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December 9, 1998

RECORDS AND REPORTING

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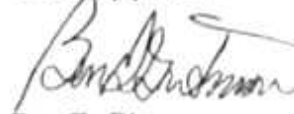
Ms. Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 980483-WU, Investigation into Possible Overcollection of Allowance for Funds Prudently Invested (AFPI) in Lake County by Lake Utilities Services, Inc.

Dear Ms. Bayo:

Enclosed for filing in the above referenced docket are the original and fifteen copies of the Prehearing Statement of Lake Utility Services, Inc.

Sincerely yours,


Ben E. Girtman

Encls.

- ACK _____
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- APP _____
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)
possible overcollection of)
Allowance for Funds Prudently)
Invested (AFPI) in Lake County)
by Lake Utility Services, Inc.)
_____)

DOCKET NO. 980483-WU

Submitted for Filing:
December 9, 1998

PREHEARING STATEMENT
of
LAKE UTILITY SERVICES, INC.

COME NOW Utilities, Inc., and its wholly owned subsidiary, Lake Utility Services, Inc., (hereinafter collectively referred to as "LUSI"), and in preparation for the Preliminary Prehearing Conference on December 16, 1998, and the Prehearing Conference being rescheduled from January 4, 1998, to January 15, 1998, file this Prehearing Statement in the above styled cause and state:

I. List of Known Witnesses

<u>Direct</u>	<u>Subject Matter</u>
Carl Wenz	LUSI's position, history of pertinent events, interpretation of Order No. PSC-92-1369-FOF-WU, the approved Crescent Bay rates and charges, the 106 ERC limitation, prior investigation, the PAA, and the relationship of the pending rate case.
<u>Rebuttal</u>	
Carl Wenz	Response to Mr. Willis's basis for determining AFPI, allegations of double recovery and overcollection, changing the AFPI charge, and relevance of the new AFPI charge implemented in April, 1998. Response to Ms. Chases's allegations as to LUSI's intent to charge AFPI, relevance of the Hubbard agreement, and relevance of Staff's intent.

LUSI reserves the right to call additional rebuttal witnesses, depending on the development of the case.

II. List of Known Exhibits

CW-1_____; Investigation Correspondence, consisting of seven documents.

CW-2_____; Side-by-Side Comparison of LUSI Tariff Sheets in Effect Before and After Additional Territory Was Granted.

CW-3_____; Prior AFPI Correspondence, consisting of three documents.

All exhibits are sponsored by Carl Wenz.

III. Statement of Basic Position

The rates and charges in LUSI's tariff, including the AFPI charges, are in accordance with Order No. PSC-92-1369-FOF-WU and are applicable to all customers in the Crescent Bay subdivision and in the additional territory granted by the order. Those rates and charges remain in effect for all customers until different rates and charges are approved by the Commission. In accordance with the tariff, the collection of AFPI is effective until the utility reaches design capacity which was an estimated 106 ERCs buildout for the original certificated area and an estimated 1,600 ERCs buildout including the additional territory. The 106 ERCs is not a valid limitation for AFPI in the additional territory any more than the 106 ERCs is a valid limitation for the application of services availability charges or other rates and charges in the additional territory. The issue of whether AFPI was applicable in the additional territory was raised in 1993 in response to a Commission informal investigation related to a developer inquiry. The Commission was made aware, at that time, that LUSI was collecting AFPI in the additional territory, and no objection was raised by Staff. On and after May 12, 1998, a new AFPI charge was implemented in compliance with the Staff's request, applicable in the entire LUSI service area, confirming that the justification for an AFPI charge continues to exist inside of and outside of Crescent Bay.

IV. Issues of Fact

ISSUE NO. 1 Did Order No. PSC-92-1369-FOF-WU (issued 11-24-92) require LUSI to charge the customers, in the additional territory granted, the rates and charges previously approved in its tariff for the Crescent Bay system?

Position: Yes.

- ISSUE NO. 2** Were Allowance for Funds Prudently Invested (AFPI) charges specifically approved for the additional territory in Order No. PSC-92-1369-FOF-WU in Docket No. 920174-WU?
- Position: Yes. Order No. PSC-92-1369-FOF-WU specifically required "the rates and charges approved in Lake Utility Services, Inc.'s tariff" (the Crescent Bay tariff) be charged in the additional territory. AFPI was a charge which was previously approved in the Crescent Bay tariff and, therefore, was specifically approved for the additional territory.
- ISSUE NO. 3** Were AFPI charges applicable to the additional territory approved in Order No. PSC-92-1369-FOF-WU?
- Position: Yes. Staff's initial position during the informal investigation was that the AFPI charge did not apply outside Crescent Bay. Staff subsequently reversed its position and acknowledge that, in accordance with the tariffs, AFPI could be charged in the additional territory. See also, LUSI's response to Issue No. 2.
- ISSUE NO. 4** Were the rates and charges ordered to be charged in the additional territory, the same initial rates and charges developed for LUSI in Order No. 19962 (issued 9-8-88)?
- Position: Yes.
- ISSUE NO. 5** Were the rates and charges required in Order No. 19962 (including monthly rates, service availability charges, and AFPI charges) developed based on the estimated buildout of the entire LUSI service area and made applicable to all customers in the entire LUSI service area?
- Position: Yes. The monthly rates, service availability charges, and AFPI charges were developed in concert, based on the costs of serving the entire utility service area.
- ISSUE NO. 6** Was the AFPI charge, approved in Order No. 19962, designated to be in effect until the utility reached capacity?
- Position: Yes.

