



ORIGINAL

December 30, 1999

by Federal Express

Ms. Blanca Bayo
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 970657-WS; Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

Docket No. 980261-WS; Application for Amendment of Certificate Nos. 570-W and 496-S in Charlotte County by Florida Water Services Corporation.

Dear Ms. Bayo:

Enclosed for filing in the above-referenced consolidated dockets, please find an original and fifteen copies and disk copy of Florida Water Services Corporation's Prehearing Statement.

Please acknowledge filing of these items by date stamping the enclosed extra copy of this letter and returning it in the postage paid envelope provided.

If you have any questions, please contact me at (407)598-4260.

Sincerely yours,

Handwritten signature of Matthew J. Feil

Matthew J. Feil
Staff Attorney

- AFA
APP
CAF
CMU
CTR
EAG
LEG 2
MAS 3
OPC
RRR
SEC 1
WAW
OTH

DOCUMENT NUMBER - DATE
00005 JAN -38
FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In. Re: Application for)
 and certificates to operate a)
 water and wastewater utility) Docket No. 970657-WS
 in Charlotte and DeSoto Counties)
 by Lake Suzy Utilities, Inc.)
 _____)

and

In Re: Application for)
 Amendment of Certificate Nos.)
 570-W and 496-S in Charlotte) Docket No. 980261-WS
 County by Florida Water Services)
 Corporation.)
 _____)

FLORIDA WATER SERVICES CORPORATION'S
PREHEARING STATEMENT

COMES NOW, Florida Water Services Corporation ("Florida Water"), by and through its undersigned counsel and hereby files this Prehearing Statement pursuant to the Order Revising Dates for Prehearing, Testimony, Prehearing Statements and Briefs issued October 20, 1999, in these dockets.

I. STATEMENT OF BASIC POSITION

The Commission should find that it is in the public interest for Florida Water, not Lake Suzy, to provide water and wastewater service to the Links Subdivision in Charlotte County, and further, the Commission should not grant Lake Suzy any territory in DeSoto County which DeSoto County has already granted to Florida Water.

II. ISSUES AND POSITIONS

Issue 1: Does Lake Suzy have adequate technical and financial ability to provide water and wastewater service to the proposed amended territory requested in its application?

Position: None has been proven to the extent technical

DOCUMENT NUMBER-DATE

00005 JAN-38

FPSC-RECORDS/REPORTING

ability involves managerial ability relative to acquisition plans, strategies and impacts. Florida Water's final position as to technical and financial ability generally is subject to change and will depend in part on discovery currently in dispute/pending.

Issue 2: Is it in the public interest for Lake Suzy to be granted the proposed amended territory requested in its application?

Position: No. Lake Suzy's parent companies, while apparently capital rich, have not proved a cohesive acquisition strategy or plan which insures beneficial long-term impacts to the acquisition of Lake Suzy and other utilities. Further, DeSoto County has already granted Florida Water a franchise to serve all of the DeSoto County territory Lake Suzy requests in its application. Therefore, it is not in the public interest for the Commission to grant Lake Suzy's application. (Sweat, Armstrong)

Issue 3: Does Florida Water have adequate technical and financial ability to provide water and wastewater service to the proposed amended territory requested in its application?

Position: Yes. (Armstrong, Sweat, Perry)

Issue 4: Is it in the public interest for Florida Water to be granted the proposed amended territory requested in its application?

Position: Yes. (Armstrong, Sweat)

Issue 5: Will granting Florida Water's application for amendment (sanctioning extension of its Charlotte County system) result in competition with or duplication of any other system or portion of a system, and, if so, is the latter system or portion thereof inadequate or unable to meet the need for service?

Position: Lake Suzy has unlawfully connected one lot (lot 18) in the Links Subdivision to its water service. Lake Suzy should have no advantage or protection in this proceeding pursuant to the competition/duplication provision of Section

367.045(5)(a), Florida Statutes, by virtue of Lake Suzy's having violated Section 367.045(2). When Florida Water is granted the Links Subdivision as part of its territory, Lake Suzy's water line to lot 18 should be removed.

