

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for )  
 certificates to operate a water )  
 and wastewater utility in ) DOCKET NO. 970657-WS  
 Charlotte and DeSoto Counties )  
 by Lake Suzy Utilities, Inc. )  
 \_\_\_\_\_ )

LAKE SUZY UTILITIES, INC.'S  
RESPONSE TO FLORIDA WATER SERVICES  
CORPORATION'S MOTION IN LIMINE AND  
MOTION FOR CEASE AND DESIST ORDER

LAKE SUZY UTILITIES, INC. ("Lake Suzy"), by and through its undersigned attorneys and pursuant to Rule 25-22.037, Florida Administrative Code, hereby responds to Florida Water Services Corporation's ("Florida Water") Motion in Limine and Motion for Cease and Desist Order as follows:

1. Florida Water continues to misstate the facts regarding the territory encompassed by Lake Suzy's application. There is no overlap between the territory requested by Lake Suzy and that granted to Florida Water in Order No. PSC-95-1164-FOF-WS. While the original legal description of the proposed territory filed by Lake Suzy inadvertently included a small portion of property

previously certificated to Florida Water, Lake Suzy subsequently amended the legal description of the territory applied for to eliminate any overlap.

2. Lake Suzy has previously explained the circumstances surrounding it providing water service to the one lot in the proposed territory. Lake Suzy is not relying upon that service connection as the basis for its application. Lake Suzy is entitled to a certificate for the territory requested without regard to that

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service connection, not unlike that situation approved by the Court in *Wytrwal v. Bevis*, 300 So.2d 13 (Fla. 1974).

3. As to the specific relief requested by Florida Water, Lake Suzy is entitled to a certificate for the requested territory without any consideration given to the fact that it is providing water service to a lot in that territory on an emergency basis at the request of the customer. Lake Suzy does not intend to provide service to any other lots within the requested territory until certificated to do so by the Commission, thus a cease and desist order is unnecessary.

WHEREFORE, Lake Suzy requests this Commission enter an Order denying the Motion in Limine and Motion for Cease and Desist Order.

Respectfully submitted this 23rd day of April, 1998, by:

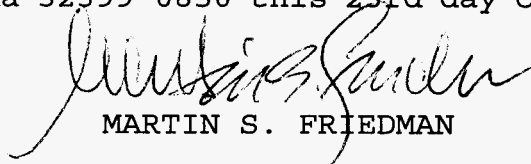
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For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Matthew J. Feil, Esquire, Florida Water Services Corporation, P.O. Box 609520, Orlando, Florida 32860-9520, and Bobbie Reyes, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 23rd day of April, 1998.



MARTIN S. FRIEDMAN