



## IN THE CIRCUIT/COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR ALACHUA COUNTY, FLORIDA **CIVIL DIVISION, ALACHUA COUNTY COURTHOUSE** 201 E. UNIVERSITY AVENUE, P.O. BOX 600 GAINESVILLE, FLORIDA 32602 PHONE: (904) 374-3616 • FAX (904) 338-3201

Parally Diner, Inc.,       FX1098-WS         -vs-       Case Number: <u>95-3065-CA</u> -vorda PubliceMervice Constitution, DEFENDANT       Division         APP       Defendant         APP       SUMMONS         The state of FLORIDA       SUMMONS         The state of FLORIDA       SUMMONS         To Each sheriff of the State:       SUMMONS         Complexity of the state:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexitor         Complexity of the State:       State of Plorida Public Service Complexity of Plorida Public Service Complexity of Plorida Public State of Plorida Public State of Plorida Public Service Complexity of Plorida Public State of Plorida Public State of Plorida Public Service Complexity of	Turkey Creek, Inc., and	
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Priorida PubliceService Counsistion, DEFENDANT         CK         Grad         APP         CAT         SUMMONS         THE STATE OF FLORIDA         To Each Sheriff of the State:         CG       COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant         Interstep 101       Bast Gaines Brreet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Brreet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Brreet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Brreet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Brreet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Preet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Preet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Preet, Pletcher Building a Reparting         Interstep 101       Bast Gaines Preet, Pletcher Building a Reparting         Interstep 102       Post Office Box 90099         Wast Interstep 103       Batter Pletch 22607         With 20 days after service of this summons on that defendant, exclusive to the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will	-vs-	Case Number: <u>95-3065-CA-</u>
DEFENDANT  ACK		Division
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SUMMONS THE STATE OF FLORIDA To Each Sheriff of the State:  CG YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Plorida Public Service Comaission O'O Division of Pedata  LCO Tallahassee, Plorida 32399 4075 Explande Way  CFO Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is  Not Michael W. Jones, P.A.  SEC Post Office Box 90099 WAS Mathematical States service of this summons on that defendant, exclusive to the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.  WITNESS my hand and the seal of said Court on		
To Each Sheriff of the State:         Ling       YOUTARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant         Ling       Plorida Public Service Commission       C/O Division of Pedara         101 Bast Gaines Street, Fletcher Building       a Departing         Ling       Tallahassee, Plorida 32399       4075 Explande Way         OPCEach defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is       Michael W. Jones, P.A.         SEC       Post Office Box 90099       WAS 50       4046 Nowberry Road         Gainesville, Florida 32607       Gainesville, Florida 32607         WHTNESS my hand and the seal of said Court on       September 14       .19 .45         WITNESS my hand and the seal of said Court on       J.K. "Buddy" Irby	APP	
To Each Sheriff of the State:         Ling       YOUTARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant         Ling       Plorida Public Service Commission       C/O Division of Pedara         101 Bast Gaines Street, Fletcher Building       a Departing         Ling       Tallahassee, Plorida 32399       4075 Explande Way         OPCEach defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is       Michael W. Jones, P.A.         SEC       Post Office Box 90099       WAS 50       4046 Nowberry Road         Gainesville, Florida 32607       Gainesville, Florida 32607         WHTNESS my hand and the seal of said Court on       September 14       .19 .45         WITNESS my hand and the seal of said Court on       J.K. "Buddy" Irby	SUMI	MONS
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(Court Seal) Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (904) 374-3639 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.	WITNESS my hand and the seal of said Court on	eplember 14,19_75
(Court Seal) Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (904) 374-3639 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.	19 Sept 330	J.K. "Buddy" Irby Clerk Circuit Court
Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (904) 374-3639 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.	bery Bri B	y: <u>Landra Latur</u> As Deputy Clerk
Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (904) 374-3639 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.		
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## IN THE CIRCUIT COURT OF FLORIDA, EIGHTH JUDICIAL CIRCUIT IN AND FOR ALACHUA COUNTY, FLORIDA

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CIVIL ACTION

TURKEY CREEK, INC., and FAMILY DINER, INC.,	) : ) case no.:95-3065-CA
	) CASE NO.: $75^{\circ}$ Just 2
Plaintiffs,	) division: K
	) DIVISION: $\Lambda$
vs.	
	)
FLORIDA PUBLIC SERVICE COMMISSION,	)
Defendant.	)

## COMPLAINT FOR DECLARATORY RELIEF

The plaintiffs, TURKEY CREEK, INC., and FAMILY DINER, INC., sue the defendant, FLORIDA PUBLIC SERVICE COMMISSION, and say:

1. This is an action for declaratory relief, pursuant to Chapter 86, <u>Florida Statutes</u> (1993).

2. The plaintiffs were the former owners and operators of a water and wastewater utility facility, located in Alachua County, Florida. At all material times, the plaintiffs were active Florida corporations headquartered in Alachua County, Florida.

3. The defendant is an agency of the State of Florida which, among other things, regulates certain water and wastewater utilities.

4. On or about June 30, 1992, the defendant assumed jurisdiction over the plaintiffs' utilities operation, and thereafter, issued several orders affecting the plaintiffs' utility.

5. Effective on or about September 23, 1993, the plaintiffs sold said utility to the City of Alachua, which thereafter owned

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and operated it. Since said date, the plaintiffs have neither owned nor operated any utility under the defendant's jurisdiction.

6. On or about December 3, 1993, the defendant issued its Order No.: PSC-93-1769-FOF-WS, which finalized two underlying orders of the Commission. The effect of these orders from the Commission was to direct the plaintiffs to make certain refunds to its former customers, failing which the utility may be subject to various fines and penalties.

7. The plaintiffs have not made the refunds ordered by the Commission, challenging the Commission's jurisdiction and authority over companies which no longer own or operate utilities systems. The plaintiffs believe that, by virtue of their prior sale of the utilities to the City of Alachua, and by virtue of their cessation of utilities operations, they are no longer subject to the defendant's jurisdiction, and therefore, that the order requiring refunds is a nullity and is unenforceable. Also, Family Diner, Inc. did not own or operate the utilities when the order was entered.

8. The defendant disputes the plaintiffs' jurisdictional contentions and asserts its continuing authority over the plaintiffs. In fact, as recently as August 1995, the defendant's staff recommended to the defendant that the plaintiffs be sanctioned and that the highest monetary fine be imposed on the plaintiffs.

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9. There is a genuine dispute between the parties about their respective rights and obligations under the statutes and orders which govern these matters, and about the plaintiffs' obligation to comply with Commission orders. The dispute is real, current, and genuine.

WHEREFORE, the plaintiffs, TURKEY CREEK, INC., and FAMILY DINER, INC., request a judgment of this court declaring the rights and obligations of the parties in this dispute, and taxing costs against the non-prevailing party.

DATED this <u>Andrew</u> day of September, 1995.

Respectfully submitted,

Michael W. Jones