

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

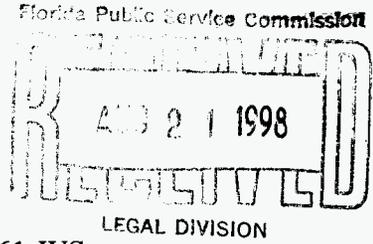
In Re: Application for)
certificates to operate a water)
and wastewater utility in)
Charlotte and DeSoto Counties)
by Lake Suzy Utilities, Inc.)
_____)

DOCKET NO. 970657-WS

and

In Re: Application for)
Amendment of Certificates Nos.)
570-W and 496-S in Charlotte)
County by Florida Water Services)
Corporation.)
_____)

DOCKET NO. 980261-WS



MEMORANDUM AND RESPONSE TO LAKE SUZY UTILITIES, INC.'S MOTION FOR PARTIAL SUMMARY DISPOSITION

Charlotte County, Florida (County), by and through its undersigned attorneys and pursuant to Rule 25-22.037, Florida Administrative Code, files this memorandum and response to Lake Suzy Utilities, Inc.'s (Lake Suzy) motion for an order denying the application of Florida Water Services Corporation (FWSC) for an amendment to its water certificate to serve the Links Subdivision in Charlotte County, Florida, and its (FWSC) objection to Lake Suzy providing water service to the Links subdivision, and in support thereof states:

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- LIN 5
- OPC _____
- RCH _____
- SEC 1
- WAS Redermann
- OTH _____

1. Lake Suzy filed an application with the Florida Public Service Commission (FPSC or Commission) for water and wastewater certificates which included providing water and wastewater service to the Links subdivision in Charlotte County, Florida.
2. Charlotte County filed an objection to that application but withdrew the objection based on Lake Suzy's withdrawal from its application of its request for the Links subdivision to be included in its wastewater certificate. Thus, as Lake Suzy's application currently exists, it proposes

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only to provide water service to the Links subdivision.

3. FWSC subsequently filed an application with the Commission for an extension of its water and wastewater certificate in Charlotte County, Florida, which included a request to provide water and wastewater service to the Links subdivision. Lake Suzy, Charlotte County and Haus Development (the owner of almost all of the lots in the Links subdivision) filed timely objections.

4. This Commission, by Order No. PSC-98-1089-PCO-WS, consolidated Lake Suzy's application and FWSC's application.

5. The area in question is wholly within Charlotte County, Florida and also wholly within the boundaries of the service area of Charlotte County Utilities (CCU), a publicly owned water and wastewater system owned and operated by Charlotte County, Florida pursuant to its powers as a home rule county. The Charlotte County Board of County Commissioners established CCU's service area as Water and Sewer District No. 1 by Board Resolution Number 91-79 adopted April 23, 1991.

6. Further, it is factually undisputed that Charlotte County Utilities' water and wastewater facilities are in close proximity and can provide the necessary water and wastewater services to the area in question.

7. In documents filed with the Commission both Lake Suzy and FWSC have acknowledged the County's right and present ability to provide service to the area in question.

8. Charlotte County Utilities is a public service entity with a prior (earlier acquired) legal right to provide service to the area in question. Further, CCU has the present ability to properly and efficiently provide such service. As such, CCU has the exclusive legal right to provide service to the area in question without interference from any entity which may claim or attempt to

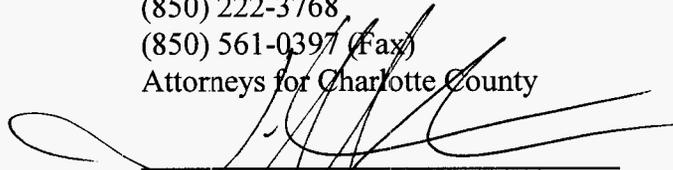
acquire a subsequent right. City of Mt. Dora v. JJ's Mobile Homes, 579 So.2d 219. (Fla. App. 5 Dist. 1991)

WHEREFORE, Charlotte County requests this Commission enter an order acknowledging Charlotte County's right and present ability to provide service to the area in question.

Respectfully submitted this 21st day of August, 1998.

Renee Lee, County Attorney
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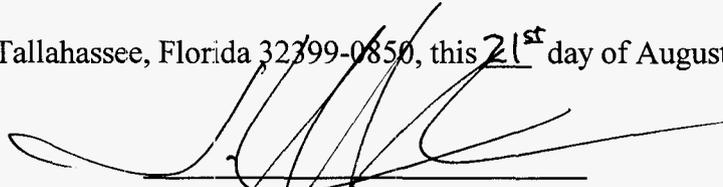
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Fla. Bar No. 143026
For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and one copy of the foregoing has been furnished by U.S. Mail to Matthew J. Feil, Esquire, Florida Water Services Corporation, Post Office Box 609520, Orlando, Florida 32860-9520; Martha Young Burton, Esquire, Assistant County Attorney, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094; Charlotte L. Sopha, Haus Development, Inc., Post Office Box 3024, Port Charlotte, Florida 33949, Frederick Bechtold, Esquire, Vorbeck & Vorbeck, 207 Magnolia Street, Arcadia, Florida 34266, Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301 and by hand delivery to Bobbie Reyes, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida ~~32399-0850~~, this 21st day of August, 1998.



John R. Marks, III