

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Application for transfer)
of Certificate Nos. 592-W and)
509-S from Cypress Lakes)
Associates, Ltd. to Cypress Lakes)
Utilities, Inc., In Polk County)

Docket No. 971220-WS

Filed: July 30, 1999

TESTIMONY

OF

CARL WENZ

IN REBUTTAL TO OPC WITNESS LARKIN

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TESTIMONY OF CARL WENZ
IN REBUTTAL TO OPC WITNESS LARKIN
REGARDING THE APPLICATION FOR TRANSFER OF CERTIFICATES
FROM CYPRESS LAKES ASSOCIATES, LTD. TO CYPRESS LAKES
UTILITIES, INC.
IN POLK COUNTY
DOCKET NO. 971220-WS

Q. Mr. Wenz, please state your business address for the record?

A. 2335 Sanders Road, Northbrook, Illinois 60062.

Q. Are you the same Carl Wenz that has previously filed direct testimony in this proceeding and rebuttal to the testimony of PSC Staff Witness Jeffrey A. Small?

A. Yes.

Q. What is the purpose of this rebuttal testimony?

A. The purpose of this rebuttal testimony is to respond to the direct testimony of Public Counsel witness Hugh Larkin, Jr.

1 Q. Mr. Larkin has rendered an opinion that it is
2 always appropriate to record a negative acquisition
3 adjustment. Do you agree?

4 A. Yes. It is not only appropriate, but the recording
5 of an acquisition adjustment, positive or negative,
6 is required by the NARUC Uniform System of Accounts
7 (USOA) to which this Commission adheres.

8

9 Q. Should this Commission, as Mr. Larkin implies,
10 recognize for ratemaking purposes a negative
11 acquisition adjustment for this utility?

12 A. No. There is a substantial difference between
13 recording an acquisition adjustment for USOA
14 purposes and recognizing it for ratemaking
15 purposes. The USOA requires an acquisition
16 adjustment to be recorded, but it leaves it to each
17 Commission's discretion how to treat it for
18 ratemaking purposes. The policy of this Commission
19 is quite clear: In the absence of extraordinary
20 circumstances, the purchase of a utility at a
21 premium or discount shall not effect the rate base
22 calculation. [See PAA Order No. PSC 98-0993-FOF-WS
23 issued July 20, 1998, in this case. Also see Order
24 No. 20707, issued February 6, 1989, in Docket No.
25 880907-WU; Order No. 23970, issued January 1, 1991,

1 in Docket No. 900408-WS; Order No. 25584, issued
2 January 8, 1992, in Docket No. 910672-WS; Order No.
3 PSC-95-0268-FOF-WS, issued February 28, 1995, in
4 Docket No. 940091-WS; Order No. PSC-96-1320-FOF-WS,
5 issued October 30, 1996, in Docket No. 950495-WS.]

6

7 **Q. Has Mr. Larkin indicated that any extraordinary**
8 **circumstances exist in this case?**

9 No, he has not.

10

11 **Q. Has Mr. Larkin indicated any reasons other than**
12 **extraordinary circumstances for his recommendation**
13 **to include a negative acquisition adjustment in**
14 **rate base?**

15 Yes. He has expressed several concerns, none of
16 which have anything to do with an acquisition
17 adjustment. All of the concerns he has voiced are
18 proper matters for consideration in setting rate
19 base in a rate case.

20

21 **Q. Could you address each of those concerns.**

22 A. Yes. First let me say that the concerns voiced by
23 Mr. Larkin are his general concerns in any purchase
24 and are not specific to this purchase. He never
25 alleges that they do exist in this particular

1 purchase, only that they might exist. With that
2 caveat, I will discuss each of his general
3 concerns.
4
5 Mr. Larkin is concerned that the original owner, a
6 developer, might have overbuilt the system. That is
7 clearly an issue of used and useful to be addressed
8 in a rate case, not in determining whether a
9 negative acquisition adjustment should be included
10 in rate base. Mr. Larkin expressed concern that
11 assets may have actually deteriorated at a rate
12 greater than reflected in the book depreciation
13 rate. Of course, they also may have deteriorated at
14 a lesser rate. Regardless, this is a normal
15 consideration in a rate case and can be addressed,
16 if appropriate, by adjusting depreciation expense.
17 Mr. Larkin expressed concern that the prior owner
18 may not have properly installed or maintained the
19 system in order to keep rates down. If so, then the
20 lower rates over that period of time reflect the
21 fact that customers were not being improperly
22 charged for something they didn't receive. If the
23 issue is whether deferred maintenance or improper
24 installation may have resulted in higher long run

1 costs, that again is properly addressed in a rate
2 case.

3
4 Mr. Larkin has expressed concern that the method of
5 allocating overhead costs, which is at issue in a
6 pending rate case of another subsidiary of
7 Utilities, Inc. may result in an increase in the
8 rates of the customers of Cypress Lakes. That is
9 speculative, irrelevant, a proper concern in a rate
10 proceeding and is not a basis for a negative
11 acquisition adjustment to rate base. There is no
12 rate case pending for Cypress Lakes. When and if
13 there is one, the legitimacy of expenses, including
14 overhead expenses, is properly scrutinized in that
15 arena. And it is certainly speculative to conclude
16 that even if overhead expenses are allocated to
17 Cypress Lakes, that they would not be offset by a
18 decrease in other expenses.

19
20 Again, none of these concerns are properly
21 addressed in determining whether an acquisition
22 adjustment should be recognized in rate base.

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1 Q. Let's be clear. Has Mr. Larkin alleged that these
2 concerns occurred at this particular utility?

3 A. No. As I previously stated, Mr. Larkin expressed
4 these as general concerns in any purchase. He gives
5 no evidence that they occurred for this utility.

6

7 Q. Mr. Larkin indicates that the price paid is the
8 market value, that market value reflects true
9 economic value, and that the ratepayer should be
10 charged based on that true economic value. Is that
11 statement consistent with regulatory law in
12 Florida?

13 A. No. That is consistent with the fair value
14 ratemaking concept. Florida is an original cost
15 state. Further, based on Mr. Larkin's statement,
16 the Commission would also be required to accept
17 positive acquisition adjustments to rate base as
18 well as negative adjustments, since he believes
19 customers should pay based on his definition of
20 "true" economic value.

21

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1 Q. Do you have any comment on Mr. Larkin's testimony
2 and exhibit regarding rate of return and
3 depreciation expense?

4 A. Only to say that without a negative acquisition
5 adjustment to rate base, the utility will be
6 allowed to earn a fair return and recover
7 depreciation expense on the net original cost of
8 the assets actually invested on behalf of the
9 customers, when those assets were first committed
10 to public service. No more, no less. A change of
11 ownership does not change that fact.

12

13 Q. Does that conclude your rebuttal of Mr. Larkin's
14 testimony?

15 A. Yes.