BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate Increase) in Seminole County by SANLANDO UTILITIES) CORPORATION)

DOCKET NO. 93-0256-WS Filed:

June 27, 1994

CUMENT NUMBER-DA

RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY

COMES NOW, TRICIA A. MADDEN, as President of the WEKIVA HUNT CLUB COMMUNITY ASSOCIATION, INC., and Individually (hereinafter "Wekiva"), by and through their undersigned attorneys and files this response to the NOTICE OF SUPPLEMENTAL AUTHORITY filed herein by SANLANDO UTILITIES CORPORATION (Sanlando), FLORIDA AUDUBON SOCIETY (Audubon), and FRIENDS OF THE WEKIVA RIVER, INC. (Friends) and states as follows:

1. Sanlando, Audubon and Friends allege that new Chapter 94-243, Laws of Florida, dictates that the Public Service Commission <u>must</u> grant them the relief that they request. They cite several sections from that new law in an effort to substantiate that position.

We strongly disagree with their strained interpretation of the quoted sections. We also note that they failed to cite the other sections of new Section 367.0817 that clearly reflect that the Commission must still determine the appropriateness of the plan and specifically preserves the right to protest any such plan. (See Subsections 367.0817(2) and (5).)

2. Sanlando, Audubon, and Friends additionally attempt to make new Section 367.0817 retroactively apply to the proceedings that are presently before the Commission. They do this in at least two ways.

First, they argue that the Commission is now required to accelerate the hearing date to accommodate the new statute. Surely the legislature did not intend this result.

Secondly they argue that Wekiva raised only the question of taxation in its protest. Wekiva strongly disagrees with this statement. The protest is not limited to the taxation issue, but instead specifically protests all

statement was correct, which it is not, they are arguing that Wekiva was required to anticipate new legislation that became effective approximately five (5) months after the protest was filed. Surely the legislature did not intend for this new statute to have this effect.

In fact, Section 367.0817 should not apply to or have any effect on this existing matter at all. This is a statute which directly deals with substantive rights and cannot be retroactively applied. Fleeman v Case, 342 So 2d 815 (Fla. 1974). In order to take advantage of this new statute Sanlando must refile its application.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by United States Mail to the individuals listed on the attached Service List, this 27 day of June, 1994.

Respectfully Submitted,

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OTH .

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