

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates)
 under grandfather rights to provide)
 water and wastewater service by Sports) Docket No. 961006-WS
 Shinko Utility, Inc. d/b/a Grenelefe)
 Utilities in Polk County.)

PETITION TO INTERVENE IN FORMAL ADMINISTRATIVE HEARING
PURSUANT TO SECTION 120.57, FLORIDA STATUTES

GRENELEFE ASSOCIATION OF CONDOMINIUM OWNERS NO. 1, INC.,
 (hereinafter "Association" or "Petitioner", by and through its
 undersigned attorneys and pursuant to Chapter 28-106 and Section
 25-22.039, Florida Administrative Code, files this Petition for
 Intervention in the Formal Administrative Proceedings regarding the
 protest of PSC Order No. PSC-97-1546-FOF-WS (hereinafter "Commis-
 sion Order") and states:

- The name and address of the Petitioner is:

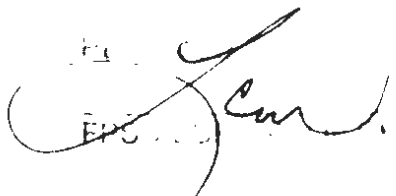
GRENELEFE ASSOCIATION OF CONDOMINIUM OWNERS NO. 1, INC.
 Post Office Box 7001
 Grenelefe, Florida 33844

- The name and address of the person authorized to receive notices and communications in respect to this petition is:

F. Marshall Deterding, Esquire
 Rose, Sundstrom & Bentley
 2548 Blairstone Pines Drive
 Tallahassee, Florida 32301

- The Association's substantial interests are affected by

the Commission Order in that it establishes for the first time a
 rate for non-potable irrigation service which will be imposed on
 the Association.



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4. The disputed issues of material fact are:

(1) Whether Grenelefe Utility ("Utility") had an approved non-potable irrigation rate when Polk County transferred jurisdiction of water and wastewater utilities in that County to the Commission.

(2) Whether the Utility's implementation of a non-potable irrigation rate constitutes a willful violation of Chapter 367, Florida Statutes.

5. The ultimate facts are as follows:

(1) At the time Polk County transferred jurisdiction over water and wastewater systems in the County, the Utility had no approved rate for non-potable irrigation service.

(2) The revenue requirement established by Polk County in the Utility's most recent rate order includes a rate of return on the non-potable irrigation facilities; and for the operating and maintenance expenses of those facilities. Thus, the establishment of a rate for non-potable irrigation service without a reduction in the Utility's water rates for potable water service would result in a windfall to the Utility and put it in an overearnings position.

(3) Even though The Utility implemented a non-potable irrigation rate knowing that such rate was not authorized, which constitutes a willful violation of the provision of Chapter 367, Florida Statutes, it would not be in the best interest of the Grenelefe Community as a whole to impose any penalty upon the Utility for the imposition of a non-potable irrigation rate without authorization.

(4) It is beyond the scope of the Commission's grandfather certification process to set a non-potable irrigation rate for the Utility.

6. The following Commission Rules and Statutes entitle the Association to relief:

- (1) Section 367.171, Florida Statutes
- (2) Section 367.161, Florida Statutes
- (3) Rule 25-30.035, Florida Administrative Code

7. The undersigned counsel filed a Notice of Appearance on behalf of the Petitioner in this Docket on November 1, 1996. Petitioner previously filed a Counter-Petition for Formal Administrative Proceeding and an Amended Counter-Petition for Formal Administrative Proceeding on January 15, 1998 and February 20, 1998, respectively. Those documents were intended merely as a statement of the Petitioner's interests and concerns and positions for the edification of the Commission, its staff, and the protesting Utility and did not require any action by the Commission. At the request of the Commission staff this Petition for Intervention is being filed to clarify the Association's status and the intent of the Counter-Petition and amended Counter-Petition.

WHEREFORE, the Petitioner respectfully requests that it be granted intervenor status in the above captioned proceeding and grant such other relief as appropriate and just under the circumstances.

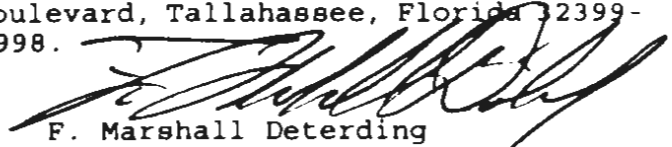
Respectfully submitted this ^{2nd}
day of March, 1998, by:



F. Marshall Deterding
ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301
(850) 877-6555

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Counter-Petition for Formal Administrative Proceeding has been forwarded via U.S. Mail to W. Bruce DelValle, Esquire, Foley & Lardner, 111 North Orange Avenue, Suite 1800, Orlando, Florida 32802-2193 and Bobbie Reyes, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this ^{2nd} day of March, 1998.



F. Marshall Deterding

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