State of Florida

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Public Service Commission

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DATE: August 10, 1999

TO: Division of Records and Reporting

FROM: Division of Water & Wastewater (Golden)

RE: Docket No. 990080-WS, Complaint and request for hearing by Linda J. McKenna and 54 petitioners regarding unfair rates and charges of Shangri-La by the Lake Utilities, Inc. in Lake County

Please include the following attached documents in the docket file:

- 1. July 8, 1999 letter from Linda McKenna to Tim Vaccaro regarding customer refunds
- 2. July 15, 1999 letter from Linda McKenna to Tim Vaccaro regarding irrigation meters
- 3. July 30, 1999 response to Linda McKenna's July 8 and July 15, 1999 letters to Tim Vaccaro
- 4. August 2, 1999 letter to Linda McKenna providing a list of customers who were given a refund

I have attached an extra set of these documents if you need them. Please feel free to call me at 413-7015 if you have any questions.

Attachment

cc: Division of Legal Services (Vaccaro) w/out attachment

AFA APP GAF CMU CTR EAG LSG MAS CPC PAI SEC WAW OTH

> DOCUMENT NO. 09541-99 8-10-99

Linda J. McKenna 5 Tarkiln Hill Road Raymond, ME 04071 and Shangri La by the Lake 134 Shanghai Island Road Leesburg, FL 34788

July 8, 1999

Tim Vaccaro, Esq. Florida Public Service Commission **Capital Circle Office Center** 2540 Shumard Oak Blvd. Tallahassee FL 32399-0850

Shangri La by the Lake Utilities, Inc. Docket No. 990080 WS

Dear Mr. Vaccaro:

Re:

Some time ago I forwarded a listing of homeowners who received water/sewer bills from the utility in December, 1998 for service beginning January 1, 1999, which was PRIOR to installation of the meters. I have just learned that the utility has stricken 16 names off this list, stating that the meters were installed during the month of January. While it is true these meters were installed during the month of January, they were NOT installed prior to January 1, the service date, and it was my understanding from the meeting held with you, Martha Golden, and Stan Reiger that the utility was NOT PERMITTED TO BILL UNTIL THE METERS WERE INSTALLED. Has the PSC changed its position on this issue? I don't believe billing prior to meter installation is in compliance with the PSC Order.

Moreover, some customers have received notice that because their meters were installed in February, they would be receiving credit for the base rate of \$23.91 billed for the month of January. Despite this letter being enclosed with their bill, NO CREDIT was given! Again, if a meter was installed during the month of February, should a customer be billed as of February 1st? Would you please provide me with the list of customers who were notified they would be receiving credit for the improper January billing so that we can ascertain that this was done properly?

Please respond to the above Maine address. Thank you.

I look forward to hearing from you.

Sincerely,

Kude J.H. Clann-Linda J. McKenna

Martha Golden cc: Stan Reiger Jack Shreve, Esq.

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Mr. and Mrs. H. D. McKenna, Sr. 5 Tarkiln Hill Road Raymond, ME 04071 and Shangri La by the Lake 134 Shanghai Island Road Leesburg, FL 34788

July 15, 1999

Tim Vaccaro, Esq. Florida Public Service Commission Capital Circle Office Center 2540 Shumard Oak Blvd. Tallahassee FL 32399-0850

RECEIVED

JUL 1 9 1999 Florida Public Service Commission

Division of Water and Wastewater

Re: Shangri La by the Lake Utilities, Inc.

Dear Mr. Vaccaro:

On July 13, 1999 we received the enclosed Notice (dated July 8, 1999) from Shangri La by the Lake Utilities, Inc. advising that it "has determined" that our "irrigation system is connected directly to the utility's water distribution system." We are seriously concerned about this "determination" because:

- 1. How was this determination made?
- 2. To the best of our knowledge, the irrigation system is not so connected; and
- 3. The entire water system has been shut off at our Florida residence since April 20, 1999

Inasmuch as we will not be in residence in Florida and the WATER WILL NOT BE TURNED ON UNTIL ON OR ABOUT DECEMBER 1, 1999, we will be unable to dig up the irrigation system to determine if the utility's claim is correct. However, the Notice requires that we take action within 40 days of the date of their notice (not from the date we received notice!), which is physically impossible!

