



February 16, 2015

E-Filing

Carlotta S. Stauffer, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 150026-WS Complaint by Eagleridge I, LLC against Lake Utility Services, Inc. for declaration that connections have been made and all amounts due have been paid, and mandatory injunction requiring refund of amounts paid under protest.

Our File No. 30057.219

Dear Ms. Stauffer:

The following are Lake Utility Services, Inc.'s ("Utility") responses to the Staff's First Data Request dated February 6, 2015:

1. Rule 25-30.515(1), Florida Administrative Code defines an active connection as "a connection to the utility's system at the point of delivery of service, whether or not service is currently being provided." Please explain whether Lake Utility Services, Inc. (LUSI) believes this Rule is applicable to the complaint. If not, please explain why. If so, how does LUSI believe that Commission should interpret this Rule?

Response: Rules must be construed in the context within which they are to be applied. In interpreting the PSC Rules, Eagleridge ignores the purpose of the principle enunciated by this Commission in its Order which precipitated the Florida Supreme Court's opinion in *H. Miller & Sons*, which is critical to such interpretation. A connection is not a connection for purposes of applying increases in service availability charges unless service has been previously implemented (even though service may not be established and provided at the time of the increase).

This Commission stated in *In re: H. Miller & Sons, Inc. v. Cooper City Utilities Inc.*, Order No. 7851 (6/21/77):

The Complainant alleges that plant capacity was fully purchased and reserved. That is, 175,000 gpd of plant capacity (500 connections X 350 gpd), was, in effect, the property of Miller on January 19, 1975, when payment therefor was completed. Yet, the utility still had to pay interest, taxes, insurance, etc., on the value represented thereby, with no income therefrom until a customer was connected. The utility must continue to pay these costs, whether the capacity is used or not. To adopt Miller's rationale, would force either the customers to support idle capacity, or, since plant not used and useful must be excluded from rate base investment for

rate-making purposes (Section 367.081(2), Florida Statutes), the utility must support this idle plant. To cite the conclusions of Miller's premise, demonstrates its fallacy.

In other words, the actual cost of maintaining sufficient capacity cannot be determined until the date that service actually initially commences. Increasing service availability charges prevents current customers from subsidizing costs associated with future plant capacity.

Even if one were to take a myopic view of this Rule, it supports the position taken by LUSI in requiring the payment of additional service availability charges by Eagleridge. Rule 25-30.515 requires that in order to be an active connection, there must be a connection "at the point of delivery". Rule 25-30.210 adopts the industry standard definition of "point of delivery" for water customers as "the outlet connection of the meter for metered service." This same definition is in the Water Tariff of LUSI that has been approved by this Commission (Original Sheet No. 5.1) and which is applicable to Eagleridge. Since the application of all of LUSI's Tariff water rates require a meter, there can be no active water connection until a meter has been installed, thus establishing the "point of connection." There are no meters installed on any connections that are the subject of Eagleridge's Complaint. Thus, it should be without question that Eagleridge owes the additional water service availability charges. With respect to wastewater service, since there are no meters installed on wastewater service lines, a service connection is the point where the "service pipe is connected to the utility company's main." Rule 25-30.210 adopts this industry standard definition. Arguably, the unoccupied units in the Eagleridge shopping center are connected since they are physically connected to LUSI's wastewater main. However, this creates the absurd result of a unit being determined to be an active connection for wastewater service, and not an active connection for water service. This is where common sense needs to be applied. LUSI does not have a flat rate Tariff. All wastewater rates are based upon water meter readings, so it should be axiomatic that in order to have an active wastewater connection there must be a water meter installed. Unless water service is active there can be no wastewater flow and therefore, no wastewater service is provided. Thus, again, it was appropriate for LUSI to impose the increased wastewater service availability charges on Eagleridge for those specific units that were not already receiving wastewater service.

2. Please provide a detailed description of the basis for the \$87,242.36 that Eagleridge was required to pay as an upfront system capacity charge.

