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October 20, 1999

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Re: Docket No. 980242-SU

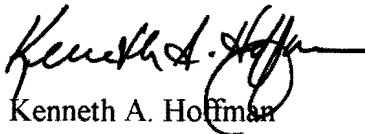
Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Lindrick Service Corporation ("Lindrick") are the original and fifteen copies of Lindrick's Response to OPC's Motion for Order Requiring Refunds with Interest for Collecting Unlawful Rates.


Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,


Kenneth A. Hoffman

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DOCUMENT NUMBER-DATE
12880 OCT 20 99
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Amended Petition of Lindrick)
Service Corporation for a Limited) Docket No. 980242-SU
Proceeding to Implement a Two-Step)
Increase in Wastewater Rates.) Filed: October 20, 1999
_____)

**LINDRICK SERVICE CORPORATION'S
RESPONSE TO OPC'S MOTION FOR
ORDER REQUIRING REFUNDS WITH
INTEREST FOR COLLECTING UNLAWFUL RATES**

Lindrick Service Corporation ("Lindrick"), by and through its undersigned counsel, and pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby files its Response to the Motion for Order Requiring Refunds With Interest for Collecting Unlawful Rates ("Motion") filed by the Office of Public Counsel ("OPC"). Lindrick notes that its billing agent, H2O Services, Inc., inadvertently billed Lindrick's wastewater customers for consumption prior to the effective dates of wastewater rate increases authorized by the Commission in this docket. Lindrick emphasizes that the actions of its billing agent were unintentional and that credits for the inaccurate billing are in process where further issues have not been raised by OPC. The specific facts and grounds supporting Lindrick's Response to OPC's Motion are set forth below:

1. By Order No. PSC-99-1010-PCO-SU issued May 20, 1999 ("May 20 Order"), the Commission granted Lindrick an emergency temporary increase in wastewater rates. Pursuant to the May 20 Order, Lindrick filed (a) an irrevocable letter of credit to secure potential refunds; and (b) tariffs reflecting the emergency temporary wastewater rate increase. The tariffs were approved by staff, consistent with the May 20 Order, reflecting that the emergency temporary rates were effective for service rendered on or after May 27, 1999.

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2. Pursuant to the May 20 Order, Lindrick has filed monthly reports with the Commission reflecting the increased revenue collected as a result of the emergency temporary rates together with the amount paid to the City of New Port Richey for wastewater treatment. Lindrick brings this fact to the Commission's attention to emphasize that Lindrick has never in any way attempted to conceal the total increased revenue collected pursuant to the May 20 Order. Lindrick has made these figures available to staff and complied with the reporting requirements reflected in the May 20 Order concerning the emergency rate increase.

3. Lindrick, through its billing agent, inadvertently captured approximately three days consumption (on average for all wastewater customers) prior to the May 27 effective date of the emergency rate increase. Lindrick's billing agent is in the process of reviewing each customer bill and will apply a full credit, with interest, consistent with Rule 25-30.360, Florida Administrative Code, on a customer specific basis, in Lindrick's next billing cycle.

4. On September 21, 1999, the Commission issued Order No. PSC-99-1883-PAA-SU ("September 21 Order") granting Lindrick increased temporary wastewater rates subject to refund in the event of a protest. The September 21 Order, as reflected in the title of the Order, is a final order approving the temporary wastewater rates subject to refund in the event of protest. Lindrick filed an amended Letter of Credit and tariffs reflecting the approved temporary wastewater rates in compliance with the requirements of the September 21 Order. The tariffs were administratively approved by staff for service rendered on or after October 1, 1999.

5. Lindrick's billing agent incorrectly applied the October 1 rates in the October billing cycle for service rendered prior to October 1. Lindrick recognizes its error and is prepared to promptly apply a credit, with interest, for the overbilling consistent with Rule 25-30.360, Florida

Administrative Code. However, because OPC has taken the position that Lindrick's tariffs could not take effect prior to October 13, 1999, Lindrick awaits disposition of this issue prior to applying credits to avoid the additional cost and inefficiencies attendant to applying multiple credits across multiple billing cycles.

6. OPC states in its Motion that the increased wastewater rates approved pursuant to the September 21 Order could not become effective prior to the expiration of the protest period outlined in the Order, i.e., October 12, 1999. In support of its position, OPC refers to the seventh ordering paragraph in the September 21 Order which provides apparent prerequisites for the implementation of the wastewater rate increase, including a statement that "[t]he revised tariff pages shall be approved upon our staff's verification that the pages are consistent with our decision herein, that the protest period has expired, that the customer notice is adequate and that any required security has been provided." September 21 Order, at 45.

7. The Commission should use OPC's Motion to clarify the intent and proper application of the September 21 Order approving the temporary wastewater rate increase. Page 1 of the September 21 Order clearly states that it is a final order approving temporary wastewater rates subject to refund in the event of protest. In the Order, the Commission further explains:

By this Order, we propose an increase in wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. **Therefore, the proposed rates shall be approved as temporary rates in the event of a protest.** If there is a protest, and the utility chooses to implement temporary rates, the rates collected by the utility shall be subject to the refund provision discussed below.

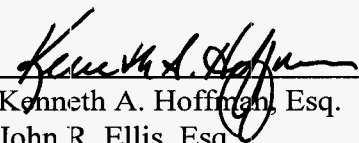
September 21 Order, at 42 (emphasis supplied). The third and thirteenth Order Clauses of the September 21 Order confirm that the temporary wastewater rates were not approved as proposed

agency action and were authorized to be collected, subject to refund, so long as Lindrick provided adequate security for the potential refund and a staff-approved notice to customers. September 21 Order, at 45-46. Lindrick complied with both requirements.

8. Clearly, the Commission's "prerequisite" that Lindrick wait until the protest period expired was superfluous, inapposite language which served no purpose in this particular case. The Commission clearly provided and explained that the rate increase would remain in effect in the event of a protest. Thus, there would be absolutely no reason to delay implementation of the rate increase until the protest period had expired. While the language included in the September 21 Order may have been standard, boiler plate language applicable in other cases where rates are implemented as proposed agency action, such language has no application in this case where the increased rates were approved pursuant to a final order which shall remain in effect, subject to refund, pending the final hearing on the protest petitions filed by Lindrick and OPC.

WHEREFORE, for the foregoing reasons, Lindrick respectfully requests that the Commission enter an Order providing that Lindrick shall apply customer specific credits applicable to the inaccurate billings as outlined herein, with interest, based on wastewater rate increases effective May 27, 1999 and October 1, 1999, respectively.

Respectfully submitted,



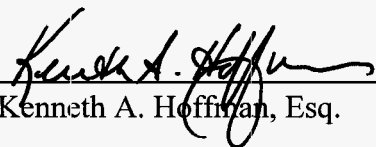
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following this 20th day of October, 1999:

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Borda/Response