

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment of Certificate No. 247-S to extend service area by the transfer of Buccaneer Estates in Lee County to North Fort Myers Utility, Inc.

DOCKET NO. 981781-SU  
ISSUED:

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-99-0420-PCO-SU, issued March 1, 1999, the Commission Staff (Staff) files its prehearing statement as follows:

A. All Known Witnesses

Staff intends to call the following persons as witnesses:

John D. Williams of the Florida Public Service Commission Division of Water and Wastewater. He will testify regarding the background of the interconnection of Buccaneer Estates wastewater facilities (Buccaneer or utility) to North Fort Myers Utility, Inc. (NFMU) in terms of how it could have been accomplished pursuant to Commission rules and procedures, and the effect of the actual interconnection with respect to options available to the utility owner and the Commission. He will also identify past decisions the Commission made with respect to similar situations concerning the application of rates and charges, and discuss other factors that may be applicable in the overall consideration of public interest.

John Floyd of the Department of Business and Professional Regulation. He will testify regarding how Chapter 723, Florida Statutes, is interpreted by the Division of Florida Land Sales, Condominiums, and Mobile Homes with respect to the operations of mobile home parks, and to clarify various statements made in this docket that might not comport with the Division's policies and implementation of those policies with respect to mobile home parks.

Andrew Barienbrock of Florida Department of Environmental Protection (DEP). He will testify regarding the condition of the wastewater treatment plant operated by Buccaneer in Lee County, Florida prior to the interconnection of its wastewater system to NFMU.

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- ECG \_\_\_\_\_
- EDD \_\_\_\_\_
- EGG \_\_\_\_\_
- EPG 3 \_\_\_\_\_
- ETP \_\_\_\_\_
- ETR \_\_\_\_\_
- REC 1 \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

09467 AUG-98

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B. All Known Exhibits

Staff intends to sponsor the following exhibits:

- JDW-1: Letter dated May 14, 1976, from the Public Service Commission regarding the jurisdiction status of Buccaneer Mobile Estates
- JDW-2: Transfer Chart
- JF-1: Resume of John Floyd
- AB-1: Letter dated July 20, 1998, from DEP requesting additional information
- AB-2: Letter dated March 18, 1998, from DEP advising of possible violations
- AB-3: Proposed DEP Consent Order

Staff further reserves the right to use additional exhibits for the purpose of cross-examination.

C. Basic Position

The information gathered through the prehearing process and prefiled testimony indicates that NFMU has the financial ability, technical ability and capacity to serve the customers of Buccaneer Estates. It also appears, at this point, that the transfer of the wastewater utility operations of Buccaneer Estates to NFMU would be in the public interest. The appropriate monthly service rates will be determined by the Commission, upon consideration of all of the evidence of record, including the final service arrangement to the customers. NFMU should collect the appropriate service availability charge from the park owner and not the individual customers inside the park, since they do not own the land under their mobile homes.

D. Issues of Fact, Law and Policy

The following are issues identified by Staff and its positions on these issues. Staff's positions are preliminary, are based upon materials filed by the utility or obtained through discovery and are intended to inform the parties of Staff's preliminary

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positions. Staff's final positions will be based upon an analysis of the evidence presented at the hearing.

**ISSUE 1:** Does NFMU have the financial ability to provide wastewater service to Buccaneer Estates?

**POSITION:** Yes.

**ISSUE 2:** Does NFMU have the technical ability and capacity to provide wastewater service to Buccaneer Estates?

**POSITION:** Yes. NFMU is presently serving the customers of Buccaneer Estates and still has excess plant capacity.

**ISSUE 3:** What are the appropriate monthly service rates to be charged by NFMU to the customers of Buccaneer Estates?

**POSITION:** The appropriate monthly service rates should be determined by the final service arrangement to the customers, provided the rates are reasonable. The tariffed monthly rates of NFMU should apply, if the customers continue to be served directly by NFMU. Alternatively, the park owner may operate as an exempt utility pursuant to Chapter 367.022(8), Florida Statutes, charging for service at a rate or charge that does not exceed the actual purchase price of the wastewater service from NFMU.