In addition, the \$125 additional meter installation charge seems grossly unfair! While we have no intention of adding another meter, we were previously advised by Stan Rieger that Mr. Werner (the utility and park owner) stated to him it was his intention to only charge \$65 for additional meters, inasmuch as it was an error on the part of the utility in failing to determine at the time meters were installed that some irrigation systems MAY be separate on some homes. <u>The increased charge of</u> <u>\$125 is a "revengeful" act</u> on the part of the utility owner as he has made statements to residents that reflects his anger at residents for complaining to the PSC about his utility company.

It appears the utility is "fishing" to find out who, if anyone, is connected to the mainline and that no factual determination has been made. Moreover, the notice does not indicate whether another base water and sewer charge will be levied for irrigation water usage, nor whether there will be a sewer charge in addition to water usage charges.

If, in fact, thorough research and investigation reflects that our irrigation system is directly connected we will, of course, disconnect it and pipe through the adjacent canal.

Tim Vaccaro, Esq Public Service Commission July 15, 1999 Page 2

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Is it a PSC order or requirement that action be taken and the notice returned to the utility within 40 days or is this a self-imposed deadline by the utility and is this action sanctioned by the PSC?

In addition, we were one of the homes <u>charged for water and sewer for the month of January</u> <u>even though our meter was INSTALLED AFTER JANUARY 1, 1999</u>. We understood this was an "illegal charge" on the utility's part and that the PSC was taking some action to remedy these illegal charges. We have learned some homeowners were notified they would be given credit for the January charges, although this was not actually given - and we were NOT one of the homeowners so notified. Obviously, this is based on Mr. Werner's personal animosity towards us for instigating the action with the PSC for his improper application process and bringing to the PSC's attention the true facts surrounding the utility's application and misleading figures and calculations submitted.

Obviously, time is of the essence and we look forward to hearing from you promptly at our above MAINE ADDRESS. Thank you.

Sincerely,

Mus the H. D. Meterned.

Mr. and Mrs. H. D. McKenna, Sr.

cc: Jack Shreve, Esq. via Fax 850-488- 4491
Stanley D. Rieger
Martha Golden
Bill Talbott, Executive Director PSC via Fax 850-487-1716
Joe A. Garcia, Commission Chairman via Fax 850-487-1716
Susan Clark, Assigned Hearing Officer via Fax 850-487-1716

Werner & Werner, Inc

Shangri-La By The Lake Utilities, Inc. 11654 Long Lake Drive Sparta, MI 49345

Phone: 616-887-8888

July 8, 1999

Notice to Irrigation Customers of Shangri-La By The Lake Leesburg, Florida 34788

Ξ,

Shangri-La By The Lake Utilities, Inc. has determined that your irrigation system is connected directly to the utility's water distribution system and is not metered. In accordance with requirements of the Water Management District and Public Service Commission, all water use must be metered. In addition, an irrigation system connected directly to a public water system without an appropriate backflow prevention device is considered a health hazard and is prohibited by the Florida Department of Environmental Protection.

The utility is required to protect the water supply by installing a backflow prevention device or discontinuing service by disconnecting the source of the hazard. Therefore, your irrigation system must be either: (1) repiped so that is connects to the water line on your side of the water meter that was previously installed on your potable water line, (2) separately metered, or (3) disconnected from the utility's water distribution system.

You must return the attached form to Shangri-La By The Lake Utilities, Inc. within 40 day of the date of this Notice to notify the utility regarding which option you plan to take, and complete the repiping or disconnection within 40 days of the date of this notice. If you do not respond within 40 days of your receipt of this notice, the utility will disconnect your irrigation system from the utility's water distribution system.

The utility's currently approved meter installation fee is \$125, which includes a meter and backflow prevention device. If you choose to have a separate meter installed on your irrigation system, you must pay the \$125 meter installation fee at the time you request the meter be installed. Additionally, you will be billed each month for water used through that meter based upon the utility's currently approved water gallonage charge.

Please mail the enclosed form to Shangri-La By The Lake Utilities, Inc at P. O. Box #343, Sparta, MI 49345, or you may use the enclosed self-addressed envelope. If you have any questions, please feel free to call the utility at (616) 887-8888.