Issue 6: If Lake Suzy's application is granted, will Lake Suzy's water and wastewater facilities and land be functionally related such that they will constitute a single system whose service transverses county boundaries?

Position: Lake Suzy has previously stated that it has revised its application such that it proposes to cross county boundaries for providing water service only, not water and wastewater service. Lake Suzy has presented no evidence that under new ownership a functional relationship adequate to trigger Commission jurisdiction will or does exist.

Issue 7: What legal authority does the Commission have to grant a utility territory already granted to another utility by a county which has the same regulatory powers as the Commission?

Position: None.

Issue 8: What legal authority does the Commission have to determine the rights and duties of parties to the service agreement to which Florida Water and Charlotte County are successor utilities?

Position: The Commission does not have authority to determine the rights and duties of parties to any contract which the Commission had no authority to approve.

III. FLORIDA WATER WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Brian Armstrong	Florida Water	2,3,4
Charles Sweat	Florida Water	2,3,4
James Perry	Florida Water	3

IV. EXHIBITS

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Brian Armstrong	Florida Water	BPA-1	Florida Water's A m e n d m e n t Application
Charles Sweat	Florida Water	CLS-1	D e S o t o Ordinance 99-10
		CLS-2	Territory map
Jim Perry	Florida Water	JAP-1	Florida Water financials

Florida Water reserves the right to identify additional exhibits for the purpose of cross-examination.

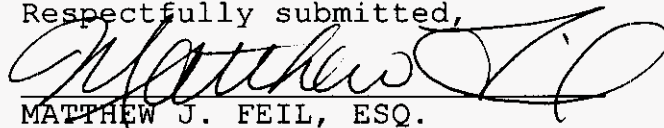
V. PROPOSED STIPULATIONS

At or before the Prehearing Conference, Florida Water intends to propose stipulations as to the admissibility of certain evidence and, as necessary, factual issues not in dispute.

VI. PENDING MATTERS

Lake Suzy's Objection to Florida Water's discovery served December 30, 1999.

Respectfully submitted,



MATTHEW J. FEIL, ESQ.
Florida Water Service
Corporation
P. O. Box 609520
Orlando, FL 32860-9520
(407) 880-0058
(407) 880-1395 (FAX)

KENNETH HOFFMAN, ESQ.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman
215 South Monroe Street,
Suite 420
Tallahassee, Florida 32301
(850) 681-6788
(850) 850-681-6515 (FAX)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U. S. Mail to Marty Friedman, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301; John Marks, Knowles, Marks & Randolph, 215 South Monroe Street, Tallahassee, Florida 32301; Martha Burton, Charlotte County Administration Center, 18500 Murdock Circle, Port Charlotte, Florida 33948, Mr. Preston Everett, DeSoto County Attorney, 201 E. Oak St., Arcadia, Florida 34266, Ken Hoffman, Rutledge Law Firm, P. O. Box 551, Tallahassee, Florida 32302, Tony Pires, Woodward, Pires Law Firm, 801 Laurel Oak Dr., Suite 710, Naples, Florida 34108, and Via U.S. Mail to Charlotte L. Sopka, Haus Development, Inc., 603 North Eastwood Avenue, Mount Prospect, Illinois 60056, on this 30th day of December, 1999.



MATTHEW J. FEIL, ESQUIRE
Florida Bar Number: 822744
Florida Water Services
Corporation
P.O. Box 609520
Orlando, Florida 32860-9520
(407) 880-0058
(407) 880-1395 (FAX)

KENNETH HOFFMANN, ESQUIRE
Rutledge, Ecenia, Underwood,
Purnell & Hoffman
215 South Monroe Street,
Suite 420
Tallahassee, Florida 32301
(850) 681-6788
(850) 850-681-6515 (FAX)