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CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

February 23, 1999

Ms. Nan Chapman
11430 Harder Road
Clermont, Florida 34711

RE: Docket No. 980483-WU - Investigation into possible overcollection of Allowance for Funds Prudently Invested in Lake County, by Lake Utility Services, Inc.

Dear Ms. Chapman:

Please find enclosed the copy of Rule 25-22.032, Florida Administrative Code, which was referenced in my letter dated February 19, 1999.

Sincerely,

Tim Vaccaro
Senior Attorney

ACK _____ TV/dr

AFA _____

APP _____ cc: Division of Records and Reporting

CAF _____ 1 CHAPMAN TV

CMU _____

CTR _____

EAG _____

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(6) In the absence of a timely request for a \$120.57 hearing, and unless otherwise provided by a Commission order, the proposed action shall become effective upon the expiration of the time within which to request a hearing.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 75-22.29, Amended 7/8/92.

25-22.030 Injunctions.

(1) The Commission may seek relief in circuit court in the form of temporary or permanent injunctions, restraining orders or other appropriate orders where:

(a) The Commission finds that any entity within its jurisdiction has violated or is in violation of a Commission Order or rule; and

(b) The Commission finds that said violation impairs the operations or service of any entity over which it has jurisdiction.

(2) In any instance where there is an immediate threat to the public health, safety or welfare, no notice shall be required prior to the Commission's decision to seek the relief described in subsection (1).

(3) Seeking relief in circuit court is not conditioned on conducting a hearing pursuant to Chapter 120, Florida Statutes.

Specific Authority: 350.127(2), F.S.

Law Implemented: 366.015, 366.05(10), 367.121(1)(j), F.S. (1993)

History: New 3/21/94.

25-22.031 Reserved.

25-22.032 Customer Complaints.

(1) Any customer of a utility regulated by this Commission may file a complaint with the Division of Consumer Affairs whenever he has an unresolved dispute with the utility regarding his electric, gas, telephone, water, or wastewater service. The complaint may be communicated orally or in writing. Upon receipt of the complaint a staff member designated by the Director of the Division shall notify the utility of the complaint and request a response. The response should explain the utility's actions in the disputed matter and the extent to which those actions were consistent with the utility's tariffs and procedures, applicable state laws, and Commission rules, regulations, and orders.

(2) The designated staff member shall investigate the complaint and attempt to resolve the dispute informally. To that end, the staff member may request the parties to provide copies of bills, billing statements, field reports, written documents, or other information in their possession which may be necessary to resolve the dispute. The staff member may perform such tests, on-site inspections, and reviews of utility records as he considers appropriate and may request the utility to collect data and to perform tests which are necessary to aid in the resolution of the dispute.

(3) As soon as possible the staff member shall propose a resolution of the complaint based on his findings, applicable state laws, the utility's tariffs, and Commission rules, regulations, and orders. The proposed resolution may be communicated to the parties orally or in writing. Upon request, either party shall be entitled to a written copy of the proposed resolution, which shall be delivered by first-class mail.

(4) If a party objects to the proposed resolution, he may file a request for an informal conference on the complaint. The request shall be in writing and should be filed with the Division of Consumer Affairs within 30 days after the proposed resolution is mailed or personally communicated to the parties. Upon receipt of the request the Director of the Division may appoint a staff member to conduct the informal conference or the Director may make a recommendation to the Commission for dismissal based on a finding that the complaint states no basis for relief under the Florida Statutes, Commission rules or orders, or the applicable tariffs. If a conference is granted the appointed staff member shall have had no

prior contact with the complaint. After consulting with the parties, the appointed staff member shall issue a written notice to the parties setting forth the procedures to be employed, the dates by which written materials are to be filed, and the time and place for the informal conference, which shall be held in the service area, or such other convenient location to which the parties agree, no sooner than 10 days following the notice.

(5) In conjunction with conducting the informal conference, the appointed staff member may:

(a) Require the utility to provide any information in its possession which may be relevant to the complaint and may specify the form in which such information is to be provided;

(b) Request a customer to provide any information in the customer's possession which is necessary to prove any facts the customer may assert in support of his position;

(c) Direct the utility to conduct meter tests and inspections, diversion of service inspections, and other tests the appointed staff member deems necessary or appropriate;

(d) Question the parties directly regarding all matters related to the case.

(6) At the conference, the parties shall have the opportunity to present information, orally or in writing, in support of their positions. During the conference, the appointed staff member may encourage the parties to discuss and resolve their dispute. The Commission shall be responsible for tape-recording, but not transcribing, the informal conference. A party may arrange for transcription at his own expense.

