

Mr. and Mrs. H. D. McKenna, Sr.
Shangri La by the Lake
134 Shanghai Island Road
Leesburg, Fl 34788

February 15, 1999

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Florida Public Service Commission
Division of Water and Wastewater

File John

990080-WS

Mr. Bill Lowe
Assistant Director
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd
Tallahassee FL 32399-0850

Re: Warner & Werner, Inc., d/b/a Shangri La by the Lake Utilities, Inc.
Lake County

Dear Mr. Lowe:

Again - another question. Did the Public Service Commission REQUIRE the installation of meters in the homes located at Shangri La by the Lake Mobile Home Park after the utility received its license? And, is the utility REQUIRED to charge for the water and sewer or is this an option of the utility?

The owner of the park and the utility company has informed the park tenants he was required to do so. Is this in fact a true statement?

Sincerely,

Linda J. McKenna

Linda J. McKenna

cc: Charles H. Hill, Director
George Shepit, Homeowner's Assoc.

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3/24/99

Mr Lowe -

Awaiting a response to this

question. Thanks.

Linda McKenna

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DOCUMENT NO.
05250-99
Apr. 22
FPSC-REG

STATE OF FLORIDA

Commissioners:
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E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER
CHARLES H. HILL
DIRECTOR
(850) 413-6900

Public Service Commission

April 13, 1999

Ms. Linda J. McKenna
Shangri La by the Lake
134 Shanghai Island Road
Leesburg, FL 34788

RE: Docket No. 990080-WS, Complaint and request for hearing by Linda J. McKenna and 54 petitioners regarding unfair rates and charges of Shangri-La by the Lake Utilities, Inc. in Lake County

Dear Ms. McKenna:

I am writing in response to your letter dated February 15, 1999, which you resubmitted to us on March 24, 1999. I apologize for the apparent delay in responding to you. According to our records, we did not receive the first copy of this letter that you mailed in February.

Your first question pertains to whether or not the Commission "required" the utility to install water meters. Although the Commission did not specifically order meter installations, the rate structure approved by the Commission could only be implemented if meters were installed. Rule 25-30.255(1), Florida Administrative Code, states in part that "each utility shall measure water sold upon the basis of metered volume sales unless the Commission approved flat rate service arrangements for that utility." It has been Commission practice not to establish flat rates for newly certificated utilities. Further, it has been Commission practice to replace previously approved flat rates with the base facility charge rate structure when those utilities apply for rate increases. This carries with it the need for the installation of water meters.

By Order No. PSC-96-0062-FOF-WS, issued January 12, 1996, in Docket No. 940653-WS, the Commission granted Shangri-La by the Lake Utilities, Inc. (Shangri-La or utility) its water and wastewater certificates. By that Order, the Commission did not specifically require Shangri-La to install water meters. However, the Commission did recognize in that Order that the utility exceeded its water use permit. Even taking into account such factors as water usage by the five homes outside the mobile home park, the community swimming pool, and irrigation of the common grounds, the Commission determined that the average monthly consumption in the mobile home park was

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approximately 10,000 gallons per month, which is high for a seasonal retirement community. The Commission attributed this excessive consumption to the utility's lack of usage specific charges.

Usage specific charges are a vital part of promoting water conservation which, as you are aware, is becoming increasingly more important in Florida. In keeping with Commission practice, by Order No. PSC-96-0062-FOF-WS, the Commission approved rates for Shangri-La which were designed using the base facility charge rate structure. It follows that the installation of meters is necessary in order for this rate structure to be applied properly.

In fact, as part of our review of the utility's certificate application, my staff discussed with utility representatives its plans for metered service and its immediate ability to install meters. As discussed in the Commission's order, the utility indicated that it planned to install meters in the mobile home park. The utility anticipated it would be at least a year before the meters could be installed. Therefore, Shangri-La requested the Commission to approve the base facility charge rate structure for the utility's metered home owners and allow it additional time to install the meters in the mobile home park .

As a result of Shangri-La's request, the Commission approved implementation of the base facility rate structure for the utility's metered home owners and indicated that the utility could implement these charges for the mobile home park following actual installation of meters. Further, the Commission specifically recognized in its order that "the preferable situation would be to meter the mobile home park at this time and begin charging all of the customers under the base facility charge rate structure." (emphasis added)

The lack of a specific order from the Commission requiring the utility to install the water meters should not be interpreted to mean that the Commission did not intend for the utility to install water meters. The Commission has previously ordered utilities to install water meters, and could have done so in this case. However, the utility's willingness to install the meters without such an order eliminated the need for the Commission to issue such an order.

The base facility charge rate structure works very well to promote conservation by providing an incentive for customers to conserve water to decrease their bill. This is not possible under a fixed rate scenario, or when the charges are included in the rent. Further, the base facility charge rate structure is a fair rate structure in that costs are borne by the cost-causer. In other words, customers with high consumption will pay more than customers with low consumption. Under a fixed rate scenario all customers share in the costs equally regardless of their level of usage. This means that customers with low consumption subsidize the costs of customers with high consumption. The base facility charge rate structure provides a more equitable method of billing than assessing a fixed charge to all customers. However, as mentioned above, this rate structure cannot be applied without the use of water meters to measure each customer's consumption.

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Your second question pertains to whether or not the utility is required to charge for water and wastewater service. Shangri-La does not qualify for an exemption from regulation pursuant to Section 367.022, Florida Statutes. Consequently, the utility is required to operate under the regulation of this Commission, which includes the establishment of rates and charges.

Section 367.091(3), Florida Statutes, states that "a utility may only impose and collect those rates and charges approved by the Commission for the particular class of service involved. A change in any rate schedule may not be made without Commission approval." Therefore, a utility has the responsibility to charge the rates approved by the Commission; nothing more and nothing less.

Pursuant to Section 367.161, Florida Statutes, the Commission has the authority to impose a penalty of not more than \$5,000 per day upon a utility that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the Commission or any provision of Chapter 367, Florida Statutes. Absent approval by the Commission to do otherwise, the utility's failure to charge the approved rates would be deemed a violation for which a penalty could be imposed. Further, the utility is required to pay regulatory assessment fees to the Commission based upon its gross revenues. The utility is liable for those fees even if it does not collect the associated revenues from its customers.

Because you previously filed a formal complaint which is now a docketed matter before the Commission, it will be helpful to us if you will refer to the docket number and title on any future correspondence that you send to us regarding this matter. The correct docket number and title are: "Docket No. 990080-WS, Complaint and request for hearing by Linda J. McKenna and 54 petitioners regarding unfair rates and charges of Shangri-La by the Lake Utilities, Inc. in Lake County." This will help insure that your correspondence is included in our official file for this docket. Additionally, please provide a copy of all future correspondence to Mr. Martin Friedman at the address that was provided to you previously by Tim Vaccaro.

I hope this information will be helpful. If you have any questions regarding this letter, please feel free to call Martha Golden at (850)413-7015.

Sincerely,



bill lowe
Assistant Director

BL:MAG

Ms. Linda J. McKenna

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cc: Martin Friedman
Harold Rogers
George Shepit
Jack Shreve
William Werner
Division of Legal Services (Gervasi, Vaccaro)
Division of Records and Reporting
Division of Water and Wastewater (Hill, Lowe, Williams, Bethea, Golden, Rieger)