

ORIGINAL

YOUNG, VAN ASSENDERP & VARNADOE, P. A.
ATTORNEYS AT LAW

REPLY TO:

R. BRUCE ANDERSON
TASHA O. BUFORD
DANIEL H. COX
DAVID P. HOPSTETTER*
C. LAURENCE KEESEY
KENZA VAN ASSENDERP
GEORGE L. VARNADOE
ROY C. YOUNG

Tallahassee

April 6, 1999

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DAVID B. ERWIN
OF COUNSEL

RECEIVED-FPSC
APR -6 PM 3:47
RECORDS AND REPORTING

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

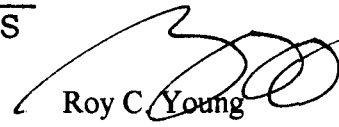
Re: Docket # 990409 - Petition to Initiate Rulemaking Pursuant to Section 120.54(7), F.S., by Osceola County, Florida

Dear Ms. Bayo:


Enclosed find original and 15 copies of a response entitled "Notice of Interested Party Status" to the above-captioned Petition to be filed in Docket #990409.

Thank you for your cooperation.

Very truly yours,


Roy C. Young

ACK _____
AFA _____
APP _____
CAF RCY:swp
CMU Enclosures
CTR _____
EAG I
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LIN _____
OPC _____
RCH _____
SEC I
WAS _____
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RECEIVED & FILED

FPSC-BUREAU OF RECORDS

Done 5/17/99

DOCUMENT NUMBER-DATE
04447 APR -6 99
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition to Initiate Rulemaking
Pursuant to Section 120.54(7), Florida
Statutes, to Amend Rule 25-9.0525, F.A.C.

Docket No. 99-0409
Filed: April 6, 1999

NOTICE OF INTERESTED PARTY STATUS

1. The undersigned represents Orlando Utilities Commission ("OUC") in this proceeding.
2. It should be obvious from the Petition filed herein that OUC is an interested party and it should also be obvious that the Petitioner has a complaint with the City of St. Cloud and they think with OUC, as well.
3. In fact, the Petitioner has sent to OUC a "Notice of Intent to File Complaint Against the City of St. Cloud and the Orlando Utilities Commission Before the Public Service Commission." (Copy attached.) The Notice states that it is the 45-day notice required by Section 164.103, Fla. Stat.
4. Chapter 164 is the Florida Governmental Cooperation Act. Section 164.102 states that the purpose of the Act is served by
 - . . . the creation of a governmental dispute resolution process that can provide an equitable, expeditious, effective, and inexpensive method for resolution of disputes between and among counties and municipalities.
5. Upon receiving the 45-day Notice, Section 164.103(2) requires the Commissioners of OUC to meet with the Board of County Commissioners (and in this case, the City Commissioners of the City of St. Cloud, as well) in an effort to amicably settle the controversy. (See letter to Mr.

DOCUMENT NUMBER-DATE

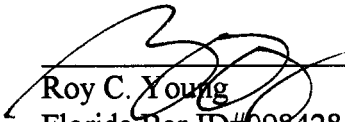
04447 APR-6 88

FPSC-RECORDS/REPORTING

Pelham from the undersigned attached hereto.)

6. Although we appreciate the effort by Petitioners to get "two bites at the apple," the Petition herein filed should be withdrawn by Petitioner or the Public Service Commission should refuse the request to initiate the rule making request so as to not impede the statutory mandate to try to amicably settle this controversy. If the parties can't settle the controversy by following the legislative mandate of Chapter 164, then the Petitioners would be free to file their complaint with the PSC and the PSC can dispose of it without a rule making proceeding that will inevitably involve other parties impacted thereby and not involved with this specific controversy.

Respectfully submitted this 6th day of April, 1999.



Roy C. Young
Florida Bar ID#098428
Young, van Assenderp & Varnadoe, P.A.
225 South Adams Street - Suite 200
Tallahassee, FL 32301
Telephone: 850/222-7206
Facsimile: 850/561-6834
Counsel for OUC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U.S. Mail, to John C. Pelham, Esquire, Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., 215 South Monroe Street, 2nd Floor, Tallahassee, FL 32301, Counsel for Osceola County, Florida, this 6th day of April, 1999.



