

ORIGINAL



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RECORDS AND
REPORTING

February 15, 1999

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

Re: Docket No. 960444-WU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizen's Prehearing Statement. A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Harold McLean
Associate Public Counsel

ACK _____

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APP _____

CAF _____

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LES 1 Enclosures

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SEC _____

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate increase and for increase in service availability charges in Lake County by Lake Utility Services, Inc.)
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Docket No. 960444-WU
Filed: February 15, 1999

CITIZENS' PREHEARING STATEMENT

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, pursuant to Rule 25-22.038(3) and to the provisions of Order PSC-98-1622-PCO-WU and order PSC-97-0710-PCO-WU, file their prehearing statement as follows:

WITNESSES:

1. All Known Expert Witnesses:

Hugh Larkin, Jr.
15728 Farmington Road
Livonia, Michigan 48154

Mr. Larkin has prepared sixteen pages of prefiled testimony.

EXHIBITS:

2. All Known Exhibits:

Mr. Larkin has prepared one exhibit supporting aspects of his testimony; it is

marked and filed as exhibit HL-1

POSITIONS:

3. Basic Position:

Lake Utility Services, Inc. has presented the Commission with data which is unreliable and which constitutes a stale test year. Current and reliable data shows that LUSI is in an overearnings posture, and is not entitled to relief. Testimony sponsored by the Commission staff shows that there is excellent reason to believe that the utility is currently overearning; the Commission should immediately order an appropriate part of present revenues held subject to refund, lest the Commission's jurisdiction over current overearnings be foregone.

4. Issues and Citizens' Position:

Issue 1: Should the settlement tendered by the Commission staff and LUSI be accepted by the Commission?

Position: No. LUSI is currently overearning and is not entitled to rate relief.

(Larkin)

Issue 2: Is the 1995 test year an appropriate measure of LUSI's financial position today?

Position: No. (Larkin)

Issue 3: Is LUSI currently overearning?

Position: Yes. (Larkin)

Issue 4: What prompted LUSI to file for rate relief?

Position: The Commission staff essentially required LUSI to file a limited proceeding addressing rate design. The staff joined in an agreement with LUSI ensuring that LUSI would file for rate relief by June 1, 1996. (Larkin)

Issue 5: Are the interim rates currently in effect appropriate?

Position: No. The current interim rates exacerbate LUSI's overearning situation. Interim rates should be refunded in their entirety to customers. (Larkin)

Issue 6: Has LUSI experienced extraordinary growth since 1995?

Position: Yes. (Larkin)

Issue 7: Should the Commission rely upon the data furnished to the Commission by LUSI in its annual reports?

Position: No. As an example, the 1997 annual report revenue does not reconcile with the billing derterminates furnished by LUSI for the same period. (Larkin)

Issue 8: What is LUSI's earned rate of return based on 1998?

Position: At least 22.57%, and perhaps as much or more than 67%, return on equity, far in excess of that permitted by the Commission's leverage graph.

Issue 9: Should any rate case expense be recognized in this docket?

Position: No. It is apparent that the utility benefitted from overearnings during the pendency of this docket, and is entitled to no rate case expense. It is imprudent for a regulated utility to request rates which the utility either knew or should have known were higher than those permitted by law. (Larkin)

Issue 10: Did the staff auditors discontinue the 1997 overearnings audit of LUSI because the data showed overearnings?

Position: Yes. (cross)

Issue 11: Should the Commission immediately order certain LUSI revenues subject to refund?

Position: Yes. Failure to enter such an order could deprive the Commission of any opportunity to order prospective excessive earnings refunded to customers.

OTHER MATTERS:

Pending Motions:

The Citizens have filed a Motion to Dismiss upon which there has been no ruling;

The Citizens have filed a Motion to Expedite a hearing on their Motion to Dismiss; there has been no ruling on the Motion to Expedite

Stipulations and matters with which the parties cannot comply:

The Citizens are aware of neither stipulated items, nor requirement of the proposed prehearing order with which it cannot comply.

Respectfully submitted,

JACK SHREVE
PUBLIC COUNSEL



Harold McLean
Associate Public Counsel
111 W. Madison St.
Tallahassee, Florida 32399

Attorney for the Citizens of the
State of Florida

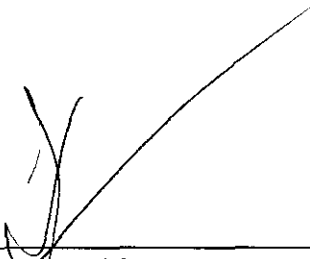
CERTIFICATE OF SERVICE
DOCKET NO. 960444-WU

I HEREBY CERTIFY that a correct copy of Citizens' Prehearing Statement has been furnished by U.S. Mail or hand-delivery to the following party representatives on this 15th day of February, 1999.

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4027
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Lake Utility Services, Inc.
200 Weathersfield Avenue
Altamonte Springs, FL 32714-

Tim Vaccaro
Division of Legal Services
Fla. Public Service Commission
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