCKET NO. 961538-WU
MAY 29, 1997

should be assessed as calculated below.

B) ADDITIONAL SERVICE AVAILABILITY CHARGES

	Prior Owners <u>6/95-5/96</u>	Current Owner <u>6/96-5/97*</u>
Gallons Per Day (GPD)	1564 (gpd)	1880 (gpd)
less: Original GPD	<u>342.5</u>	<u>342.5</u>
Add'l Capacity Required	1221.5	1537.5
Current Plant Capacity Chg.	<u>\$ 2.4143</u>	<u>\$ 2.4143</u>
Additional Amt. Owed	<u>\$2,949.07</u>	\$3,711.98
less: prior owners' responsibility		<u>2,949.07</u>
Add'l Amt. Owed by Current Owner		<u>\$ 762.91</u>

As shown on Table 1 (Attachment A), from the consumption data provided by the utility, average gallons per day increased continually over a six-year period. Staff considered the difference between the capacity reserved by the original service availability charges paid, and the capacity necessary to serve the most recent consumption needs reflected in Table 1. The resulting calculations are shown above. Staff separated the calculation into two columns which reflect: a) the net consumption for the twelve months preceding the purchase of the restaurant; and b) the net consumption for the twelve months following the purchase of the restaurant. The resulting additional service availability charge amounts are shown above. In order to assess the appropriate charges to be paid by the current owner, staff took the difference between the two columns and applied that amount to Mr. Rash.

Ideally, had the utility noticed the prior owners of its intention to increase the service availability charge at the time of the substantial increase in consumption, based upon the supporting documentation, this docket might never have been opened. Yet, according to the utility, the prior owners were noticed of this intention during negotiations of the sale of the restaurant. Nonetheless, staff believes that the utility has some responsibility to determine when consumption has more than doubled and to determine if an additional assessment of service availability charges should occur, based on a verifiable change in circumstance.

DOCKET NO. 961538-WU
MAY 29, 1997

During discussions with staff and at the informal meeting between the parties, the utility expressed its anticipation of similar situations occurring as St. George Island continues to grow. Staff believes that it is the utility's burden to monitor the consumption of its customers. Staff further believes that this type of complaint should always be handled on a case by case basis and that an assessment of additional charges depends upon the given circumstances surrounding each case.

Lastly, the current owner should be placed on notice that additional service availability charges may be appropriate should the restaurant's seating capacity increase from the present 60 seat capacity which staff has determined in this docket. Staff believes that with the additional charges assessed in this recommendation, the restaurant is up to date with its obligation to the utility. However, any increase beyond 60 seats might constitute further review of the situation.

DOCKET NO. 961538-WU
MAY 29, 1997

ISSUE 2: Should the docket be closed?

RECOMMENDATION: This docket should be closed if no person, whose interests are substantially affected by the proposed action, files a protest within the 21 day protest period. (O'SULLIVAN)

STAFF ANALYSIS: If a protest is not received within 21 days of issuance of the Proposed Agency Action order, the order will become final and the docket should be closed.

09/22/90	1,700		None	Pelham customer/walk-up hot dog stand
10/21/90	1,400		None	Rucker became customer/walk-up hot dog stand
11/24/90	1,100			
12/21/90	300			
01/21/91	400			
02/20/91	100			
03/21/91	2,700			
04/17/91	1,300			
05/30/91	1,660	12,792 *		
06/26/91	1,310			
07/22/91	1,300			
08/21/91	10,000			
09/27/91	8,300			
10/25/91	3,100			
11/22/91	7,000			
12/20/91	7,100			
01/24/92	5,400			
02/26/92	3,500			
03/26/92	7,700			
04/23/92	9,200			
05/28/92	22,200	86,110		
06/26/92	33,300			
07/27/92	37,000			
08/28/92	18,100			
09/28/92	10,500			
10/28/92	7,400			
11/22/92	7,400			
12/20/92	7,000			
01/22/93	4,078			
02/26/93	4,325			
03/25/93	4,400			
04/23/93	4,570			
05/26/93	4,754	142,827		
06/25/93	4,986			
07/23/93	5,122			
08/20/93	5,414			
09/22/93	5,675			
10/22/93	5,823			
11/22/93	5,993			
12/20/93	6,082			
01/21/94	14,400			Rucker applied to Franklin Co. for bldg permit
02/18/94	13,000			Rucker applied to Franklin Co. for bldg permit
03/25/94	22,100			
04/27/94	35,700			
05/19/94	30,000	154,295		
06/24/94	39,600			
07/27/94	55,100			
08/26/94	28,300			
09/21/94	29,100			
10/25/94	41,900			
11/22/94	22,000			
12/23/94	23,700			
01/20/95	47,400			
02/17/95	74,400			
03/24/95	12,000			
04/21/95	24,700			
05/19/95	18,700	416,900		Jet-ski business started operations/using Blue Parrot water
06/23/95	56,400			
07/24/95	29,000			
08/15/95	42,100			
09/22/95	52,500			
10/25/95	23,400			
11/16/95	32,700			
12/19/95	29,100			
01/25/96	81,300			
02/22/96	52,300			
03/19/96	49,300		14	DPBR food service inspection report verifies 14 seats
04/17/96	41,700			
05/27/96	81,200	571,000		
06/22/96	32,600		44	Rash d/b/a/ Blue Parrot became customer (05/08/96) DPBR food service inspection report verifies 44 seats
07/19/96	76,300			Staff's first letter to utility (05/21/96) - Attachment B
08/22/96	152,000		60	DPBR food service inspection report verifies 60 seats (ALSO T-SHIRT SHOP AND JET-SKI RENTAL AS PER AD)
09/27/96	128,700			
10/24/96	39,000			
11/13/96	45,600			
12/18/96	8,400			
01/16/97	22,000			Staff's second letter to utility (12/03/96) - Attachment C
02/29/97	36,800			
03/20/97	30,300	686,040 *		Informal meeting

