

ORIGINAL



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April 21, 2003

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

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COMMISSION  
CLERK


RE: Docket No. 020010-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Prehearing Statement for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Prehearing Statement in WordPerfect 10. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

  
Stephen C. Burgess  
Deputy Public Counsel

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted )  
rate case in Highlands County by )  
the Woodlands of Lake Placid, L.P. )  
\_\_\_\_\_)

DOCKET NO. 020010-WS  
FILED: April 21, 2003

PREHEARING STATEMENT

The Citizens of the State of Florida, through their attorney, the Public Counsel, pursuant to Order No. PSC-03-0110-PCO-WS, hereby file this Prehearing Statement.

WITNESSES:

- (a) OPC will call Hugh Larkin, Jr., to testify on the proper level of rates for the utility.

EXHIBITS:

- (b) Mr. Larkin's prefiled testimony includes a twenty-five page appendix of qualifications and a one-page exhibit describing the interlocking ownership of various companies related to L.P. Utilities.

BASIC POSITION:

- (c) OPC's position is that L.P. Utilities' protest of Order No. PSC-02-1739-PAA-WS should be rejected. The rates established in that order allowed L.P. Utilities to collect rates that at the very least are fair, just and reasonable. In one of the issues raised in L.P. Utilities' protest,

Mr. Larkin identified one adjustment wherein L.P. Utilities' rate base should be adjusted to a level below that allowed by the PAA. Nevertheless, to avoid any justification for rate case expense, OPC has not asked for this reduction, except as an offset to any other issues on which the utility may prevail (however unlikely).

(d),(e),(f) ISSUES OF FACT, LAW AND POLICY:

Some of the issues in controversy involve mixed elements of fact and/or law and/or policy.

Those issues, along with the respective OPC positions, are as follows:

- (1) Whether the utility should be required to make the refunds ordered by the PAA.

POSITION:

A subsequent utility should always be held accountable for the refund obligations incurred by its predecessor. Just as the customers are required to pay the "new" utility for service that was rendered by its predecessor, so the new utility must honor the refund obligations of its predecessor. In this specific case, the rationale is all the more compelling. First, Mr. Cozier is the owner of both the new utility and the predecessor utility, so any differentiation is nonsensical. Second, the successor utility currently is seeking PSC approval for a certificate transfer. If the transfer is being sought for the sole reason of avoiding a lawful refund obligation, the certificate transfer should be denied as being clearly against the public interest. The transfer could be in the public interest only if the successor owner honors the lawful refund obligation of the predecessor owner.

- (2) Should the refund for water overearnings be offset by the wastewater underearnings?

POSITION:

The entire net overearnings for water and wastewater combined was \$165,795, but it was not all captured by the PAA. This is considerably greater than the \$69,065 refund ordered by the PAA. The refund is based on the amount of the illegally collected water rates, and should not be confused with the total net overearnings. If the utility insists on netting wastewater underearnings against water overearnings, then it should refund \$165,795 instead of the \$69,065 ordered by the PAA.

- (3) What is the proper level of CIAC to incorporate?

POSITION:

The proper level of CIAC is actually \$30,608 greater than that reflected in the PAA. The PAA incorporated a pro forma adjustment for meters to be installed on the rental lots owned by the Park, but it did not include the concomitant CIAC that should be collected for those same lots. The CIAC should be reflected (or the pro forma plant removed) to prevent the private customers from subsidizing the Park owners' lots. Nevertheless, to avoid rate case expense, OPC is only asking the CIAC to be considered as an offset to any other issues that would raise rates.

- (4) What is the proper level of office rent to include for ratesetting?

POSITION:

\$0. The utility has never paid rent in the past, and there is no evidence presented to indicate that it ever will do so. Even if it begins to pay office rent, the effect would be a wash because each lot owner owns a pro rata share of the property used for office space. Accordingly, each

utility customer's pro rata share to pay rent would be received back as that same customer's approximate pro rata share as landlord.

- (5) Did the PAA properly recognize imputed revenues for rental lots owned by the Park owner?

POSITION:

Yes. Historically, those lots have received utility service, but the owner has not paid for the service. This is a major reason for the financial difficulties of the predecessor utility. The current threat to disconnect is not only spiteful, it is also unrealistic. To rent the lots at the current rental fee, utilities must be provided.

- (6) Should the utility be entitled to recover the rate case expense incurred by challenging the PAA?

POSITION:

No. Not only has the utility utterly failed to produce evidence that shows the PAA is in error in any way, OPC has shown that the PAA actually allows a higher rate base (through deficient CIAC) than is proper. Under these circumstances, it would be totally unfair to allow the utility to charge its customers for this unjustified attack on the PAA.

- (g) STIPULATED ISSUES: OPC is not aware of any stipulated issues.

- (h) PENDING MOTIONS: OPC currently has two pending motions:

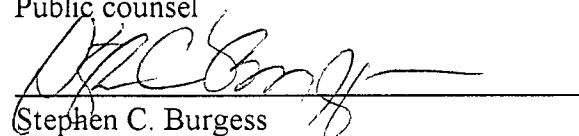
Response to Withdrawal of Issues, Motion for PSC to Accept the Timeliness of Response to Petitioners' Withdrawal of Issues, both of which were filed on April 3, 2003.

- (I) CONFIDENTIALITY: OPC is not aware of any pending requests for confidentiality.
- (j) OTHER REQUIREMENTS: OPC is not aware of any requirement in which it cannot comply with Order No. PSC-03-0110-PCO-WS.
- (k) WITNESS QUALIFICATIONS: OPC does not object to the qualifications of any of the witnesses for the purpose of making the representations in the prefiled testimony.

WHEREFORE, the Citizens of the State of Florida hereby file this Prehearing Statement.

Respectfully submitted,

JACK SHREVE  
Public counsel

  
\_\_\_\_\_  
Stephen C. Burgess  
Deputy Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
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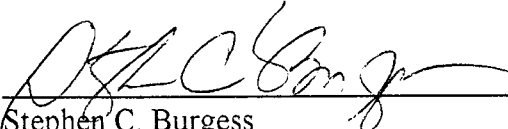
Attorneys for the Citizens of the  
State of Florida

**CERTIFICATE OF SERVICE  
DOCKET NO. 020010-WS**

I HEREBY CERTIFY that a true and exact copy of the above and foregoing Prehearing Statement has been furnished by hand delivery or U.S. Mail to the following parties of record this 21st day of April, 2003.

Lawrence Harris, Esquire\*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
600 S. North Lake Boulevard, Suite 160  
Altamonte Springs, FL 32701

  
\_\_\_\_\_  
Stephen C. Burgess  
Deputy Public Counsel