Roy C. Young

YOUNG, VAN ASSENDERP & VARNADOE, P. A.
ATTORNEYS AT LAW

REPLY TO:

Tallahassee

April 5, 1999

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TASHA O. BUFORD
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John C. Pelham, Esq.
Pennington, Moore, Wilkinson,
Bell & Dunbar, P.A.
Post Office Box 10095
Tallahassee, FL 32302-2095

Dear Mr. Pelham:

We represent Orlando Utilities Commission and in that capacity respond to your March 31, 1999, "Notice of Intent to File Complaint Against the City of St. Cloud and the Orlando Utility (sic Utilities) Commission Before the Public Service Commission" sent to Mr. Haven of OUC.

Your letter indicates it is sent per Section 164.103, Florida Statutes. We note that Section 164.103(2) requires OUC to hold a public meeting within 30 days after receipt of this notice. Further, the statute requires that Osceola County's Board of County Commissioners be at this meeting so that all may discuss the proposed litigation in an effort to amicably settle the controversy.

Your letter does not indicate that it was sent to the City of St. Cloud although the letter states the intent to file a complaint against the City in addition to OUC. We don't represent the City but will make sure they get a copy of your letter but make no representation in doing so that this will meet Osceola County's obligation per 164.103(1), Florida Statutes.

You should be aware that the surcharge you intend to complain about to the PSC is imposed by the City of St. Cloud not OUC. (See City of St. Cloud's tariff on file with the PSC.) OUC has no authority, unless instructed by City of St. Cloud, to eliminate or alter the surcharge. Thus, it would appear that the City of St. Cloud is not only an essential party to any effort to settle your complaint but is the only party that can do so.

In light of the situation noted above, how do you want to proceed with the required public meeting: Do you want the Osceola County's Board to meet with OUC, do you want the Board to meet with the City Commission of St. Cloud, or do you want to try and get all three groups together?

John C. Pelham, Esq.
April 5, 1999
Page 2

Please let me know ASAP.

Sincerely,



Roy C. Young

RCY/kdr

cc: Thomas B. Tart, Esq. (Please forward copy of this letter and Mr. Pelham's March 31, 1999 letter to proper officials at City of St. Cloud.)

kdr\pelham.405

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REPLY TO:
 P.O. BOX 10095
 TALLAHASSEE, FLORIDA 32302-2095

March 31, 1999

Robert C. Haven, General Manager
 and Chief Executive Officer
 Orlando Utilities Commission
 500 South Orange Avenue
 Orlando, Florida 32802

Re: Notice of Intent to File Complaint Against the City
 of St. Cloud and the Orlando Utility Commission
 Before the Public Service Commission

Dear Mr. Haven:

Please take notice that after the passage of 45 days from the date of your receipt of this letter, Osceola County intends to file a complaint with the Florida Public Service Commission against the City of St. Cloud and the Orlando Utility Commission for violation of Rule 22-9.0525, F.A.C. Osceola County will allege in its complaint that the eight percent (8%) equalization surcharge levied and collected from City and OUC customers who reside in portions of unincorporated Osceola County is discriminatory and results in higher charges being levied against those persons. Osceola County will seek an order directing OUC to terminate the equalization surcharge, as both discriminatory, and in favor of the Public Service Tax being levied by Osceola County in the unincorporated area.

Robert C. Haven, General Manager
March 31, 1999
Page Two.

This notice is provided pursuant to Section 164.103,
Florida Statutes. PLEASE BE GOVERNED ACCORDINGLY.

Sincerely,



John C. Pelham, Esquire
Pennington, Moore, Wilkinson, Bell
& Dunbar, P.A.
Counsel for Osceola County

JCP:vhw

cc: Thomas B. Tart, Vice President and General Counsel of OUC
Chuck Dunnick, Chairman, Board of County Commissioners,
Osceola County
Jo O. Thacker, County Attorney