

**Rhema Business Services, Inc.**

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December 21, 1998

Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 981912-106 Petition of Anglers Cove West, Ltd. for Waiver of  
Rule 25-30.110(3), Florida Administrative Code

Gentlemen:

Please docket the enclosed Petition of Anglers Cove West, Ltd. for Waiver of Rule 25-30.110(3), filed in original and fifteen (15) copies. This petition is filed in response to Charles H. Hill's letter of October 21, 1998.

Also enclosed are the original and seven (7) copies of the Request for Representation by Qualified Representative, and the original and seven (7) copies of the associated affidavit.

Please address all correspondence to me at the above address, and direct any questions to me at 562-9886.

Sincerely,



Norman F. Mears  
Senior Utility Consultant

Hand Deliver  
Enclosures  
cc: Ray Moats

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

**Petition for Waiver of Rule 25-30.110(3)**

**28-104.002(b):** The name, address, telephone number and facsimile number of the petitioner are: Anglers Cove West, Ltd., 5015 South Florida Avenue, Lakeland, Florida 33813; Telephone (941) 647-1581; Facsimile (941) 647-3992.

**25-104.002(c):** The name, address, telephone number and facsimile number of the qualified representative are: Norman F. Mears, 1344 Vickers Drive, Tallahassee, Florida 32303-3041; Telephone (850) 562-9886; Facsimile (850) 562-9887.

**25-104.002(d):** The applicable rule or portion of the rule is 25-30.110(3). "Each utility shall file with the Commission annual reports on forms prescribed by the Commission. The obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate." (Emphasis added.)

**25-104.002(e):** The citation to the statute the rule is implementing is Section 367.121(1)(c).

**25-104.002(f):** Anglers Cove West, Ltd. requests the waiver of Rule 25-30.110(3) requiring the filing of an annual report by "any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate" for the years 1996 and 1997 on the basis of substantial hardship and violation of principles of fairness.

**25-104.002(g):** The specific facts that demonstrate the substantial hardship and violation of principles of fairness that justify a waiver for the petitioner follow.

## **Background**

Anglers Cove West, Ltd. (Anglers Cove West or ACW) is a small utility providing water and wastewater service to 340 customers residing in two mobile home parks in Polk County, Florida. These mobile home parks are completely built out. On May 14, 1996, the Board of Commissioners of Polk County adopted a resolution declaring water and wastewater utilities in Polk County subject to Public Service Commission regulation.

Anglers Cove West is one of five utilities in Polk County managed by the same group that manages CHC VII, Ltd. On September 12, 1996, CHC VII, Ltd. filed its "Application for Declaratory Statement Relating to Exemption from Regulation or Nonjurisdictional Finding on behalf of CHC VII, Ltd." This application set forth the same basis for exemption from regulation on which the Board of Commissioners of Polk County had ruled the utility exempt from its jurisdiction. This one application reflected the circumstances of all six Polk County utilities managed by this group.

On August 10, 1998, nearly two years later, the commission staff responded to this application with a letter requiring the filing of an application for certificates by October 16, 1998. The letter explained that the staff's response had been delayed due to the application for declaratory statement having been misplaced. Anglers Cove West filed its application for certificates on October 14, 1998, two days early.

By letter dated October 21, 1998, the commission staff required Anglers Cove West to file annual reports for the years 1996 and 1997 within sixty days.

## **Substantial Hardship**

Anglers Cove West is only charging a flat rate of \$15.00 per month for water and wastewater service combined. ACW is managed by the management group

which filed certificate applications for six utilities under the same circumstances stated above. The management group is not staffed to prepare annual reports for two prior years for six utilities, or twelve prior-year annual reports.

The financial records of Anglers Cove West are in complete compliance with the requirements for mobile home parks and accounting principles. They are not set up in accordance with the Uniform System of Accounts due to Polk County having considered the utility exempt, and due to the two-year delay caused by the commission staff misplacing their application for declaratory statement. Water and wastewater revenue is accumulated in one account. All water expenses are recorded in one account, and all wastewater expenses are recorded in one account. Anglers Cove West would have to hire an accounting consultant to prepare the annual reports. Preparation of these reports would require a complete analysis, including every expenditure for two years. Due to its limited financial and human resources, and due to the substantial cost of outsourcing the task, to require Anglers Cove West to file annual reports for 1996 and 1997 would create a substantial hardship.

