

ORIGINAL

JAMES E. "JIM" KING, JR.
President

JOHNNIE BYRD
Speaker

STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330



Harold McLean
Public Counsel

Stephen C. Burgess
Deputy Public Counsel

July 19, 2004

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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ON JUL 19 PM 2:32
COMMISSION
CLERK

RE: Docket No. 030102-WS

Dear Ms. Bayó:

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

Also enclosed is a 3.5 inch diskette containing Citizens' Prehearing Statement in Microsoft Word format. 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

- CMP _____
- COM 3 _____
- CTR _____
- ECR _____
- GCL SCB/dsb _____
- OPC Enclosures _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1 _____
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DOCUMENT NUMBER - DATE
07844 JUL 19 04
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority
To transfer Certificate Nos. 620-W
And 533-S in Highlands County
From The Woodlands of Lake
Placid, L.P. to L. P. Utilities
Corporation.

Docket No. 030102-WS

Filed: July 19, 2004

CITIZENS' PREHEARING STATEMENT

The Citizens of the State of Florida, through their attorney, the Public Counsel, pursuant to Order No. PSC-04-0222-PCO-WS, hereby file this Prehearing Statement for the above-referenced docket.

APPEARANCES:

STEPHEN C. BURGESS, ESQUIRE
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida

A. WITNESSES:

The Citizens intend to call as a witness:

Donna DeRonne, who will testify that the PSC should not approve the transfer because it is not in the public interest and because the transferee will not meet its regulatory obligations.

B. EXHIBITS:

Through Ms. DeRonne, the Citizens intend to introduce the following schedules, which can be identified on a composite basis:

DOCUMENT NUMBER - DATE

07844 JUL 19 04

FPSC-COMMISSION CLERK

Exhibit __ (DD-1) Schedule 1 - Analysis of Ability of Camp Florida Property Owners Association, Inc. to Pay Mortgage on Wastewater Property Under Current Rates

Exhibit __ (DD-1) Schedule 2 -- Estimate of Revenue Requirement Allocated to Rental Lots

Exhibit __ (DD-2) Portions of PSC Order No. PSC-03-1053-PAA-WS

Exhibit __ (DD-3) Circuit Court Final Judgment

✱ Exhibit __ (DD-4) District Court Opinion

C. STATEMENT OF BASIC POSITION

The Public Service Commission should not approve this transfer because it is not in the public interest and because the transferee will not meet its regulatory obligations.

D. E. F. FACTUAL/LEGAL/PÓLCY ISSUES

The following issues are in dispute. The issues encompass elements that could be considered as factual, policy and legal in nature.

ISSUE 1: Is Camp Florida an exempt entity pursuant to Section 367.022(7), Florida Statutes?

POSITION: As it is currently configured, Camp Florida is not an exempt entity.

ISSUE 2: Should the Commission approve the transfer of Certificate Nos. 620-W and 533-S from Woodlands to LP?

POSITION: No. (DeRonne)

ISSUE 3: Should the Commission approve an acquisition adjustment for the transfer of Woodlands to L.P. Utilities?

POSITION: No position at this time.

ISSUE 4: Should the Commission approve the transfer of the wastewater facilities to Camp Florida and cancel Certificate No. 533-S?

POSITION: No. Section 367.071, Florida Statutes, explicitly prohibits the transfer of certificates unless the PSC makes a "determination and approval . . . that the proposed . . . transfer is in the public interest and that the . . . transferee will fulfill the commitments, obligations, and representations of the utility." The facts of this case are such that the Commission should not approve this transfer as in the

public interest or determine that the transferee will fulfill all of the obligations of the utility. (DeRonne)

ISSUE 5: Should the Commission approve the transfer of majority organizational control of LP from AnBeth Corporation to Camp Florida?

POSITION: **No.** Section 367.071, Florida Statutes, explicitly prohibits the transfer of certificates unless the PSC makes a “determination and approval . . . that the proposed . . . transfer is in the public interest and that the . . . transferee will fulfill the commitments, obligations, and representations of the utility.” The facts of this case are such that the Commission should not approve this transfer as in the public interest or determine that the transferee will fulfill all of the obligations of the utility. (DeRonne)

ISSUE 6: Is the transfer of L.P. Utilities to Camp Florida in the public interest?

POSITION: No. Before the transfer of majority organizational control can take place, the Commission must approve the transfer as being in the public interest. Based on all the reasons presented in the evidence, it is clear that the transfer to Camp Florida is not in the public interest. (DeRonne)

ISSUE 7: Does the evidence demonstrate that Camp Florida will fulfill the obligations and commitments of Woodlands?

POSITION: **No.** Florida Statutes requires that before a transfer can be approved, the Commission must make an affirmative determination that the transferee will fulfill the obligations and commitments of the transferor. Based on the history of the transferee, the Commission has no reason to believe the transferee intends to fulfill the transferor’s regulatory obligations and commitments. (DeRonne)

G. STIPULATED ISSUES:

The Citizens are not aware of any stipulated issues at this time.

H. PENDING MOTIONS

The Citizens are not aware of any pending motions at this time.

I. PENDING CONFIDENTIALITY CLAIMS OR REQUESTS

The Citizens are not aware of any confidentiality claims at this time.

J. COMPLIANCE WITH ORDER NO. PSC-04-0222-PCO-WS

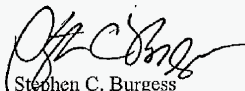
The Citizens believe they are in compliance with the requirements of Order No. PSC-04-0222-PCO-WS.

K. OBJECTIONS TO WITNESS'S QUALIFICATIONS

To the extent that opinion testimony has been offered in prefiled testimony, OPC makes no objection to the qualifications of the witness to render that opinion.

Respectfully submitted,

HAROLD MCLEAN
PUBLIC COUNSEL



Stephen C. Burgess
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

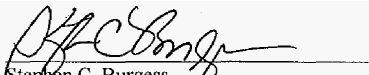
Attorneys for the Citizens of the
State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 030102-WS**

I HEREBY CERTIFY that a true and exact copy of the above and foregoing Citizens' Prehearing Statement has been furnished by hand delivery or U.S. Mail to the following parties of record this 19th day of July, 2004.

Katherine Fleming, 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