SHANGRI-LA BY THE LAKE UTILITIES, INC.

RESPONSE FORM REGARDING CUSTOMER IRRIGATION SYSTEMS

Please check desired option below:

- 1. Will repipe irrigation system to connect behind existing meter within 40 days of the date of this Notice
- 2. Request that utility install separate irrigation meter (Please include a check or money order for the \$125 meter installation fee with this form.)
- 3. Will disconnect irrigation system from utility's water distribution system within 40 days of the date of this Notice

Mac (Linda) Mc Kenna (17-E) 134 Shanghai Is Rd Leesburg, FL 34788

Customer Name (please print)

Customer Account Number

Customer Signature

Date Signed

STATE OF FLORIDA



Commissioners: JOE GARCIA, CHAIRMAN J. TERRY DEASON SUSAN F. CLARK JULIA L. JOHNSON E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER DANIEL M. HOPPE, DIRECTOR (850) 413-6900

Public Service Commission

July 30, 1999

Mrs. Linda J. McKenna 5 Tarkiln Hill Road Raymond, ME 04071

RE: Docket No. 990080-WS, Complaint and request for hearing by Linda J. McKenna and 54 petitioners regarding unfair rates and charges of Shangri-La by the Lake Utilities, Inc. in Lake County

Dear Mrs. McKenna:

This letter is in response to your July 8 and July 15, 1999 letters to Mr. Tim Vaccaro. Mr. Vaccaro has allowed me to respond to your letters because I am one of the staff members who has been in direct contact with the utility regarding these matters and have obtained additional information which will help answer your questions.

With regard to the irrigation notice, this action was necessary by the utility to correct a hazardous situation. Commission staff members have been working with the utility to determine the most appropriate solution to the irrigation cross-connection problem. Rule 25-30.320(2)(h), Florida Administrative Code, states that the utility may discontinue service "without notice in the event of a condition known to the utility to be hazardous." Consequently, the utility could have disconnected the irrigation systems without providing notice to the customers. However, Commission staff and the utility believed it would be more appropriate for the utility to provide notice and allow the customers an opportunity to consider which alternative they prefer to use to correct the problem. The notice was sent with our knowledge and prior review. Ideally, we would have preferred to wait until all of the customers were in residence to address this problem. Unfortunately, this situation creates a serious health hazard which must be addressed with immediacy.

We have received information from the utility which lists the source of irrigation water for each lot having an in-ground irrigation system. According to that information, 107 of the utility's 134 water customers have irrigation systems. Of those 107 customers, 21 customers' irrigation systems are connected behind their existing meter, three are connected directly to the main but are metered separately, two have been disconnected, one has a well, 12 obtain irrigation water from canals, and the remaining 68 are connected directly to the utility's water main without a meter or

Internet E-mail: contact@psc.state.fl.us

Mrs. Linda J. McKenna Page 2 July 30, 1999

backflow prevention device. The 21 customers whose irrigation systems are already connected behind the meter received the irrigation notice in error. On July 14, 1999, the utility mailed a second notice to those customers to advise them to disregard the prior notice.

The list indicates that the irrigation system for your lot (Lot #134) is connected directly to the utility's water distribution main. Therefore, absent a determination to the contrary, the irrigation notice applies to you and you will need to choose which option you prefer. Hopefully, it will be easier for you to make your decision after I answer the rest of your questions.

Regarding how the determination was made, neither the utility nor Commission staff were aware that some of the customers' irrigation systems were connected directly to the utility's water distribution system at the time the utility's certificate was granted and initial rates were established. The problem was not discovered until the utility began installing the water meters in the mobile home park. During installation of the new water meters, the plumber hired by the utility to install the meters determined that many of the customers are receiving water from two separate water lines. Specifically, some customers have a water line connected directly to the utility's water main, which provides water solely to their home. In addition, they have a second water line connected directly to the utility's water main, which provides water solely to their irrigation system. The two water lines are not interconnected with each other; they are only connected to the utility's water main.

