

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Application for)
certificates to operate a water)
and wastewater utility in)
Charlotte and DeSoto Counties)
by Lake Suzy Utilities, Inc.)

DOCKET NO. 970657-WS

In Re: Application for)
Amendment of Certificate Nos.)
570-W and 496-S in Charlotte)
County by Florida Water Services)
Corporation.)

DOCKET NO. 980261-WS

RECORDS AND REPORTING

SEP - 7 PM 4:06

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LAKE SUZY UTILITIES, INC.'S
OBJECTION TO PETITION TO INTERVENE
BY DESOTO COUNTY, FLORIDA

LAKE SUZY UTILITIES, INC. ("Lake Suzy"), by and through its undersigned attorneys, files this Objection to the Petition to Intervene filed by DeSoto County and states as follows:

1. On two previous occasions, Desoto County has intervened in this proceeding and on both occasions filed a voluntary dismissal. After having dismissed two previous objections, DeSoto County should not now be allowed to intervene yet a third time.

2. Lake Suzy will be prejudiced by DeSoto County's intervention by having to conduct and respond to discovery regarding DeSoto County. But for Florida Water Services Corporation's ("FWSC") bad faith in settlement negotiations with Lake Suzy

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after FWSC had accomplished its goal of delaying the Final Hearing which was scheduled to take place in January, 1999, DeSoto County would have no proceeding in which to intervene. By refusing to consider the agreement Lake Suzy and FWSC entered into whereby they agreed that if the negotiations were not successful the parties would file competing applications in DeSoto County, DeSoto County has become a willing participant in FWSC's bad faith. Such bad faith should not be condoned by this Commission.

3. No issue sought to be raised by DeSoto County is relevant to this proceeding. DeSoto County asserts that on June 5, 1999 it granted a franchise to FWSC which included territory which Lake Suzy applied for at the Commission in June, 1997, two years earlier. The granting of a franchise to FWSC does not divest this Commission of jurisdiction that it had previously acquired. To rule otherwise would be to condone the procedure utilized by FWSC in the instant case, which is to object at the Commission which results in a substantial delay in taking final action, and then taking action in another forum which provides a speedier procedure to obtain the relief it would not have obtained from this Commission. Was it not for FWSC's objection, this Commission would have granted Lake Suzy's application before DeSoto County granted FWSC a franchise in June, 1999. See Section 367.031, Florida Statutes,

which requires the Commission to grant or deny an application for an original certificate within 90 days after the official date of filing unless an objection is filed.

4. None of the actions taken by Lake Suzy alluded to in paragraphs 9 and 10 of DeSoto County's Petition conflict with its position that this Commission has jurisdiction over the territory in question. There is no question that until this Commission grants Lake Suzy's application, it is subject to the jurisdiction of DeSoto County, which necessitated the filings referenced by DeSoto County in its Petition. This should be obvious in light of Lake Suzy's legal challenges to DeSoto County's action in granting a franchise to FWSC as referenced in paragraph 11 of its Petition.

WHEREFORE, Lake Suzy requests that this Commission deny DeSoto County's Petition to Intervene since it is based upon Ordinance No. 1999-10 which is irrelevant to this proceeding.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objection to Petition to Intervene has been furnished by U.S. Mail to Matthew J. Feil, Esquire, Florida Water Services Corporation, P.O. Box 609520, Orlando, Florida 32860-9520, Ms. Charlotte L. Sopko, Haus Development, Inc., 603 North Eastwood Avenue, Mount Prospect, Illinois 60056-2007, John Marks, Esquire, Knowles, Marks & Randolph, 215 South Monroe Street, Tallahassee, Florida 32301, Anthony J. Pires, Jr., Woodward, Pires & Lombardo, P.A., 801 Laurel Oak Drive, Suite 710, Naples, Florida 34108 and by hand delivery to Tim Vaccaro, Esquire, Florida Public Service

Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 7th day of September, 1999.

Respectfully submitted this 7th day of September, 1999, by:

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