Response: See the schedule attached at tab 2 titled "Golden Eagle Village Capacity Fee Tabulation."

3. In your letter dated March 4, 2013 to Ms. Shannon Mitchell, the Utility indicated it determined that there are 14,330 gallons of reserved capacity yet to be assigned. Please provide a copy of the spreadsheet referenced in the aforementioned letter.

Response: See the schedule attached at tab 3 titled "Golden Eagle Village Phase I Tracking Spreadsheet."

4. In your Answer to Complaint, you referenced a schedule that included the number of units that had never received water or wastewater service and calculations of the appropriate increase in service availability charges. Please provide the referenced schedule.

Response: That schedule is the same one that is attached in response to Data Request # 3

5. Please describe the Utility's methodology for determining the date of connection for the Eagleridge development.

Response: Consistent with LUSI's Tariff, current PSC Rules, and standard industry practice, a connection within the Eagleridge development occurs only when a meter is installed after service is requested.

6. Was the April 29, 2010 contract or any other documentation related to the agreement with Eagleridge I, LLC filed with the Commission pursuant to Rule 25-30.550, Florida Administrative Code (F.A.C.)? If so, when was the contract filed? If not, why was the contract not filed?

Response: The Contract was not filed with the Commission through an oversight.

If you or the Staff have any questions regarding these responses, please feel free to contact me.

Very truly yours,



MARTIN S. FRIEDMAN
For the Firm

MSF/

cc: John Hoy (via e-mail)
Patrick Flynn (via e-mail)
Lee Eng Tan, Esquire (via e-mail)
Kelly Thompson (via e-mail)
Steve Reilly, Esquire (via e-mail)
Sam Miller, Esquire (via e-mail)

#2 Golden Eagle Village Capacity Fee Tabulation

GOLDEN EAGLE VILLAGE
CAPACITY FEE TABULATION

Phase	Buildings/Use	Square Foot	Occupancy Load	Capacity Multiplier	Total Gallons	Water Cost/Gal.	Wastewater Cost/Gal.	Capacity Fee
1	Publix	40,329		0.1 g/sq. ft.	4,033	2.02	1.99	\$16,171.93
	Add Deli	2,844		0.4 g/sq. ft.	1,138	2.02	1.99	\$4,561.78
	Add Bakery	2,858		0.4 g/sq. ft.	1,143	2.02	1.99	\$4,584.23
1	Building J		160	50 gpd/seat	8,000	2.02	1.99	\$32,080.00
1	Buildings J/L		227	30 gpd/seat	6,810	2.02	1.99	\$27,308.10
1	Buildings J/L	12,650		0.05 g/sq. ft.	633	2.02	1.99	\$2,536.33
Subtotal		58,681	387		21,756			\$87,242.36
	Plan Review Fee							\$300.00
	Inspection Fee							\$150.00
Total		58,681	387		21,756			\$87,692.36

#3 Golden Eagle Village Phase I Tracking Spreadsheet

GOLDEN EAGLE VILLAGE PHASE 1 CAPACITY TRACKING SPREADSHEET

Suite Number	Occupant	Square Foot	Gal/sq.ft.	Seats	Employees	Stations	W Capacity	WW Capacity
100	R&R Pool Care	1,000	0.05				50	50
110	Liquor Stop	1,400	0.05				70	70
120	Dollar Store	1,374	0.05					
200	Publix						6,314	6,314
310								
320	Eagle Nail & Spa	1,200	0.05				60	60
330	Verizon	1,200	0.05				60	60
340	Bamboo Garden	1,300	0.5		30		680	680
350	Mobil	1,450	0.05				73	73
360	On Holdings	1,200	0.05				60	60
370								
380	Eagle Ridge	1,200	0.05				60	60
390								
Capacity Used							7,427	7,427
Capacity Prepaid							21,756	21,756
Capacity Balance							14,330	14,330

\$63,625.20 Amount of increase in WW main ext. charges