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DIVISION OF WATER & WASTEWATER
DANIEL M. HOPPE, DIRECTOR
(850) 413-6900

Public Service Commission

August 2, 1999

Mr. Norman Mears
Rhema Business Services, Inc.
1344 Vickers Drive
Tallahassee, FL 32303-3041

Re: Docket Nos. 981339-WS, 981340-WS, 981341-WS and 981342-WS, Applications for grandfather certificates to operate water and wastewater utilities in Polk County by Hidden Cove, Ltd., Four Lakes Golf Club, Ltd., CHC VII, Ltd. and Anglers Cove West, Ltd., respectively.

Dear Mr. Mears:

Thank you for your letter dated July 23, 1999 in which you transmitted tariff sheets for Four Lakes' and CHC's new irrigation service. Your letter also addresses another issue with respect to the application forms in the tariffs for Hidden Cove and Anglers Cove. My staff has discussed the matter with legal services and the following summarizes my understanding of the problem and legal's opinion.

The utility owner was asked to provide application forms for service for each utility's tariffs. Since the mobile home parks are also under regulation by the Bureau of Mobile Homes, the application provided was taken from each park's prospectus as approved by the Bureau of Mobile Homes. Neither Hidden Cove nor Anglers Cove have installed residential meters so their customers are currently being charged a flat rate for both water and wastewater service combined. Apparently, in anticipation of some day installing meters, the prospectus for these two mobile home parks established usage rates in excess of a gallonage cap included in the base rate.

The base rate in the prospectus for each of these two parks has been amended to reflect the flat rate approved by the Commission pursuant to the November 30, 1998 pass-through index. However, the Commission never established a gallonage cap for this rate nor a specific charge for excess use. Therefore, in the tariffs that were stamped approved and returned to each utility, only the flat rate approved by the Commission is shown in the application form and the references to gallonage caps and excess usage rates were removed.

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Your letter indicates that the utility owner, Mr. Moats, believes these tariff sheets for Hidden Cove and Anglers Cove can not be modified since they represent language authorized by the Bureau of Mobile Homes. Mr. Moats states that to make any modification to the language in these applications would require amending the prospectus for each park at a cost that would create substantial hardship.

According to legal services, the tariffs serve to represent the rates, charges and regulations approved for the utility by the Commission. Chapter 723, Florida Statutes, gives the Bureau of Mobile Homes authority over lot rental agreements. However, Section 367.011(2), Florida Statutes, gives this Commission "exclusive jurisdiction over each utility with respect to its authority, service, and rates." Section 367.011(4), Florida Statutes, states, in part, "This chapter supersedes all other laws on the same subject . . ." While the gallonage cap and excess usage rate were approved at one time by the Bureau of Mobile Homes, they were not approved by the Commission and, as such, are now unauthorized. The utility may only charge those rates and charges that have been approved by the Commission. The tariff is the record of those rates and charges.

Now that Hidden Cove's and Anglers Cove's tariffs have been amended to reflect only the rates and charges authorized by the Commission, as far as staff is concerned the matter is closed with respect to the Commission. The discrepancy between the rates set forth in the tariffs and those shown in the prospectus is a matter which should be handled between the utility owner and the Bureau of Mobile Homes. It is my understanding that my staff has suggested the two mobile home parks simply annotate the unauthorized provisions in the prospectus to indicate they are now void. I believe if Mr. Moats discusses this with the Bureau of Mobile Homes, they would find the solution reasonable since the provisions cannot apply anyway in the absence of meters.

If you have any further questions or concerns, please feel free to contact either myself or my staff at (850) 413-6900 or Ms. Alice Crosby in Legal Services at (850) 413-6222.

Sincerely,



John D. Williams

Chief, Bureau of Policy Development
and Industry Structure

JDW:plb

cc: Division of Water and Wastewater (Messer, Brady, Clapp, Johnson)
Division of Legal Services (Gervasi, Crosby)
Division of Records and Reporting