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March 26, 1991


Mr. Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

Re: Docket No. 910111-WS; Complaint of
Sandy Creek Airpark, Inc., against
Sandy Creek Utilities, Inc.
Our File No. 28031.01

Dear Mr. Tribble:

Attached please find the original and fifteen (15) copies of
Petitioner's First Amended Complaint and Petition to be filed in
the above-referenced matter. Should you have any questions in this
regard, please let me know.

Sincerely,



F. Marshall Deterding
For the Firm

ACK _____
AFA _____
APP _____
CAF _____ FMD:lcb
CMU _____ Enclosures
CTR _____
EAG _____ cc: B. Kenneth Gatlin, Esquire
LEG _____ Matthew Feil, Esquire
LIN _____ Mr. John Williams
OPC _____ Mr. Greg Delavan
RCH _____ Nard S. Helman, Esquire
BEG _____
NAS _____
DTH _____

DOCUMENT NUMBER-DATE

02996 MAR 26 1991

FSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Sandy Creek)
Airpark, Inc., against Sandy Creek) DOCKET NO. 910111-WS
Utilities, Inc.)
_____)

FIRST AMENDED COMPLAINT AND PETITION

Comes now, the undersigned counsel, on behalf of Sandy Creek Airpark, Inc., and files this First Amended Complaint and Petition pursuant to the provisions of Sections 25-22.036 and 25-30.560, Florida Administrative Code, and Sections 367.045 and 367.121, Florida Statutes, and in support thereof states:

1. The name of the Commission is the Florida Public Service Commission, and as this is the initial pleading, no docket number has been assigned to the case at this time.

2. The name and address of the Complainant/Petitioner is:

Sandy Creek Airpark, Inc.
1C Airway
Panama City, Florida 32404

The name and address of the entity against whom this Complaint is filed is :

Sandy Creek Utilities, Inc.
1732 Highway 2297
Panama City, Florida 32404

3. The Complainant/Petitioner's substantial interest will be affected by the Commission's determinations related to the utility in that Complainant/Petitioner has in the past been, and is currently, the owner of property for which, from time to time, water and sewer service is sought from the utility in a general area for which the utility has been providing services for several years. As such, in any request for extension of service,

DOCUMENT NUMBER-DATE

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PSC-RECORDS/REPORTING

service to a particular lot, or acceptance of facilities constructed by the Complainant/Petitioner for connection to facilities of the utility, both the utility and the Complainant/Petitioner herein are required to comply with Commission rules, policies and orders in the conduct of such business.

4. Complainant/Petitioner is not aware of any disputed issues of material fact at this time.

5. The facts alleged by Complainant/Petitioner in support of this filing are as follows:

(a) Sandy Creek Airpark consists of Phases I and II, each of approximately fifty (50) lots, both of which are located immediately adjacent to the water and sewer treatment plant facilities of Sandy Creek Utilities, Inc. Attached hereto as Exhibit "A" is a map showing the location of Sandy Creek Airpark, Phases I and II, in relation to the treatment plant facilities of Sandy Creek Utilities, Inc.

(b) Phase I of Sandy Creek Airpark is served by one water line and one sewer line currently connected to the facilities of the utility, and for which approximately six (6) lots are currently receiving service. The great majority of the lots in Phase I not receiving service are owned by individuals, with only eight (8) additional lots owned by the Complainant/Petitioner herein. The water and sewer mains contained in Phase I have been connected to the utility facilities of Sandy Creek Utilities, Inc., and several lots therein have been receiving service as and when requested since the utility facilities and the property currently known as Sandy Creek Airpark were under common ownership several years ago.

(c) Since August, 1987, Complainant/Petitioner has pursued attempts to obtain commitments for service to Phase II of Sandy Creek Airpark from the utility. The request for assurances that services can be provided by the utility have taken both verbal and written form. The written requests for service have, on numerous occasions over the last three years, complied with the requirements of Commission Rule 25-30.525, Florida Administrative Code.

(d) The utility has failed to comply with the requirements of Rule 25-30.530, Florida Administrative Code, in responding to these repeated requests for service, in that what little response has been received in writing has never stated whether or not such service can be provided, and when.

(e) Based upon verbal assurances from the utility that service can be provided to Phase II, the Complainant/Petitioner herein has constructed the necessary water and sewer mains in Phase II, and has extended those up to the location of the utility's existing facilities, and readied them for connection. Those facilities were constructed after review of the design criteria with DER officials, and discussion with the Utility's management, and were designed to be compatible with the systems as proposed by the Utility's engineer. All necessary DER permits were obtained for this purpose. At the utility's insistence, the Complainant/Petitioner herein has paid an engineering inspection fee to the utility's engineer for plan review and inspection of the facilities constructed by the Complainant/Petitioner, approximately eight (8) months ago, and the utility's engineer has approved of those facilities.