*Annualized

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF WATER &
WASTEWATER
CHARLES HILL
DIRECTOR
(904) 413-6900

Public Service Commission

May 21, 1996

Ms. Sandra M. Chase
St. George Island Utility Co., Ltd.
3848 Killearn Court
Tallahassee, Florida 32308

Dear Ms. Chase,

The Commission received an inquiry from Jan Hevier, Esquire, who represents the individual who recently purchased the Blue Parrot Oceanfront Cafe, Inc. (service location No. 480). According to Mr. Hevier, St. George Island Utility Co., Ltd. (St. George) intends to assess a service availability charge of \$7,657.02, apparently based upon the maximum number of 60 seats that the restaurant is permitted for.

A review of this situation indicates that the additional charge of \$7,657.03 is inappropriate. A service availability charge is typically imposed upon the initiation of service to a location. Any service availability charges related to the initiation of service should have been collected from the prior owner of the establishment. A change in ownership does not warrant the imposition of additional charges. Moreover, according to Mr. Hevier, the restaurant will only have 38 seats and the only expansion will be an additional sun deck. Based upon these factors, the additional service availability charges are unwarranted. Unless the utility files a written response by June 7, 1996, staff will consider this matter closed.

Should St. George wish to pursue this matter, the utility should address the following issues in its written response: why the requested additional service availability charges are warranted and not unfairly discriminatory; why the additional charges were not collected from the prior owner; and whether the utility would refund service availability charges for all existing commercial and residential customers if their usage decreases. If St. George still wishes to impose this additional charge it will likely be necessary to open a docket to address the appropriateness of the additional service availability charges.

Letter - Ms. Chase
Page 2
May 21, 1996

Sincerely,

A handwritten signature in black ink, appearing to read "Ch H Hill", written in a cursive style.

Charles H. Hill
Director

c: Division of Water and Wastewater (Willis, Crouch, Rendell, Groom)
Division of Legal Services (Jaber, O'Sullivan)
Jan J. Hevier, Esquire

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF WATER &
WASTEWATER
CHARLES HILL
DIRECTOR
(904) 413-6900

Public Service Commission

December 3, 1996

Ms. Sandra M. Chase
St. George Island Utility Co., Ltd.
3848 Killearn Court
Tallahassee, FL 32308

Dear Ms. Chase:

We have reviewed the documentation that you submitted on October 10, 1996 regarding the increased service availability charges for the Blue Parrot Oceanfront Cafe, Inc. As you state in your cover letter, the documentation included building permits from Franklin County, food service reports completed by the Florida Department of Business and Professional Regulation inspector, a monthly history of consumption for this business beginning with consumption in September, 1990 and ending with consumption in September 1996, among various other reports and information regarding this business and its expansion.

From our review of the above, we have determined that additional service availability charges are warranted for this customer. However, the only additional service availability charges should include additional plant capacity charges. The situation surrounding the Blue Parrot and its increased seat capacity is not such that increased main extension charges should be calculated.

