

STATE OF FLORIDA

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DIVISION OF REGULATORY OVERSIGHT
DANIEL M. HOPPE, DIRECTOR
(850) 413-6480

Public Service Commission

October 27, 2000

Mr. J. Ray Keen
Keen Sales, Rentals and Utilities, Inc.
685 Dyson Road
Haines City, FL 33844

RE: Docket No. 970201-WU, Application for transfer of facilities of Lake Region Paradise Island and amendment of Certificate No. 582-W in Polk County by Keen Sales, Rentals and Utilities, Inc.

Dear Mr. Keen:

Your letter of September 12, 2000, has been received and forwarded to the Division of Regulatory Oversight for a response. Your questions concerning the Lake Region Paradise Island transfer docket are stated below with our response immediately following.

1. *Why did it take so long (January, 1997, to May, 2000) for the Florida Public Service Commission to approve the transfer?* Pursuant to Rule 25-30.032(3), Florida Administrative Code, applications for transfer of water and/or wastewater systems are not considered complete until all deficiencies are corrected. Your letter of December 22, 1999, satisfactorily addressed the last pending issues. Therefore, your application was not considered complete until that date. Staff recommendation was submitted on this docket on April 6, 2000 and the Commission approved the transfer on April 18, 2000.

2. *Why did it take so long (July, 1997, to November, 1999) to determine that the rates we were charging were allegedly incorrect?* The determination that incorrect rates were being used was made as soon as the application addressed all rate deficiencies.

3. *Why must we refund money that was allegedly overcharged, when in fact, we were not notified of any alleged overcharging until almost three (3) years after the initial filing of paperwork regarding the transfer?* Pursuant to Chapter 367.081, Florida Statutes, "a utility may only charge rates and charges that have been approved by the commission." Commission practice has been to approve rates that have been previously approved by County authorities prior to the Commission receiving jurisdiction in that county. However, in this instance, not only did the utility change the

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rates without Commission notice or approval, but also reduced the number of gallons included in the base rate. Again, the application's deficiencies were not corrected until the end of 1999.

4. *Why did the Commission gladly accept the Regulatory Assessment Fees and then refuse to refund them, while, at the same time, stating there was an alleged overcharge?* Once the Commission receives jurisdiction within a county, all utilities and systems must pay regulatory assessment fees pursuant to Chapter 367.145, Florida Statutes.

5. *Why should Keen pay the Regulatory Assessment Fees when, according to the Florida Public Service Commission, they did not own the utility?* The Commission did not state that Keen did not own the system in question, rather, that Keen had not received the Commission's approval prior to the transfer of the system. Pursuant to Rule 25-30.120, Florida Administrative Code, the owner of the system as of December 31 of one year is responsible for paying the Regulatory Assessment Fees for that year by March 31 of the following year.

In September of this year during its application for a pass-through adjustment, Keen provided proof of a Polk County 2.5% adjustment to the original rates approved for the Lake Region Paradise Island system. Consequently, staff anticipates submitting a recommendation for the Commission to consider reducing the refund for overcharge by 2.5%.

Copies of Chapter 367, Florida Statutes and Rules 25-9, 25-22, and 25-30, Florida Administrative Code, have been forwarded to Keen along with its revised Water Certificate. The utility should become familiar with these items since they are the rules and regulations by which it is to conduct its utility business.

Should you have any questions on this matter, feel free to contact Ms. Stephanie Clapp, of my staff, at (850) 413-6997.

Sincerely,



Patti Daniel
Chief, Bureau of Certification

PD/sc

cc: Division of Regulatory Oversight (Messer, Clapp)
Division of Legal Services (Crosby)
Division of Economic Regulation (Devlin)
Division of Records and Reporting