

LAW OFFICES  
**ROSE, SUNDSTROM & BENTLEY, LLP**  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

FREDERICK L. ASCHAUER, JR.  
CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
DAVID F. CHESTER  
F. MARSHALL DETERDING  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
DAREN L. SHIPPY  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON  
ROBERT M. C. ROSE, OF COUNSEL  
WAYNE L. SCHIEFELBEIN, OF COUNSEL

(850) 877-6555  
FAX (850) 656-4029  
www.rsbattorneys.com

REPLY TO ALTAMONTE SPRINGS

CENTRAL FLORIDA OFFICE  
600 S. NORTH LAKE BLVD., SUITE 160  
ALTAMONTE SPRINGS, FLORIDA 32701  
(407) 830-6331  
FAX (407) 830-8522

MARTIN S. FRIEDMAN, P.A.  
VALERIE L. GORD, OF COUNSEL  
(LICENSED IN TEXAS ONLY)

COMMISION CLERK  
MAR 19 AM 9:55  
PER EAFD 11:50

March 17, 2004

Ms. Blanca Bayo  
Commission Clerk and Administrative Services Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

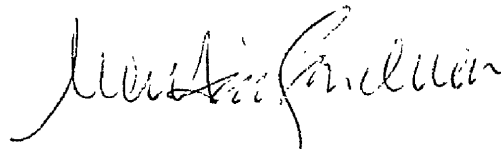
Re: Docket No.: 030443-SU; Application of Labrador Utilities, Inc., for Rate Increase in Pasco County, Florida  
Our File No.: 30057.64

Dear Ms. Bayo:

Enclosed please find for filing in the above-referenced docket the original and seven (7) copies of Labrador Utilities, Inc.'s Response to Motion to Intervene and Motion for Reconsideration of Order Approving Interim Rates and for Emergency Rate Relief of Forest Lake Estates Co-Op, Inc.

Should you have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

MSF/mp  
Enclosures

- cc: Mr. Steven M. Lubertozi (w/enclosure)  
Ms. Tricia Merchant (w/enclosure)  
Ms. Denise Greene (w/enclosure)  
Cochran Keating, Esquire (w/enclosure)  
Kathryn G.W. Cowdery, Esquire (w/enclosure)  
Steve Reilly, Esquire (w/enclosure)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for rate increase  
in Pasco County by Labrador  
Utilities, Inc.

DOCKET NO. 030443-WS

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**RESPONSE TO MOTION TO INTERVENE AND**  
**MOTION FOR RECONSIDERATION OF ORDER APPROVING INTERIM**  
**RATES AND FOR EMERGENCY RATE RELIEF OF**  
**FOREST LAKE ESTATES CO-OP, INC.**

LABRADOR UTILITIES, INC. ("Utility"), pursuant to Rule 25-22.060(3), Florida Administrative Code, files this Response to the Motion to Intervene and Motion for Reconsideration of Order Approving Interim Rates and for Emergency Rate Relief of Forest Lake Estates Co-Op, Inc. ("Petitioner"), and states as follows:

Initial Statement

1. On February 24, 2004, this Commission entered Order No. PSC-04-0200-PCO-WS, approving interim rates in this docket ("Order"). The Order provided that the interim rates were to be effective on the date of the stamped approval date on the tariff sheets, "provided customers have received notice". The tariff sheets were stamped approved before February 10, 2004, and the notice of interim rate increase was mailed to customers on February 10, 2004. The facts that the tariff sheets were stamped and the notice to customers was on the date indicated is not in dispute.

Motion to Intervene

2. The Petitioner have asked this Commission for leave to intervene in the Utility's application for a rate increase. However, this is a proposed agency action under

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FPSC-COMMISSION CLERK

Section 367.081(8), Florida Statutes (“PAA”). Rule 25-22.029, Florida Administrative Code, expressly provides that the point of entry under a PAA is after the PAA order is entered. The PAA order in this proceeding has not been entered and the Petitioner’s motion to intervene is premature. The Petitioner’s motion to intervene should therefore be denied.

Emergency Rate Relief

3. The Petitioner alleges as the sole basis for its motion for emergency rate relief that it did not receive notice of the increase until February 16, 2004, and therefore, the interim rate increase should not become effective until after February 16, 2004.