This presents two problems; a health hazard and a lack of metering for water usage. As stated in the notice you received, an irrigation system connected directly to a public water system without an appropriate backflow prevention device is considered a health hazard and is prohibited by the Florida Department of Environmental Protection (DEP). The utility has an obligation pursuant to DEP rules to remove the hazard once identified. We have been informed by the utility, as well as some year-round residents, that some customers who are not currently in residence have left their irrigation systems running while they are out of the state. Therefore, there is a possibility that the drinking water supply could be contaminated by one of the un-metered irrigation systems even though some residents may be out of the state. We have been informed by several customers that approximately half of the park residents are year-round residents. Consequently, if contamination occurs from one of these unprotected irrigation systems during the summer months, at least half of the utility's customers will still be affected. Now that the hazard has been identified, it is not in the public interest to leave it uncorrected any longer than absolutely necessary.

Further, Rule 25-30.255(1), Florida Administrative Code, states that except as provided in subsection (2) of this rule, each utility shall measure water sold upon the basis of metered volume sales unless the Commission approved flat rate arrangements for that utility. The Commission has not approved flat rates for this utility, nor do any of the exceptions in subsection (2) apply. Therefore, the utility is required to meter all water sold. At present, 24 of the customers who have irrigation systems are connected properly and are paying for all water used, including water used for irrigation purposes. However, 68 customers are not properly connected, and thus, their water consumption for irrigation purposes is not being metered or billed. While the cross-connection

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Mrs. Linda J. McKenna Page 3 July 30, 1999

hazard is our highest concern, the situation is also unequitable to the 24 customers who are connected properly and are being billed for all water usage.

As stated in the notice, there are three ways to eliminate the health hazard and resolve the metering concerns: (1) a meter with a backflow prevention device can be installed on the separate water line which serves the irrigation system, (2) the irrigation system can be repiped to disconnect it from the utility's water main and reconnect it behind the existing water meter on the other water line which provides water to the house (the existing meter is already equipped with a backflow prevention device), or (3) the irrigation system can simply be disconnected from the utility's water main and not used.

If you still believe the utility is in error regarding your irrigation system, you may request that it recheck your system while another customer whom you trust observes the test in your absence. It is not necessary to dig up the irrigation system to verify how it is connected. There are two simple methods that can be used to verify the source of the irrigation water. The easiest method is to turn off all the water used inside the home, look at the dial on the meter to ensure that it is not moving (registering a flow of water to the house), then turn on the irrigation system. If the dial on the meter begins to move, you will know that the water supplied to the irrigation system flows through the existing meter and no further action is necessary. However, if the dial on the meter does not move, you know the irrigation water is coming from a different source, and some action must be taken to eliminate the cross-connection hazard.

An alternative method is to shut the water off at the meter to ensure that no water can be supplied to the house, then turn the irrigation system on. If no water flows through the irrigation system, you will know that it is supplied with water through the same line that serves the house and no further action is necessary. However, if water does flow through the irrigation system, you will know that the irrigation water is coming from a different source, and some action must be taken to eliminate the cross-connection hazard.

If you do not respond to the utility's notice, the utility will disconnect your irrigation system from its water main. Although some customers may have dismantled their automatic sprinklers, this does not suffice as a disconnection. The system is not disconnected unless the unprotected connection to the main is severed. The utility will dig down to the line serving the irrigation system and sever the connection at the closest possible point to the main. There is no need to remove the irrigation system to achieve a disconnection from the main. Also, disconnection from the main should not cause any damage to the irrigation system.

Regardless of the option chosen, some action will be necessary at the point of connection between the irrigation system and utility's main. Either the line must be cut to install a meter or it must be cut to disconnect it from the main. If the utility disconnects your irrigation system from the main after the 40-day notice period, you still have the option of requesting a meter at a later date or repiping your irrigation system to connect behind the existing meter. It is not necessary that you Mrs. Linda J. McKenna Page 4 July 30, 1999

make the physical changes to your irrigation system at this time; however, it is necessary that the utility correct the cross-connection hazard as soon as possible to safeguard the potable water supply.

