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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In Re: Application for)
certificates to operate a water)
and wastewater utility in)
Charlotte and DeSoto Counties)
by Lake Suzy Utilities, Inc.)

DOCKET NO. 970657-WS

RECORDS AND REPORTING

and
In Re: Application for)
Amendment of Certificate Nos.)
570-W and 496-S in Charlotte)
County by Florida Water Services)
Corporation.)

DOCKET NO. 980261-WS

PREHEARING STATEMENT OF
CHARLOTTE COUNTY

The Board of County Commissioners of Charlotte County, Florida ("County") pursuant to Rule 25-22.038(Fla. Admin. Code) and Order No. PSC-98-0874-PCO-WS, files this Prehearing Statement.

(a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony;

Witness: Richard E. Howell, Director of the Charlotte County Utilities
Department

Subject: Charlotte County's legal right and its readiness, willingness and ability to provide service to the area in question. Florida Water Services Company technical and financial ability to provide service to the area in question.

(b) a description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- LIN 5
- OPC _____
- RCH _____
- SEC 1
- WAS Rederman
- OTH _____

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[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
13455 DEC-1 98
FPSC-RECORDS/REPORTING

Exhibit REH-1. Resolution No. 91-79 - establishing the Charlotte County Water and Sewer District No. 1 and setting forth the boundaries.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

Exhibit REH-2. A breakout of the amounts owed to Charlotte County by Florida Water Service Company as of October 1, 1998.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

Composite Exhibit REH-3. Charlotte County's response to the Commission staff's First Request for Production of Documents.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

Composite Exhibit REH-4. Charlotte County's responses, with attached documents, to the Commission staff's First Set of Interrogatories.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

(c) a statement of basic position in the proceeding;

Position: The Florida Public Service Commission (FPSC) does have the authority to determine whether a water and wastewater utility, subject to its jurisdiction, should be allowed to serve a particular territory. The FPSC does not have the authority to determine

whether a governmental entity providing water and wastewater service should be allowed to serve a particular territory. The Commission can and should acknowledge the prior existing legal right and the readiness, willingness and ability of a governmental entity to serve a particular area. Charlotte County through the Charlotte County Utilities Department has a prior existing legal right to serve the territory in question and is ready, willing and able to provide that service.

(d) a statement of each question of fact the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue.

Issue: Does Charlotte County, through the Charlotte County Utilities Department, have a prior (earlier acquired) legal right to serve the area in question based on the criteria set forth in the City of Mt. Dora v. JJ's Mobile Homes, 579 So.2d 219.

Position: Yes.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

Issue: Is Charlotte County, through the Charlotte County Utilities Department, ready, willing and able to provide service to the area in question.

Position. Yes.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

(e) a statement of each question of law the party considers at issue and the party's

position on each such issue.

Question of Law: Is The City of Mt. Dora v. JJ's Mobile Homes, 579 So.2d 219 applicable in this proceeding?

Position: Yes.

Question of Law: What standard of proof does the Florida Public Service Commission require in order to establish that a governmental entity has a prior (earlier acquired) legal right and the readiness, willingness and ability to provide service to an area?

Position: A governmental entity need only make a prima facie showing of its prior (earlier acquired) legal right and its readiness, willingness and ability to provide service to an area.

(f) a statement of each policy question the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue;

Policy Question: Should the Florida Public Service Commission develop a policy related to a governmental entity's right to provide service to an area?

Position: Yes. Based on a valid ordinance or other legally acquired right and a showing that the governmental entity has provided and continues to provide water and wastewater service in the area delineated by ordinance or other legally acquired right, the Commission should acknowledge that there has been a prima facie showing that the

governmental entity has the right and is ready, willing and able to provide such service.

Witness: Richard E. Howell, Director of the Charlotte County Utilities Department

(g) a statement of issues that have been stipulated to by the parties;

None.

(h) a statement of all pending motions or other matters the party seeks action upon.

None.

(i) a statement as to any requirement set forth in this order which cannot be complied

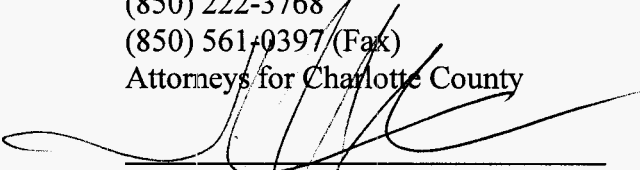
with and the reasons therefore.

None.

Respectfully submitted this 1st day of December, 1998.

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For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and one copy of the foregoing has been furnished by U.S. Mail to Matthew J. Feil, Esquire, Florida Water Services Corporation, Post Office Box 609520, Orlando, Florida 32860-9520; Martha Young Burton, Esquire, Assistant County Attorney, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094; Charlotte L. Sopha, Haus Development, Inc., Post Office Box 3024, Port Charlotte, Florida 33949, Frederick Bechtold, Esquire, Vorbeck & Vorbeck, 207 Magnolia Street, Arcadia, Florida 34266, Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301 and by hand delivery to Bobbie Reyes, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this ^{1st} day of December, 1998.



John R. Marks, III