(f) In order to sell lots in Phase II of Sandy Creek Airpark, the Complainant/Petitioner must have some written assurances that the utility intends to provide service to the lots contained therein as each individual lot owner requests such service. In addition, Complainant/Petitioner must obtain immediate connection of the water and sewer facilities constructed by Complainant/Petitioner to those of the utility.

(g) While the currently described certificates of the utility do not include Sandy Creek Airpark, Inc., the continuous service to Phase I of the Airpark, and the continued assurances with relation to Phase II of the Airpark, lead to the conclusion that Sandy Creek Airpark in its entirety is de facto within this certificated service territory of the utility.

(h) Sandy Creek Utilities, Inc., has adequate existing excess capacity to provide water and sewer utility services to all of Sandy Creek Airpark, and no additions to its distribution or collection system will be necessary to provide such service beyond those already constructed by the Complainant/Petitioner herein. The utility currently owns the water and sewer mains servicing Phase I of Sandy Creek Airpark, and Complainant/Petitioner herein stands ready, willing and able to provide, by Bill of Sale, the facilities it has constructed on Phase II in order to enable the utility to provide service thereto. The Utility is therefore financially able to make whatever additional investment, if any, necessary to serve the Complainant/Petitioner herein without impairing its capacity to serve its existing customers.

(i) Unless the Commission requires Sandy Creek Utilities, Inc., to extend its official service territory to include Sandy Creek Airpark, and finds that the certificated territory does already de facto include the property of Complainant/Petitioner, the Complainant/Petitioner or each individual lot owner will have to petition for extension of service territory each time additional service is needed by them.

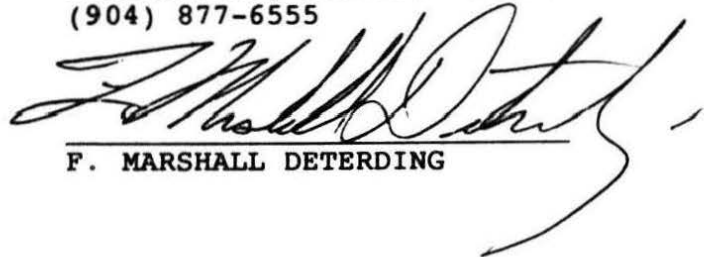
(j) Sandy Creek Airpark, Inc., has repeatedly attempted to enter into a Developer Agreement with Sandy Creek Utilities, Inc., and Sandy Creek Airpark, Inc., has in fact drafted initial agreements for use by the Utility. The Utility has either rejected those agreements with little or no discussion, or has failed to respond to those requests. In no case has Sandy Creek Utilities, Inc., ever offered a Developer Agreement to be utilized to provide service, despite the repeated requests for same.

WHEREFORE, Sandy Creek Airpark, Inc., requests that the Florida Public Service Commission require Sandy Creek Utilities, Inc., to provide assurances to the Complainant/Petitioner that service is available to Sandy Creek Airpark, Inc., Phase II; require connection of the already installed and inspected facilities within Sandy Creek Airpark, Phase II, to the existing facilities of Sandy Creek Utilities, Inc.; and require the immediate formalization of the extension of service territory of the utility so as to officially include Sandy Creek Airpark, Inc., Phase I and Phase II, as is de facto the case at present. The Commission is authorized to take such actions under the provisions of Section 367.045, Florida Statutes. In the alterna-

tive, should the Commission choose not to require the formal extension of the utility's existing service territory to include Sandy Creek Airpark, Phase II, the Complainant/Petitioner herein requests that the Florida Public Service Commission require the utility to provide service to Sandy Creek Airpark, Inc., Phases I and II, under its authority as expressed in Section 367.121(1)(d), Florida Statutes to require service by a regulated utility outside its certificated territory.

Respectfully submitted this 26th
day of March, 1991, by:

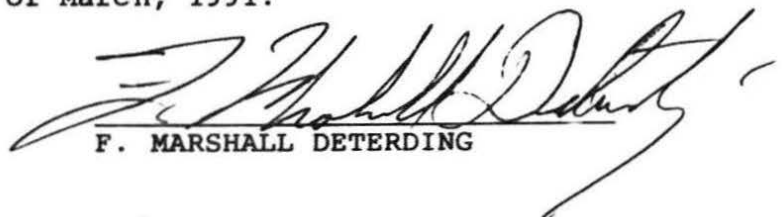
ROSE, SUNDSTROM & BENTLEY
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(904) 877-6555



F. MARSHALL DETERDING

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Complaint and Petition has been furnished by U.S. Mail to Kenneth Gatlin, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709 Mahan Drive, Tallahassee, Florida 32308, and by hand delivery to Matthew Feil, Esquire, Division of Legal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0850 this 26th day of March, 1991.



F. MARSHALL DETERDING