4. Rule 25-22.0407(8), Florida Administrative Code, requires that, in a PAA, the utility must comply with the notice requirements of sub-sections (2), (3), (4) and (5) of Rule 25-22.0407. The applicable sub-section, Rule 25-22.0407(5), requires only that notice be provided to customers. As shown above, the Utility has plainly complied with the requirements of the Rule and the Order, and the Petitioner has not provided any evidence to the contrary.

5. Even assuming, for the sake of argument, that the notice to customers was a few days late, the rates paid by customers are flat rates and any delay in receiving notice could not affect the ability of any customer to reduce their utility bill by adjusting consumption.

6. The Petitioner has not shown any ground for granting emergency rate relief and its motion therefor should be denied.

### Motion for Reconsideration

7. The Petitioner alleges that this Commission failed to consider or overlooked the fact that the individual customers of the R.V. Resort are not directly responsible for payment of rates to the Utility. The Petitioner urges the Commission to consider this failure as the sole basis for its motion to reconsider.

8. The supposed “issue” that the Petitioner’s contention raises is really a contractual one between the R.V. Park and its tenants. The leases between the R.V. Park and its tenants include the utility charges. Apparently, by the terms of its agreements with its tenants, the R.V. Park may not increase rents until the end of the lease term. This Commission has no jurisdiction to consider the relevant lease terms or change them. This is something totally within the control of the R.V. Park. The circumstances of which the Petitioner complains occurs in virtually every rate proceeding. Apartment complexes face the same issue. Unless a lease provides for a modification of the applicable rent to pass any increased water and wastewater rates on to the tenant, the landlord must wait until the lease comes up for renewal to raise the rent.

9. Further, the billing structure contained in the leases between the R.V. Park and its tenants is irrelevant to the Commission’s decision approving interim rates applicable to any time period.

10. The seasonality of the R.V. Park’s occupancy is totally outside the control of the Utility and the Commission as well. The Utility is required to provide service at a cost year-round, regardless of fluctuations in occupancy. The customers who receive the benefit of the Utility’s assurance that service will be available as and when they want it should

rightly bear the cost of providing it. It would be manifestly unfair to expect the Utility to bear the cost.

11. The alleged lack of notice to customers and customer involvement in the interim rate setting process is irrelevant. There is no provision in the law or rules for customers to be involved in the process of setting interim rates. By law, this is properly the function of the Commission Staff. Customers are protected by making the interim rates subject to refund with interest. In addition, customers are given ample opportunity to air their grievances at the customer service hearings scheduled by this Commission in accordance with its Rules and as provided by law. There is no "significant oversight or lack of facts" which could form the basis for the Petitioner's motion for reconsideration and/or modification of the Order, and the motion for reconsideration should be denied.

12. Customers of the Utility have enjoyed low rates for many years and should not now complain that the interim rates are unreasonable.

WHEREFORE, the Utility respectfully requests that this Commission deny the Petitioner's Motion to Intervene and Motion for Reconsideration of Order Approving Interim Rates and for Emergency Rate Relief in all respects.

Respectfully submitted on this  
14 day of March, 2004, by:  
ROSE, SUNDSTROM & BENTLEY, LLP  
600 S. North Lake Boulevard  
Suite 160  
Altamonte Springs, Florida 32701  
(407) 830-6331  
(407) 830-8522 Fax

By:

  
MARTIN S. FRIEDMAN

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 030443-WS**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished  
by U.S. Mail to the following parties on this 17 day of March, 2004:

Kathryn G.W. Cowdery, Esq.  
Ruden, McClosky, Smith,  
Schuster & Russell, P.A.  
215 S. Monroe Street  
Suite 815  
Tallahassee, FL 32301

Cochran Keating, Esq.  
Office of General Counsel  
Florida Public Service Commission  
Gunther Building  
Room 301D  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Steve Reilly, Esq.  
Associate Public Counsel  
Office of Public Counsel  
Claude Pepper Building  
Room 812  
111 W. Madison Street  
Tallahassee, FL 32399-1400

  
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MARTIN S. FRIEDMAN