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**ORIGINAL FILE 10/23**  
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June 7, 1991

Hand Deliver

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

RE: Complaint and petition of Sandy Creek Airpark, Inc.,  
against SANDY CREEK UTILITIES, INC., regarding  
provision of water and sewer service in Bay County.  
Docket No. 910111-WS

Dear Mr. Tribble:

Enclosed for filing in the above docket on behalf of Sandy  
Creek Utilities, Inc. are an original and fifteen (15) copies of  
each of the following:

1. Prefiled Direct Testimony of Deborah D. Swain,  
(including Attachment "A")

2. Certificate of Service

Please acknowledge receipt of the prefiled testimony and the  
Certificate of Service by stamping the enclosed extra copy of this  
letter and returning same to my attention. Thank you for your  
assistance.

ACK

AFA \_\_\_\_\_

APP \_\_\_\_\_

CAF \_\_\_\_\_

CMU \_\_\_\_\_

CTR \_\_\_\_\_

EAG

LEG

LIN *orig x 3*

OPC \_\_\_\_\_

RCH \_\_\_\_\_

SEC  WLS/dc

WAS  Enclosure

OTH \_\_\_\_\_

Very truly yours,

*Wayne L. Schiefelbein*

Wayne L. Schiefelbein

RECEIVED & FILED

EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

05745 JUN-7 1991

REC-RECORDS/REPORTING

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint and Petition  
of Sandy Creek Airpark, Inc.,  
against SANDY CREEK UTILITIES,  
INC., regarding provision of  
water and sewer service in Bay  
County

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Docket No. 910111-WS

Filed: June 7, 1991

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Prefiled  
Testimony of Deborah D. Swain, together with Attachment "A", has  
been furnished by hand-delivery to MATTHEW J. FEIL, ESQUIRE,  
Division of Legal Services, Florida Public Service Commission, 101  
E. Gaines Street, Tallahassee, Florida 32399-0863, and to F.  
MARSHALL DETERDING, ESQUIRE, Rose, Sundstrom & Bentley, 2548  
Blairstone Pines Drive, Tallahassee, Florida 32301 on this 7th day  
of June, 1991.

Respectfully submitted,



**WAYNE L. SCHIEFELBEIN**  
Gatlin, Woods, Carlson & Cowdery  
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Tallahassee, Florida 32308  
(904) 877-7191

Attorneys for  
SANDY CREEK UTILITIES, INC.

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION  
COMPLAINT OF SANDY CREEK AIRPARK, INC.,  
AGAINST  
SANDY CREEK UTILITIES, INC.  
BAY COUNTY, FLORIDA

DOCKET NO. 910111-WS

Testimony of  
Deborah D. Swain

Exhibit No. \_\_\_\_\_

DOCUMENT NUMBER-DATE  
05745 JUN -7 1991  
FPSC-RECORDS/REPORTING

1 Q. Please state your name and address for the record.  
2 A. My name is Deborah Swain. My business address is  
3 2025 S.W. 32nd Avenue, Miami, Florida 33145.  
4 Q. By whom are you employed and in what capacity are you  
5 so employed?  
6 A. I am Vice President of Milian, Swain, & Associates,  
7 Inc., a firm which provides rate, management,  
8 valuation and engineering consulting services.  
9 Q. Please state your educational and professional  
10 background.  
11 A. I have a Bachelor of Science degree in Accounting  
12 from Florida State University. I was employed by  
13 Deltona Utility Consultants, Inc., and Deltona  
14 Utilities, Inc., from June 1982 to September 1989. I  
15 served as rate analyst, Controller, and then Vice  
16 President while at Deltona. Prior to my employment  
17 at Deltona, I was Controller for Southern States  
18 Utilities, Inc. ("SSU"), for 4 1/2 years.  
19 Q. Ms. Swain, have you ever presented expert testimony  
20 before this Commission?  
21 A. Yes, I have presented expert testimony before this  
22 Commission, as well as before several County  
23 Commissions.  
24 Q. In what capacity have you been accepted as an expert  
25 before this Commission?