**ISSUE 4:** What is the appropriate service availability charge to be collected by NFMU from the wastewater customers in Buccaneer Estates?

**POSITION:** The appropriate service availability charge will be determined by the Commission upon consideration of all of the evidence of the record. NFMU should collect the appropriate service availability charge, as determined by the Commission, from the park owner and not the individual customers inside the park, since they do not own the land under their mobile homes. Whether or not the interconnection of the park with NFMU would qualify as circumstances allowing a pass through of connection fees pursuant to Chapter 723, Florida Statutes, is not at

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issue in this proceeding, but may be a topic for mediation pursuant to Chapter 723, Florida Statutes.

**ISSUE 5:** What is the net book value of the assets proposed to be transferred to NFMU?

**POSITION:** No position pending further development of the record.

**ISSUE 6:** Is the transfer of the wastewater utility operations of Buccaneer Estates to NFMU in the public interest?

**POSITION:** Yes. The DEP indicates that severe problems existed with the former plant located within Buccaneer Estates, which would have probably led to the interconnection of the system with NFMU in a similar time frame to the actual interconnection. The dismantling of the existing package plant within Buccaneer Estates was based on economic and environmental considerations. NFMU has excess capacity available to serve and was designated as a regional service provider. NFMU is also in compliance with the standards of DEP.

**ISSUE 7:** Should NFMU be required to show cause as to why it should not be fined for violation of Chapter 367.071, Florida Statutes?

**POSITION:** No position pending further development of the record.

**ISSUE 8:** Should the owners of Buccaneer Estates, also the owners of Buccaneer Water Service, a Commission-regulated utility, be required to show cause as to why it should not be fined for violation of Chapter 367.071, Florida Statutes?

**POSITION:** No position pending further development of the record.

E. Stipulated Issues

There are no issues that have been stipulated at this time.

F. Pending Matters

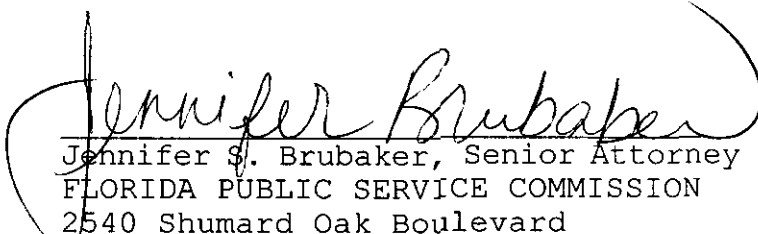
There are no matters pending at this time.

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G. Requirements That Cannot Be Complied With

There are no requirements of Order No. PSC-99-0420-PCQ-SU that cannot be complied with at this time.

Filed on this 9<sup>th</sup> day of August, 1999, by:

  
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Lee County to North Fort Myers  
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ISSUED:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the  
COMMISSION STAFF'S PREHEARING STATEMENT has been furnished by U.S.  
Mail, this 9th day of August, 1999, to the following:

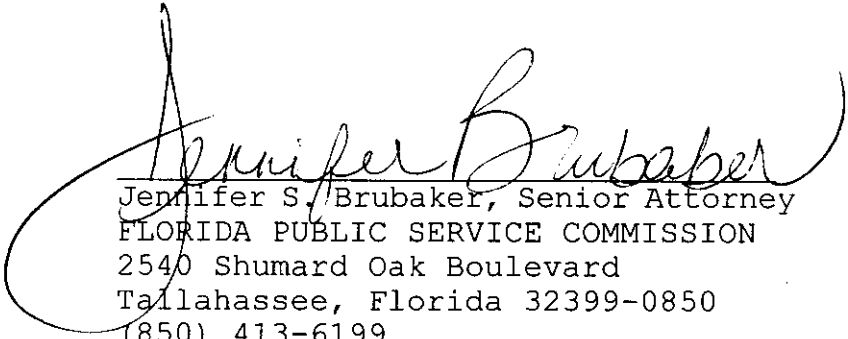
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