#### **Violation of Principles of Fairness**

Requiring Anglers Cove West, Ltd. to file Annual reports for 1996 and 1997 violates principles of fairness due to the circumstances under which recognition of Anglers Cove West as a regulated utility was delayed. ACW has responded appropriately to every requirement. Anglers Cove West responded appropriately to the initiation of Public Service Commission jurisdiction in Polk County by the filing of the application of CHC VII, Ltd. for declaratory statement. The recognition of Anglers Cove West, Ltd. as a regulated utility was delayed for two years due to the application having been misplaced by staff. ACW has fully cooperated by responding in a timely manner to the requirement to make application for certificates. It is not

fair for Anglers Cove West to have to retroactively prepare annual reports for two years, when its recognition as a regulated utility was delayed two years at no fault of its own.

#### **Purpose of the Underlying Statute Achieved**

Commission Order No. PSC-98-0877-FOF-SU, issued on July 2, 1998 in Docket No. 971635-SU, states, "The purpose of requiring annual reports is to enable us to calculate regulatory assessment fees, as well as to determine if the utility is in an overearnings position." Both of these purposes are, or can be, met without Anglers Cove West being required to file annual reports for 1996 and 1997.

Anglers Cove West is requesting that the Commission start the period for regulatory assessment fees for the first billing cycle after the effective date of the pass-through rate adjustment. If this request is granted, the Commission will not need the 1996 and 1997 annual reports to calculate regulatory assessment fees.

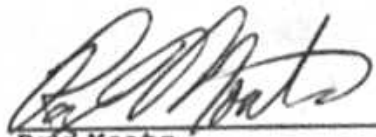
The combined water and wastewater rate for Anglers Cove West is a flat rate of only \$15.00 per month. With the pass-through of regulatory assessment fees, the flat rate will be only \$15.71. With the rate this low, Anglers Cove West can not possibly be in an overearnings position. Therefore, the purpose of using the 1996 and 1997 annual reports to detect overearnings is met without Anglers Cove West retroactively filing annual reports for 1996 and 1997. In addition, the 1998 annual report is due on March 31, 1999. If, by some remote possibility, Anglers Cove West were in an overearnings position, the 1998 annual report would alert the Commission to it.

28-104.002(i): The waiver is temporary, because it relates only to the years 1996 and 1997.

Request for Representation by a  
Qualified Representative

ANGLERS COVE WEST, LTD. requests approval of Norman F. Mears, whose address is 1344 Vickers Drive, Tallahassee, Florida 32303, and whose telephone number is (850) 562-9886, as its Qualified Representative to respond to Charles H. Hill's letter of October 21, 1998 requiring the filing of annual reports and the payment of regulatory assessment fees for 1996 and 1997.

ANGLERS COVE WEST, LTD. is aware of the nature and expense of a Qualified Representative, and is aware that the Florida Public Service Commission has recognized Norman F. Mears as a Class B Practitioner to examine and cross examine witnesses, and to file required data on behalf of water and wastewater utilities in the areas of economics, accounting and finance since May 24, 1982, and is aware that it can be represented by an attorney at its own expense.



Ray Moats  
President of General Partner

STATE OF FLORIDA  
COUNTY OF LEON

AFFIDAVIT

I, Norman F. Mears, affirm that I have: (a) knowledge of jurisdiction; (b) knowledge of the Florida Rules of Civil Procedure relating to discovery in an administrative proceeding; (c) knowledge regarding the rules of evidence, including the concept of hearsay in an administrative proceeding; (d) knowledge regarding the factual and legal issues involved in the proceedings; and (e) knowledge of and compliance with the Standards of Conduct for Qualified Representatives, Rule 28-106.107, sufficient to represent Anglers Cove West, Ltd. in its response to Charles H. Hill's letter of October 21, 1998. This knowledge is evidenced by my being recognized as a Class B Practitioner since May 24, 1982.

Norman F. Mears

Affirmed and subscribed before me this 21<sup>st</sup> day of December, 1998 by Norman F.

Mears.



MARY LYNN ANDERSON  
NOTARY PUBLIC, STATE OF FLORIDA  
My commission expires Dec. 28, 2001  
Commission No. CC704782

Mary Lynn Anderson

Personally Known \_\_\_\_\_ or Produced Identification

Identification produced FLDL M 620-626-46-466-0