1 A. I have been accepted as an expert in regulatory  
2 accounting and in rate regulation matters in general.

3 Q. Ms. Swain, what is your involvement in this  
4 proceeding?

5 A. I was retained by Sandy Creek Utilities, Inc. ("the  
6 Utility"), to review the complaint filed by Sandy  
7 Creek Airpark, Inc., against the Utility. In  
8 addition, I was asked to make recommendations to the  
9 Utility as to those conditions under which service  
10 may be provided to Phase II of Sandy Creek Airpark,  
11 Inc., ("the Airpark") and to attend a meeting to  
12 discuss those conditions with the Airpark. I have  
13 been subsequently retained to prepare prefiled  
14 testimony for this proceeding and to attend the  
15 hearing.

16 Q. What are the specific areas covered by your testimony  
17 at this time?

18 A. My testimony addresses the Utility's capacity to  
19 provide service, the Utility's financial ability to  
20 provide service, the history of the Airpark's request  
21 for service, and the conditions under which the  
22 Utility may provide service.

23 Q. Does the Utility have the capacity to provide service  
24 to the Airpark?

25 A. No, it does not. According to Proposed Agency Action

1       Order No. 24170, approving increased rates ("PAA"),  
2       and currently set for hearing, the water treatment  
3       facilities are 93% used and useful. In that there  
4       were 137 test year connections, and 9 were added as  
5       margin reserve, there is only additional capacity for  
6       9 additional connections, calculated as follows:

7           137 + 9 = 146       (ERC's included in U & U)  
8           146 / 93% = 157     (ERC's which could be served)  
9           157 - 146 = 9       (ERC's which can be added)

10       The wastewater treatment plant was found to be only  
11       24% used and useful. Although there is treatment  
12       capacity available, Order No. 24170 also indicated  
13       that the collection system is inadequate in design.  
14       In fact, ordering paragraph five reads as follows:

15           ORDERED that within ninety (90) days of the  
16           date of this Order, Sandy Creek Utilities,  
17           Inc. shall submit to the Commission a plan  
18           of its intended improvements to and the  
19           redesign of its wastewater system as set  
20           forth in the body of this Order.

21       A rough estimate to improve this system, as suggested  
22       by Robert L. King, P.E., in the current rate  
23       proceeding, is approximately \$150,000.

24       The Airpark has installed a collection system which  
25       utilizes the same poor design as that of the existing

1 collection system.

2 It is my opinion that the Utility should not consider  
3 making its position worse by connecting the Airpark  
4 system, at least until its own system problems are  
5 fully resolved.

6 Q. Ms. Swain, does the Utility have the financial  
7 ability to provide service to the Airpark?

8 A. The Utility does not currently have the ability to  
9 provide service to the Airpark, it is operating at a  
10 loss. However, it has recently placed in effect,  
11 under escrow, rates approved under a Proposed Agency  
12 Action Order approving increased rates ("PAA"), which  
13 is now set for hearing. The revenues that would be  
14 generated under the PAA would at least cover a major  
15 portion of operating and maintenance expenses, and  
16 would enable the Utility to continue to provide  
17 service to those customers in its current service  
18 territory. However, the rates under the PAA are not  
19 designed to cover the cost to operate and maintain  
20 the Airpark's system. Since the system in that area  
21 will not immediately be fully connected, adequate  
22 revenues would not be generated to cover those costs.  
23 The Utility would be unable to operate that system as  
24 currently proposed, unless the Developer is charged a  
25 guaranteed revenue fee. In my opinion, unless the

1 Utility can collect guaranteed revenues from the  
2 Developer, it is not financially able to provide  
3 service to the Airpark.

4 Q. Can you explain why the Utility has not connected the  
5 Airpark to its system?

6 A. The Utility repeatedly advised the Airpark that fees  
7 must be paid in advance representing a reservation of  
8 capacity before service would be provided. To date,  
9 the Airpark has never agreed to this condition.

10 Q. Why has the Utility required fees to be paid in  
11 advance?

12 A. Until the new wastewater treatment plant ("WWTP") was  
13 placed in service in mid 1990, the Utility did not  
14 have the capacity to provide service to the Airpark.  
15 Even with the new WWTP, there is only adequate  
16 capacity to provide service to the current  
17 certificated territory. If the Airpark requires a  
18 commitment from the Utility to have service provided  
19 to its area, it should pay those costs necessary to  
20 assure adequate capacity. This should be done in the  
21 form of advance plant capacity fees.