Per our discussions, it is my understanding that the utility has records indicating that the original customer paid service availability charges of \$500. Researching the utility's tariff reveals that the \$500 charge consisted of a plant capacity charge of \$250 and a main extension charge of \$250. Apparently no seating was included in the original \$500 amount paid by the customer at that time. However, from the period of time between the original customer and the time that the present customer purchased the site, 14 seats were added. We believe that the Blue Parrot should not be liable for the 14 seat capacity which existed at the time of purchase. Therefore, the current capacity of 60 seats minus the 14 seats results in an additional amount owed by the current owner for the incremental capacity increase.

Below is a brief description of the various methods of calculating the additional plant capacity charges. It is our determination that the most appropriate method is Scenario No. 2. Upon examination, this method includes the current tariffed rate for plant capacity charges (per seat) multiplied by 46 seats which results in the additional charge of \$5,553. We did not

Ms. Chase
Page 2
December 3, 1996

subtract any of the originally paid amount since Scenario No. 2 takes into consideration the difference between seating at the time of purchase and the current expanded seating capacity (60 seats - 14 seats).

CALCULATION OF GALLONS PER DAY (gpd)		
(1) Utility's Original Calculation	60 seats x 35 gpd	2100 gpd
(2) Per tariff with seating capacity consideration	46 seats x 50 gpd	2300 gpd
(3) 1996 Peak Month Consumption (14 seat peak vs. 60 seat peak)	70,700 gallons/30	2357 gpd

Using each of the above gpd calculations, the following service availability charges result:

CALCULATION OF ADDITIONAL CHARGE			
	Utility's Calculation Scenario (1)	Calculation per Tariff Scenario (2)	Peak Month Calculation Scenario (3)
Plant Capacity Charge - \$2.4143 x gpd	\$5,070	\$5,553	\$5,691
Main Extension Charge - \$1.5 x gpd	<u>\$3,150</u>	<u>N/A</u>	<u>N/A</u>
Total Charge	\$8,220	\$5,553	\$5,691
Less original service availability charge	<u>\$ 500</u>	<u>N/A</u>	<u>N/A</u>
New Charge to Blue Parrot	<u>\$7,720</u>	<u>\$5,553</u>	<u>\$5,691</u>

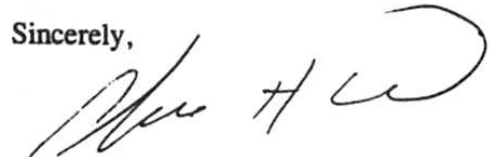
Ms. Chase
Page 3
December 3, 1996

Staff's conclusion as to the appropriate plant capacity charge is based upon the specific circumstances involving this customer. Staff believes that our conclusion is a fair resolution of this matter. Further, regarding your mention of similar situations existing for the utility, these matters are examined on a case by case basis. It is because of the extensive research performed by the utility and the thorough documentation from this research submitted by the utility that Staff modified the conclusion of our May 21, 1996, letter.

Please be advised that while this letter sets forth Staff's conclusion as to the appropriate plant capacity charge, it does not represent a final determination by the Commission. If the utility or the customer does not agree to the proposed charge, pursuant to Rule 25-30.560, Florida Administrative Code, a docket may be opened so that the Commission may formally consider this matter.

If there are any questions regarding this letter or if our office can be of assistance, please call and advise.

Sincerely,



Charles H. Hill
Director

cc: Division of Water and Wastewater (Willis, Rendell, Starling, Galloway)
Division of Legal Services (Jaber, O'Sullivan)
Jan J. Hevier, Esquire

SERVICE AVAILABILITY

All requests for service availability will be handled in compliance with Part IX of Chapter 25-10, Florida Administrative Code, the Public Service Commission's Rules and Regulations for Service Availability. Perspective customers will be required to make the following contributions in aid of construction, based on their estimated daily demand for water.

SYSTEM CAPACITY CHARGE

\$.73 per gallon demand

\$250.00 per equivalent residential connection

Gene D. Brown
General Partner

M E M O R A N D U M

April 10, 1997

RECEIVED
APR 10 1997

TO: DIVISION OF RECORDS AND REPORTING **FPSC-RECORDS/REPORTING**

FROM: DIVISION OF LEGAL SERVICES (O'SULLIVAN) *ms*

RE: DOCKET NO. **961538-WS** - Complaint of the Blue Parrot Oceanfront Cafe against St. George Island Utility, Inc. regarding service availability charge assessed.

Please file the attached letter in the correspondence side of the above referenced docket.