Regarding the charges, the utility is not authorized to charge customers for disconnecting the irrigation system. If you choose to have a separate meter installed, either now or at a later date, the utility is authorized to charge a meter installation fee of \$125. If you choose to have your irrigation system disconnected at this time, but later request to have it reconnected and a meter installed, the utility may assess an additional \$15 violation reconnection fee pursuant to its approved tariff on file with this Commission. Rule 25-30.320(2), Florida Administrative Code, sets forth the conditions under which a utility may disconnect a customer for service. As discussed above, Rule 25-30.320(2)(h), Florida Administrative Code, authorizes the utility to disconnect your service "without notice in the event of a condition known to the utility to be hazardous." Additionally, Rule 25-30.320(2)(b), Florida Administrative Code, authorizes the utility to disconnect your service "for failure or refusal of the customer to correct any deficiencies or defects in his piping or equipment which are reported to him by the utility." Either of those rules may apply in this instance. Consequently, the utility may charge the \$15 violation reconnection fee if you request that the utility reconnect your irrigation system to its main at a future date.

Regarding the meter installation fee, utilities are allowed to recover the cost of meter installation in one of two ways: (1) a meter installation fee which covers the cost of the parts and installation, or (2) the utility bears the cost, but is allowed to earn a return on its investment through the rates. Ordinarily utilities charge a meter installation fee. However, in some cases where meters will be installed in an existing community, the Commission will require the utility to bear the cost of the meter installation. Such is the case with the initial meter installation for your community. However, that does not mean the meters are free. That cost was included in the utility's plant in service, which means that the utility is earning a return on its investment in those meters through the monthly rates that you pay. Instead of paying a \$125 meter installation fee up front, the customers are paying for the meters a little each month. Because the Commission was not aware that over 60 additional irrigation meters would be needed, the cost for the additional irrigation meters was not included in the utility's plant in service. The utility's rates currently cover only one meter per customer.

Commission staff considered taking the same approach with the additional irrigation meters. However, we were informed by the utility, and this information was confirmed by several customers, that the customers, <u>not the developer</u>, installed the irrigation systems. The Commission is charged with the responsibility to set rates and charges which are just, reasonable, compensatory, and not unfairly discriminatory. Inclusion of the cost of the initial water meters in utility's rates meets this standard, because every customer received a meter and is paying their fair share of that cost. However, in the case of the irrigation meters, not every customer will receive an irrigation meter. Therefore, it is not fair for every customer to bear that cost. Additionally, the customers who obtain a separate irrigation meter and use less than 6,000 gallons of water inside their home, will receive Mrs. Linda J. McKenna Page 5 July 30, 1999

the benefit of a lower wastewater bill, because they will not be assessed wastewater charges on the portion of their water usage which is strictly for irrigation purposes. The customers who do not obtain a separate irrigation meter will not receive that benefit. This factor further supports requiring the affected customers to pay for their irrigation meter rather than requiring all customers to share that cost through the rates.

The Commission previously determined that the appropriate meter installation fee for this utility is \$125. That is the cost used for the initial meters installed by the utility. The irrigation meters that will be installed if requested by the customers are identical to the meters that were previously installed on the lines that serve the customers' homes. Therefore, \$125 is still the appropriate meter installation fee. Mr. Rieger does not recall a conversation regarding the utility owner's intention to only charge \$65 for the irrigation meters. However, even if such a conversation took place, the utility is not allowed to change it's authorized meter installation fee without Commission approval. The \$65 does not cover the cost of installing the separate irrigation meters, and thus, is not an appropriate charge even if requested by the utility.

If you choose to repipe your irrigation system, it will be your responsibility to either hire a plumber for this purpose or to do the work yourself, if you so desire. You will be responsible for any cost you incur in repiping the system. You may wish to obtain an estimate from a plumber for the cost of repiping your irrigation system and compare that to the cost of the irrigation meter and savings on your wastewater bill before making your final determination.

Regarding the rates, you will only be charged the water gallonage charge for any usage registered by the irrigation meter. You will not be charged an additional water base facility charge, wastewater base facility charge, or wastewater gallonage charge for any usage registered by the irrigation meter. In many cases, utilities are allowed to assess an additional base facility charge for a separate irrigation meter. However, Commission staff believes that in this instance the use of a separate irrigation meter does not necessarily place an additional demand on the utility's water system. The utility will incur additional expenses as a result of reading the additional meters and preparing additional bills; however, we do not believe an additional base facility is warranted at this time. We have discussed this approach with Mr. Werner, and he has agreed to only assess the water gallonage charge for usage registered by the irrigation meters.