22 Q. Ms. Swain, you mentioned that you presented a list of  
23 conditions under which the Utility may provide  
24 service to the Airpark. Is the Utility willing to  
25 connect the Airpark if certain conditions are met?



1 A. The Utility's position is that it does not presently  
2 have adequate capacity (water treatment, wastewater  
3 collection, nor financial capacity) to provide  
4 service to the Airpark. However, if its conditions  
5 are met, the Utility would have the financial ability  
6 to provide service.

7 Q. Could you please describe the circumstances under  
8 which that list was presented?

9 A. The list was presented at a meeting held on March 25,  
10 1991 with Greg Delevan, Marshall Deterding, Matthew  
11 Feil, Ralph Von Fossen, Kenneth Gatlin and myself in  
12 an attempt to settle the complaint. A copy of this  
13 document is attached to my testimony, and labelled  
14 "Attachment A." This list continues to represent the  
15 Utility's requirements before service is extended to  
16 the Airpark.

17 Q. How did you develop the list?

18 A. In general, I used conditions commonly required by  
19 other utilities in negotiating developer agreements.  
20 Additionally, I recognized the Utility's tight  
21 financial constraints, and included a requirement  
22 that some costs be borne by the Developer, and be  
23 paid in advance.

24 Q. Ms. Swain, referring to Attachment A, perhaps you  
25 could go through the list, and briefly explain each

1 condition.

2 A. The first condition is simply that a letter of intent  
3 be prepared by the Airpark, to formalize the request  
4 for service.

5 The second condition is that a fee representing the  
6 administrative costs be paid at the time the letter  
7 of intent is transmitted. The Utility will require  
8 that all administrative costs be borne by the  
9 Airpark, as is permitted by Chapter 25-30.540(3)(a)  
10 F.A.C., from applicants for service within a  
11 Utility's Certificated Territory.

12 The third condition is that the full amount of impact  
13 fees must be paid at the time the developer agreement  
14 is executed, as I discussed earlier.

15 The fourth condition encompasses ten separate  
16 requirements regarding the property contribution.  
17 They are intended to assure compliance with  
18 regulatory requirements, to provide physical and  
19 accounting documentation, and to properly transmit  
20 ownership.

21 The final condition is that ownership of the pumps  
22 and tanks not be transmitted to the Utility. This  
23 property is not desirable, and the Utility does not  
24 wish to be responsible for their operation and  
25 maintenance.

1 Q. Ms. Swain, has the Airpark responded to this list of  
2 conditions, either by a counter offer, or some other  
3 expression of interest.

4 A. To my knowledge, the only contact with the Utility  
5 regarding the Airpark's opinion of the conditions was  
6 the discussion at our March 25th meeting, and the  
7 phone call I received from Nard Helman, legal counsel  
8 for the Airpark. From those discussions, I would  
9 conclude that the conditions have been rejected, and  
10 the Airpark does not intend to present a counter  
11 offer.

12 Q. Ms. Swain, does this conclude your direct testimony?

13 A. Yes, it does.

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## ATTACHMENT A

1. Letter of intent prepared by Sandy Creek Airpark, Inc., which includes the following terms,
2. Payment of \$7,500 must accompany the Letter of Intent, which represents a partial payment in advance of the estimated costs of legal and consulting fees which will be required to enter into an agreement, establish service availability fees, and extend our certificate,
3. Payment of the impact fees established in the service availability filing, grossed-up to include income taxes if so approved by the FPSC, must be paid, in full, at the time the developer agreement is executed,
4. As to the property contribution, the following must be submitted with the Letter of Intent:
  - a. Copy of DER Certificate of Completion of Construction,
  - b. Two blueprints of as-built plans,
  - c. One milar of as built plans,
  - d. An Engineer's letter of Certification of Construction,
  - e. itemized description and cost of the constructed facilities components, by NARUC account number,
  - f. Bill of Sale,
  - g. Letter of Dedication,
  - h. Facilities must be warranteed for one year from the time they are placed in service,
  - i. Contractor's Waiver and Release of Liens,
  - j. Copy of all required utility easements.
5. In addition, as to the property contribution, we will not accept the pumping stations, or the septic tanks as utility property. They should remain the property of either the developer or the homeowners.

The above list is not intended to represent a complete description of the terms and conditions of a developers agreement. It is a synopsis of the minimum terms which we will require.