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September 27, 1993

JOHN R. WODRASKA
SPECIAL CONSULTANT
(NOT A MEMBER OF THE FLORIDA BAR)

VIA HAND DELIVERY

Mr. Steve Tribble, Director
Division of Records & Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

RE: Turkey Creek Utilities, Inc.
Docket No. [REDACTED]

Dear Mr. Tribble:

Enclosed please find the original and fifteen copies of Turkey Creek Utilities' Motion For Continuance which is being filed on behalf of our client, Turkey Creek Utilities, Inc.

- ACK _____
- AFA 3
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1 w/m
- LIN 6
- LFC _____
- ROH _____
- SEC 1
- W S _____
- OTH _____

Should you have any questions or concerns regarding the above, please do not hesitate to contact me at your earliest convenience.

Sincerely,

ROSE, SUNDBSTROM & BENTLEY
John L. Wharton
John L. Wharton, Esq.
For The Firm

JLW/lm
Encl.

DOCUMENT NUMBER-DATE

10370 SEP 27 93

FLORIDA PUBLIC SERVICE COMMISSION

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for certificates)
to provide water and wastewater)
service in Alachua County under)
grandfather rights by TURKEY CREEK,)
INC. & FAMILY DINER, INC. d/b/a)
TURKEY CREEK UTILITIES)
_____)

DOCKET NO. 921098-WS

TURKEY CREEK UTILITIES' MOTION FOR CONTINUANCE

Turkey Creek Utilities, by and through undersigned counsel, and pursuant to Rule 25-22.041, Fla. Admin. Code, hereby files this Turkey Creek Utilities' Motion For Continuance, and in support thereof would state and allege as follows:

1. This matter is currently scheduled to proceed to hearing in Alachua County on November 3, 1993, Turkey Creek currently has rebuttal testimony and exhibits due on October 11, 1993 (Motion To Extend due date for said testimony and exhibits to that date pending), Prehearing Statements due on October 4, 1993 and a Prehearing Conference on October 18, 1993.

2. This proceeding, reduced to its essence, will decide whether Turkey Creek received all of the rates, fees, charges and conditions of service to which it was entitled when it was "grandfathered" when Alachua County transferred jurisdiction over water and sewer utilities therein to the Public Service Commission on June 30, 1992.

3. On September 23, 1993, Turkey Creek Utilities and the City of Alachua entered into a Memorandum of Intent for the sale of the utility to the City. This Memorandum of Intent was forwarded to the Public Service Commission by Turkey Creek on September 22,

1993. This Memorandum contemplated that the City would take over full operational responsibilities for the utility on September 24, 1993, and, in fact, the same has occurred. The Memorandum contemplates that the closing will occur pursuant to certain bonds to be issued by the City on or before October 22, 1993. Turkey Creek anticipates no problems in the closing of this transaction and, in point of fact, the City has already transmitted a notice to Turkey Creek to be furnished by the City to Turkey Creek's customers notifying them of the transfer of the utility system.

4. If Turkey Creek is required to prefile rebuttal testimony in this case, prepare a Prehearing Statement, attend the Prehearing Conference and hearing on this matter, despite the fact that a significant possibility exists that the above sale will obviate the need for this hearing, there is a distinct possibility that each of these actions, and the concurrent actions of the Commission, its staff, and the other parties in this proceeding, would be wasted. Conversely, if Turkey Creek dismisses the proceeding at this point, but for some unforeseen reason the sale does not close, Turkey Creek will be deprived of its opportunity to seek the hearing which it has requested. A continuance of this matter will facilitate judicial economy and will prejudice no party nor the public as set forth below.

5. In that the City has obtained full operational responsibility for Turkey Creek Utilities, no issue of further accrual of the rates here at issue is present. In other words, since the difference between the rates Turkey Creek believes it is entitled

to charge and the rates which the Commission has proposed Turkey Creek be authorized to charge is already established (since Turkey Creek is charging no more rates to the customers after September 24, 1993) then a continuance of this matter will not result in an even greater amount (assuming the Commission's PAA becomes a Final Order) between the rates actually charged and the Commission's authorized rates.

6. If Turkey Creek must go to hearing under the current schedule, it will be forced to make a judgment call as to whether to pursue issues which were relevant before the sale of the utility but which may now be irrelevant. These include, but are not limited to, issues regarding the territory of the utility, Turkey Creek's shut-off and reconnection fees, deposits and interest on deposits, etc.

7. No jurisdictional question is raised by the continuance of this matter. Public counsel raised to the undersigned the reasonable concern that, to the extent Turkey Creek is determined to owe a refund to any customers, the Commission must have jurisdiction to see that such a refund is implemented. However, to the extent that a genuine issue on this question actually exists, a continuance of this matter does not comment on the same. Rather, to the extent that Turkey Creek became non-jurisdictional to the Public Service Commission, the operative date for the same would have been September 24, 1993, in that the transfer to the City of Alachua must be approved by the Commission as a matter of right. Even to the extent Public Counsel has raised a genuine issue, a

continuance of this matter will in no way prejudice the Commission, Public Counsel, nor the public with regard to this issue.

8. Expeditious treatment of this Motion is absolutely necessary in order for Turkey Creek to avoid expending any unnecessary time and expense on this action if the same can be avoided. Given the fact that time is of the essence with regard to this Motion, the undersigned contacted the attorney for Public Counsel, who communicated that OPC had no position on the Motion. The undersigned also contacted counsel for the Homeowners who communicated that his clients had instructed him to object to any continuance.

WHEREFORE, and in consideration of the above, Turkey Creek asks that this matter be continued and that a new Procedure Order on the same be produced no sooner than November 1, 1993 in order to allow the closing on this matter to occur and in order to facilitate the settlement or completion of this matter, should that closing occur as anticipated, through some mechanism other than a formal administrative hearing on the same.

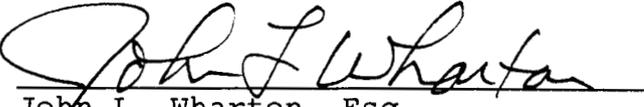
DATED this 27th day of September, 1993.



John L. Wharton, Esq.
ROSE, SUNDSTROM & BENTLEY
2548 Blairstone Pines Drive
Tallahassee, FL 32301
(904) 877-6555

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by Hand Delivery to Catherine Bedell, Esq., Division of Legal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32301 and by regular U.S. Mail to Stephen C. Reilly, Esq., Office of Public Counsel, 111 West Madison Street, Room 812, Tallahassee, FL 32399-1400 and Peter C.K. Enwall, P.A., 211 NE First Street, Gainesville, FL 32602 on this 27th day of September, 1993.



John L. Wharton, Esq.