As discussed above, the utility was authorized to disconnect the irrigation systems without notice due to the hazardous situation it creates. Nevertheless, the utility and Commission staff believed the customers should be given an opportunity to review their options and choose the course of action they wish to take. The 40-day time frame was our effort to give customers some time to consider the options without allowing the hazardous situation to continue too much longer. Again, if you choose to do nothing at this time, the utility will disconnect your irrigation system from its water main. You may then take whatever action is necessary to repipe your system when you return in December. I hope the information I have provided will resolve your concerns regarding the irrigation meters.

Mrs. Linda J. McKenna Page 6 July 30, 1999

Finally, in your July 8, 1999 letter to Mr. Vaccaro regarding the refunds for January service, you requested a list of the customers who received a refund. I have attached a list of those customers based upon information that was provided to us by the utility. We are still in the process of obtaining information to verify the refunds. Therefore, we prefer to respond to the remainder of the questions posed in that letter at a later date after we have completed our review of the refunds and can provide you with complete information.

I hope this information will be helpful to you. If you have any questions regarding this letter or any other matters, please feel free to call me at (850)413-7015.

Sincerely,

Martha A. Loldien

Martha A. Golden Economic Analyst

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Attachment

Virginia Lennon cc: Joe Garcia, Chairman J. Terry Deason, Commissioner Susan F. Clark, Commissioner Julia L. Johnson, Commissioner E. Leon Jacobs, Jr., Commissioner Bill Talbott, Executive Director Mary A. Bane, Deputy Executive Director/Technical Jack Shreve, Office of Public Counsel Mike Jenkins, Office of Public Counsel H. F. Mann, Office of Public Counsel Don Hale, Office of Public Counsel William Werner, Shangri-La by the Lake Utilities, Inc. Martin S. Friedman, Rose, Sundstrom & Bentley, LLP Division of Legal Services (Gervasi, Vaccaro) Division of Records and Reporting (docket file) Division of Water and Wastewater (Hoppe, Lowe, Williams, Bethea, Rieger)

STATE OF FLORIDA



Commissioners: JOE GARCIA, CHAIRMAN J. TERRY DEASON SUSAN F. CLARK JULIA L. JOHNSON E. LEON JACOBS, JR.



DIVISION OF WATER & WASTEWATER DANIEL M. HOPPE, DIRECTOR (850) 413-6900

Public Service Commission

August 2, 1999

Mrs. Linda J. McKenna 5 Tarkiln Hill Road Raymond, ME 04071

RE: Docket No. 990080-WS, Complaint and request for hearing by Linda J. McKenna and 54 petitioners regarding unfair rates and charges of Shangri-La by the Lake Utilities, Inc. in Lake County

Dear Mrs. McKenna:

Per your request, please find attached a list of customers who were given a refund by Shangri-La by the Lake Utilities, Inc. This list was referenced in our July 30, 1999 letter to you, however, shortly after mailing we discovered that the list was not attached to that letter. We apologize for any inconvenience this may have caused. Please feel free to call me at (850)413-7015 if you have any questions.

Sincerely,

Martha a Lelden

Martha A. Golden Economic Analyst

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Attachment

cc: Virginia Lennon

Jack Shreve, Office of Public Counsel Mike Jenkins, Office of Public Counsel H. F. Mann, Office of Public Counsel Don Hale, Office of Public Counsel William Werner, Shangri-La by the Lake Utilities, Inc. Martin S. Friedman, Rose, Sundstrom & Bentley, LLP

Internet E-mail: contact@psc.state.fl.us

Attachment

List of customers who were credited \$23.91 on their water and wastewater bill by Shangri-La by the Lake Utilities, Inc. on May 26, 1999:

Walter Barlow, Jr. Vince (Barbara) Hannon Vernie (Hazel) Huntwork Bill (Amelia) Gray Donald (May) Richmeyer Ermine (Marguer) Umphrey Daisy Hundertmark Estate of Ann Gracie - C. M. Rowe Exec. Richard (Nancy) Dunn Gerhard (Martha Hatch) Schulte Walter Hudson Stan (Sandy) Broda Joe (Marie) Taylor Norma Groll Otto (Athna) Rudolph