MEO/dp

Attachment

cc: Division of Water and Wastewater (Galloway, Rendell)

WATKINS, HEVIER & GAIDRY

Attorneys at Law

J. Ben Watkins
Jan J. Hevier
Douglas W. Gaidry

41 Commerce Street
Apalachicola, Florida 32320
Telephone (904) 653-2121
Facsimile (904) 653-9190

April 7, 1997

Maggie O'Sullivan
Division of Legal Services
Public Service Commission
Capital Circle Office Center
2540 Shumark Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED
APR 9 1997
LEGAL DIVISION

**RE: Your Docket No 961538-WS
Blue Parrot Oceanfront Cafe
St. George Island Utility**

Good Morning:

As additional documentation, I submit, for your consideration the following:

1. A copy of the August 9, 1995 letter from the Department of Health and Rehabilitative services to Rick Rucker showing that he had requested and got approval on his septic system for 60 seats prior to selling the restaurant to Mr. Rash.
2. A copy of an affidavit from Mr. & Mrs. Rucker indicating that they, and not Steve Rash, obtained approval for a 60 seat restaurant.

I would again point out that the seating in the restaurant has not increased since Mr. Rash bought the restaurant. This is borne out by the statements of Mr. Rash and the affidavits submitted by Mr. Pfeifer and Mr. Everett, as well the statement by Mr. Garrott at the informal meeting that the seating remains the same since before Mr. Rash bought the restaurant.

Referring to the May 21, 1996 letter from Charles H. Hill to Sandra M. Chase, where he states:

"Any service availability changes related to the initiation of service should have been collected from the prior owner of the establishment. A change in ownership

does not warrant the imposition of additional changes."

While we understand the utility's position that determining increases in service places an additional burden on them, it is not an impossible nor even a difficult burden. The utility serves a limited number of businesses and almost any time the capacity of a business increases, a building permit is required. During the writing of this letter I placed a call to the Franklin County Planning and Zoning office and inquired as to how many building permits were issued to business on St. George Island in the Month of March 1997. I had the answer in less than 5 minutes.

Our position remains unchanged. We are not contesting the utility's right to make these changes. We do contest the Utility's rights to charge the person who is not responsible for the changes.

If you have any questions, please call.

Sincerely,


Jan J. Hevier

JJH/dy

Enclosure

cc: Client
File

To: Whom it may concern
From: Kathrine and Rick H. Rucker
Date: March 3, 1997

The Blue Parrot restaurant was sold to Steve Rash on May 8, 1996. At that time the restaurant was operating under a food service license, approved by the Franklin County health Dept., which allowed up to 60 seats. A copy of the letter, giving approval for 60 seats, was posted in the restaurant months prior to and at the time of the sale to Steve Rash. The original letter of approval should be on file at the Franklin County health dept. in Apalachicola, Florida.


Kathrine Rucker


Rick H. Rucker

State of Ohio
County of Clermont

Signed by Kathrine M. Rucker and Rick H. Rucker
and notarized this 4th day of March, 1997



PEGGY A. BECKETT
Notary Public, State of Ohio
My Commission Expires May 27, 1997



STATE OF FLORIDA
DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

August 9, 1995

60 seats

Blue Parrot Restaurant
Mr. Rick Rucker
HCR Box 181, St. Geo. Isl.
Eastpoint, FL 32328

Dear Mr. Rucker:

RE: STP 94--0093ET

After reviewing your onsite sewage disposal files from 1990-1994 it was noted that the septic system was brought up to code for a full service restaurant with a seating capacity of ~~50~~ ⁶⁰ seats.

If we can be of further assistance do not hesitate to call on us at 904/653-2113

Sincerely,

Raymond B. Mabrey, Jr.
Env. Specialist III

jt

cc: Jim Overstreet



RECEIVED
MAR 2 1997

February 25, 1997

FPSC-RECORDS/REPORTING

Ms. Blanca Bayo
Florida Public Service Commission
Director of Records & Reporting
2540 Shumard Oak Blvd.
Tallahassee FL 32399-0850

Dear Ms. Bayo:

By this letter, I request that Matthew Feil, Esq. be put on the mailing list for the following list of dockets:

Docket No. 961538-WS

Docket No. 970029-WS

~~Docket No. 970027-WS~~

Docket No. 970183-EI

Blue Parrot Oceanfront Cafe
St. George Island Utility Co., Ltd.
Hydratech Utilities, Inc.
Florida Cities Water Co. - Lee Co. Div.
Shell Point Village (The Christian &
Missionary Alliance)
Florida Power & Light Company

Mr. Feil's address is as follows:

Matthew Feil, Esq.
Florida Water Services Corporation
1000 Color Place
Apopka FL 32703

If you have any questions, please contact me at (407) 880-0058, ext. 456. Thank you for assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Cook".

Nancy Cook
Secretary