- ISSUE NO. 7** Did Order No. 19962 determine that the utility would reach capacity at 106 ERCs?
- Position:** Yes.
- ISSUE NO. 8** Was the 106 ERC buildout determined in Order No. 19962 the total number of potential customers in the entire service area?
- Position:** Yes. When Order No. 19962 (issued 9-8-88) was issued setting initial rates, there were no customers in the service area. 106 ERCs represented all of the potential customers in the entire service area first approved in Order No. 18605 (issued 12-24-87).
- ISSUE NO. 9** Did the tariff sheets, revised in compliance with Order No. PSC-92-1369-FOF-WU to apply to the additional territory and made effective April 2, 1993, include a tariff sheet making the AFPI charges applicable to the additional territory?
- Position:** Yes. Third Revised Sheet No. 27.3 made the AFPI charge applicable to the additional territory.
- ISSUE NO. 10** Did Third Revised Sheet No. 27.3, by reference to Original Sheet No. 25.1 and First Revised Sheet No. 25.1-A, make the AFPI charges in the additional territory effective until the utility reached design capacity?
- Position:** Yes.
- ISSUE NO. 11** With the additional territory, did the design capacity of the utility increase from approximately 106 ERCs to approximately 1,600 ERCs?
- Position:** Yes.

ISSUE NO. 12

Does the 106 ERC limitation contained on the Original Sheet No. 25.1 and First Revised Sheet No. 25.1-A also apply to the additional territory?

Position:

No. Original Sheet No. 25.1 and First Revised Sheet No. 25.1-A require that AFPI continue to be collected "until the utility reaches design capacity." The design capacity of the "utility" service area approved by Order No. 19962 was approximately 106 ERCs. The design capacity of the "utility" service area approved by Order No. PSC-92-1369-FOF-WU is approximately 1,600 ERCs. Therefore, the 106 ERC limitation does not apply to the additional territory.

If the Staff takes the position that the Commission orders and the approved tariffs apply only to the Crescent Bay "subdivision" and not to the entire "utility" service area (which now includes the additional territory), then Staff's interpretation would mean that either:

1) AFPI could only be collected from within the Crescent Bay subdivision up to a limit of 106 ERCs and none could be collected from within the additional territory that makes up the remainder of the "utility" service area. Such an interpretation is contrary to Staff's acknowledgment that LUSI's approved tariffs allow for the collection of AFPI in the additional territory, and is clearly in error.

or

2) The 106 ERC limitation applies to Crescent Bay plus the additional territory, so collection of AFPI from within Crescent Bay would have to be limited to fewer than 106 ERCs, which is contrary to the tariff, even as Staff is interpreting it. That interpretation also is clearly in error.

Therefore, the 106 ERC limitation does not apply to the additional territory.

ISSUE NO. 13 Did LUSI inform the Commission that it was charging AFPI to new customers in the additional territory because that was ordered by the Commission and was a part of the approved tariff?

Position: Yes, by letter dated 10-14-93 to Charlotte Hand, Regulatory Analyst, Division of Water and Wastewater. In response to a Commission informal investigation of developer Olesen's inquiry, LUSI informed the Commission that it was collecting AFPI charges in the additional territory in accordance with the Commission's order and the utility's tariff. No objection was raised by the Commission Staff.

ISSUE NO. 14 Did the Commission or its Staff, prior to September 8, 1997, inform LUSI of any objections to LUSI's charging AFPI in the additional territory?

Position: No.

ISSUE NO. 15 Has LUSI applied the AFPI charge to new customers in the additional territory in compliance with Order No. PSC-92-1369-FOF-WU and the tariffs approved by the Commission?

Position: Yes.

V. Issues of Law

ISSUE NO. 1 Did Lake Utility Services, Inc. overcollect AFPI charges from the Crescent Bay Subdivision and the additional territory approved in Order No. PSC-92-1369-FOF-WU?

Position: No.

ISSUE NO. 2 If there was overcollection of AFPI, what is the appropriate action?

Position: There has been no showing that there was any overcollection. Therefore, LUSI has no position on the issue at this time.

ISSUE NO. 3 Should LUSI be required to refund any of the revenues from AFPI?

Position: No.

ISSUE NO. 4 Should any of the AFPI revenues collected be designated as CIAC?

Position: No.

ISSUE NO. 5 Should this docket be closed?

Position: Yes.

VI. Issues of Policy
None at this time.

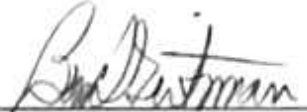
VII. Stipulations
None at this time.

VIII. Pending Matters
None at this time.

IX. Requirements that cannot be complied with
None at this time.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent to Ms. Kathy Shutts, 12906 Anderson Hill Rd., Clermont, FL 34711; Ms. Sandy Baron, 12838 Anderson Hill Rd., Clermont, FL 34711; and to Tim Vaccaro, Esq.,* Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, by U.S. Mail (or by hand delivery * or by facsimile #) this 9 day of December 1998.



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and Lake Utility Services, Inc.