(7) The appointed staff member may permit any party to file, following the conference, further information, documentation, or arguments. The opposing party shall have an opportunity to file a response.

(8) If a settlement is not reached, then within 20 days following the informal conference or the last post-conference filing, the appointed staff member shall submit a recommendation to the Commission and shall mail copies of the recommendation to the parties. The Commission shall dispose of the matter at the next available agenda conference by issuing a notice of proposed agency action or by setting the matter for hearing pursuant to section 120.57, Florida Statutes. The Commission may permit the parties to respond to the recommendation at the agenda conference.

(9) At any point during the complaint proceedings, a party has the right to be represented by an attorney or other qualified representative. For purposes of this rule a qualified representative may be any person the party chooses, unless the Commission sets the matter for hearing. At such hearing the parties must be represented by an attorney or Class B practitioner as provided for in Rule 25-22.008 or may represent themselves. Each party shall be responsible for his own expenses in the handling of the complaint.

(10) During the pendency of the complaint proceedings, a utility shall not discontinue service to a customer because of an unpaid disputed bill. However, the utility may require the customer to pay that part of a bill which is not in dispute. If the parties cannot agree as to the amount in dispute, the staff member will make a reasonable estimate to establish an interim disputed amount until the complaint is resolved. If the customer fails to pay the undisputed portion of the bill the utility may discontinue the customer's service pursuant to Commission rules.

(11) At any time the parties may agree to settle their dispute. If a settlement is reached, the parties or their representatives shall file with the Division of Consumer Affairs a written statement to that effect. The statement shall indicate that the settlement is binding on both parties and that the parties waive any right to further review or action by the Commission. The Division shall, if the complaint has been docketed, submit the statement to the Commission for

approval. If the complaint has not been docketed, then the Division shall acknowledge the statement of settlement by letter to the parties.

Specific Authority: 120.53(1), 350.127(2), F.S.

Law Implemented: 120.53(1), 120.57, 120.59(4), F.S.

History: New 1/3/89, Amended 10/28/93.

Rule 25-22.033 - Communications Between Commission Employees and Parties - The Commission recognizes that Commission employees must exchange information with parties who have an interest in Commission proceedings. However, the Commission also recognizes that all parties to adjudicatory proceedings need to be notified and given an opportunity to participate in certain communications. The intent of this rule is not to prevent or hinder in any way the exchange of information, but to provide all parties to adjudicatory proceedings notification of and the opportunity to participate in certain communications.

(1) This rule shall govern communications between Commission employees and parties to docketed proceedings before the Commission. This rule shall not apply in proceedings under sections 120.54, 120.565, 367.0814, Fla. Stat., proposed agency action proceedings before the Commission has voted to issue a proposed agency action order, non-rate case tariffs, workshops or internal affairs meetings. Also exempted are docketed and undocketed audits, telephone service evaluations, and electric and gas safety inspections. Nothing in this rule is intended to modify or supersede the procedural requirements for formal discovery under the Commission's rules and applicable provisions of the Florida Rules of Civil Procedure, or affect communications regarding discovery requests, procedure, or other matters not concerned with the merits of a case.

(2) **Written Communications -** Notice of any written communication between Commission employees and parties shall be transmitted to all other parties at the same time as the written communication, whether by U. S. Mail or other means.

(3) **Scheduled Meetings and Conference Calls -** All parties to the proceeding shall be given reasonable notice of the time and place of any scheduled meeting or conference call between Commission employees and parties. For purposes of this subsection, a conference call is defined as a telephone call involving three or more persons.

(4) **Response to Communications -** Any party to a proceeding may prepare a written response to any communication between a Commission employee and another party. Notice of any such response shall be transmitted to all parties.

(5) **Prohibited Communications -** No Commission employee shall directly or indirectly relay to a Commissioner any communication from a party or an interested person which would otherwise be a prohibited ex parte communication under section 350.042, Fla. Stat. Nothing in this subsection shall preclude non-testifying advisory staff members from discussing the merits of a pending case with a Commissioner, provided the communication is not otherwise prohibited by law. However, a staff member who testifies in a case shall not discuss the merits of that case with any Commissioner during the pendency of that case.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 3/24/93

25-22.034 Discovery. Parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure. The presiding officer may issue appropriate orders to effectuate the purposes of discovery and to prevent delay and may impose appropriate sanctions under Rule 1.380, Florida Rules of Civil Procedure, except that such sanctions may not include contempt or the award of expenses unless specifically authorized by statute. Sanctions may also include dismissal under Rule 25-22.042.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.34.