

Eric Fryson

From: Dana Rudolf [drudolf@sfflaw.com]
Sent: Thursday, January 12, 2012 4:48 PM
To: Filings@psc.state.fl.us
Cc: Martin Friedman
Subject: Docket No. 110264-WS; Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

Attachments: Response in Opposition to Emergency Motion for Intervention.pdf

- a) Martin S. Friedman, Esquire
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- b) Docket No. 110264-WS
Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.
- c) Labrador Utilities, Inc.
- d) 4 pages
- e) Response in Opposition to Emergency Motion for Intervention by Forest Lake Estates Co-Op, Inc.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
LABRADOR UTILITIES, INC.
for an increase in wastewater
rates in Pasco County, Florida

Docket No. 110264-WS

**LABRADOR UTILITIES, INC.'S
RESPONSE IN OPPOSITION TO EMERGENCY MOTION FOR INTERVENTION
BY FOREST LAKE ESTATES CO-OP, INC.**

Applicant, LABRADOR UTILITIES, INC. ("Utility"), by and through its undersigned attorneys, files this response in opposition to the Emergency Motion for Intervention by Forest Lake Estates Co-Op, Inc. ("Co-Op"), and in support of its opposition states as follows:

1. At the outset, if there is any emergency requiring immediate Commission attention, such emergency was created by the Co-Op. The Co-Op candidly admits that it has known since August 31, 2011 that the Utility was going to file an application for a rate increase. Further, the Notice was sent to customers on December 20, 2011 advising of the upcoming customer meeting, yet the Co-Op waited until a week before that meeting to file its Motion to Intervene. If there is any emergency, it was created due to the lack of due diligence on the part of the Co-Op, and the Utility and Staff should not have to expedite addressing the Co-Op's Motion just because the Co-Op voluntarily waited until the eleventh hour to move to intervene. Further, one would expect that if this was a true emergency that the Co-Op would have provided the Utility's attorney with a copy of the Motion by e-mail for facsimile, however, the Co-Op chose to send the Motion to the Utility's counsel by "snail mail", and it was not received until today. As all

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attorney's should know, e-mail and facsimile numbers for Florida attorneys are easily accessible on The Florida Bar website.

2. On the substantive issue, intervention is not appropriate in a PAA proceeding (except by Office of Public Counsel which is specifically authorized to do so by statute) until a PAA Order has been entered. To do otherwise would be to thwart the purpose of the PAA process which is to provide an inexpensive and expedient proposed determination. With only five months for the Staff to process a PAA application it would not be possible to address intervention by others. The Co-Op tacitly admits as much where it points out that it cannot comply with Rule 28-106.201, F.A.C. "because this Rate Case does not concern a prior agency decision."

3. The Co-Op's reliance on Rules 25-22.039 and 28-106.201(2), F.A.C., makes it clear that the Co-Op's Motion to Intervene is premature, and inappropriate at this time. Rule 25-22.029, F.A.C., governs the point of entry with a Proposed Agency Action Proceeding. As is clear from that Rule, the point of entry is after the Commission issues written notice of the proposed agency action, and at that point may file a Petition in accordance with Rule 28-106.201(2), F.A.C.

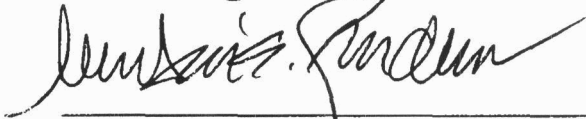
4. Utility is aware that this Commission in Docket No. 100330-WS that has recently allowed customer intervention in a PAA proceeding prior to issuance to the PAA Order. However, in those interventions the customers complied with the provisions of Rule 28-106.201(2), F.A.C., and the Utility in that proceeding did not object. Whereas in the instant case the Motion to Intervene does not comply with the requirements, and the Utility does object to intervention. To the extent that the Commission has issued orders

allowing intervention in the past contrary to Rule 25-22.029, F.A.C., it should correct that error prospectively. If parties are allowed to intervene prior to the issuance of a PAA Order, that would give them the right to initiate discovery, depositions, and the like which will wreak havoc on the PAA process.

WHEREFORE, Labrador Utilities, Inc. requests this Court deny the Emergency Motion to Intervene filed by Forest Lake Estates Co-Op, Inc.

Respectfully submitted on this 12th day
of January, 2012 by:

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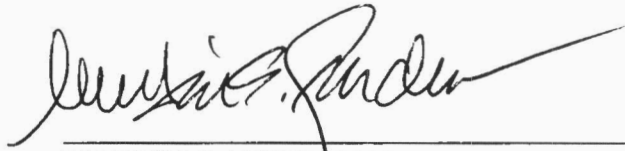
CERTIFICATE OF SERVICE
DOCKET NO. 110153-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing Response has been e-filed and furnished by U.S. Mail to the following parties this 12th day of January 2012:

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