

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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RECORDS AND REPORTING

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

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  
LAKE SUZY UTILITIES, INC.

LAKE SUZY UTILITIES, INC.'s ("Lake Suzy"), by and through its undersigned attorneys and pursuant to Rule 25-22.038, Florida Administrative Code, files this Prehearing Statement:

(a) The following are the names and addresses of all known witnesses which Lake Suzy may call and the subject matter of their testimony:

1. Dallas Shepard  
Lake Suzy Utilities, Inc.  
12408 SW Sheri Avenue  
Lake Suzy, FL 33821

Mr. Shepard will testify on all issues in these consolidated proceedings.

2. Anthony Villiotti  
200 Corporate Center Drive, Ste. 300  
Coraopolis, PA 15108

AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMU \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 LEG \_\_\_\_\_  
 MAS 2 \_\_\_\_\_  
       3 \_\_\_\_\_  
 OPC \_\_\_\_\_  
 RFR \_\_\_\_\_  
 SEC 1 \_\_\_\_\_  
 WAW \_\_\_\_\_  
 OTH \_\_\_\_\_

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Mr. Violliotti will testify regarding Lake Suzy's financial ability to provide service.

**(b) The following are descriptions of all known exhibits:**

1. Application of Lake Suzy, including supplemental and amended filings - Composite Exhibit; sponsored by Mr. Shepard.
2. Lake Suzy Amended Water Supply Contract with DeSoto County; sponsored by Mr. Shepard.
3. Water and Wastewater Service Area Agreement dated December 9, 1997 between Charlotte County and Lake Suzy; sponsored by Mr. Shepard.
4. Financial Statement of AquaSource, Inc.; sponsored by Mr. Villiotti.

**(c) Lake Suzy's basic position is that it is in the public interest for it to provide water service to the property in question. Merely because FWSC is a larger utility does not mean it is more qualified to serve the property in question even if it had the ability to do so. The addition of the 49 lots will allow Lake Suzy to benefit from economics of scale, whereas the addition of those lots to FWSC's service area will have no impact upon existing customers. All other things being equal, Lake Suzy should be granted the territory in question since it filed its application first.**

**(d) The following are questions of fact at issue:**

1. When will service to the areas Lake Suzy and FWSC seek to add to their certificates be required?

There is an immediate need for service in the area.

2. Does Lake Suzy/FWSC have the financial ability to serve the requested territory?

Lake Suzy has the financial ability to serve the requested territory. FWSC does not have the financial ability to provide water and wastewater service to the requested territory. (SHEPARD & VILLIOTTI)

3. Does Lake Suzy/FWSC have the plant capacity and technical ability to serve the requested territory?

Lake Suzy has the plant capacity and technical ability to serve the requested territory. However, FWSC does not have the plant capacity or the technical ability to serve the requested territory. (SHEPARD)

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

Yes, Charlotte County is ready, willing and able to provide service to the area. However, Charlotte County and Lake Suzy have contractually agreed for Lake Suzy to provide water service and Charlotte County to provide wastewater service to the Links Subdivision.

5. Is it in the public interest for the Commission to grant Lake Suzy's/FWSC's application?

It is in the public interest for the Commission to grant Lake Suzy's application. It is not in the public interest for the Commission to grant FWSC's application. If both parties are determined to be equally qualified to serve the territory in question, then the party whose application was filed first should be granted the territory in questions. (SHEPARD)

6. Are Lake Suzy's water and wastewater facilities and land functionally related to each other such that they

constitute a single system whose service transverses county boundaries?

Yes. (SHEPARD)

**(e) A statement of each question of law which Lake Suzy considers at issue and its position on each are as follows:**

1. Has Lake Suzy met its burden of proof that it has the ability to provide water service to the proposed territory, that there is a need for water service in the proposed territory, and that its is the proper party to provide such service.

Yes.

2. Has FWSC met its burden of proof that it has the ability to provide water and wastewater service to the proposed territory, that there is a need for water service in the proposed territory, and that its is the proper party to provide such service.

No.

3. Does the Commission have the authority to grant Lake Suzy the territory in DeSoto County its applied for in spite of the fact that DeSoto County purported to franchise a portion of that territory to FWSC.

Yes, the Commission obtained jurisdiction over the territory upon filing the application and cannot be divested of that jurisdiction merely because through delay in the Commission decision due to FWSC's Objection, FWSC was able to obtain a franchise from DeSoto County for that territory.

**(f) A statement of each policy question that Lake Suzy considers at issue, its position on each such issue and which of its witnesses will address the issue is as follows:**

If both parties are determined to be equally qualified to serve the territory in question, then the party



whose application was filed first should be granted the territory in question.

**(g) A statement of the issues that have been stipulated to by the parties are as follows:**

PROPOSED STIPULATIONS

1. There is a need for service in DeSoto County and in the Links subdivision.
2. No competition or duplication will exist in this case regardless of which utility serves the territory because none of the utilities have any physical facilities in place in the disputed area. Because Lake Suzy improperly began serving one customer in the requested area without antecedent Commission approval, it would be improper to consider these facilities in determining if any competition or duplication exists.
3. If the Commission approves Lake Suzy's application, regulatory assessment fees would be due from the effective date of the Commission's order approving Lake Suzy's application provided that Lake Suzy refunds all revenues collected from Lot 18 of the Links subdivision within 30 days of the effective date of the Commission's order. The utility shall provide proof of the refund within 30 days after the refund is completed. In the event Lake Suzy does not refund all revenues collected from Lot 18, pursuant to Rule 25-30.120, Florida Administrative Code, regulatory assessment fees would be due from Lake Suzy from the date the utility began providing service in Charlotte County.

**(h) A statement of all pending motions or other matters Lake Suzy seeks action upon are as follows:**

FWSC's Motion to Take Official Notice.

**(i) A statement as to any requirement set forth in the procedural orders that cannot be complied with, and the reasons therefore are as follows:**

None at this time.

Respectfully submitted this 3<sup>rd</sup>  
day of January, 2000, by:

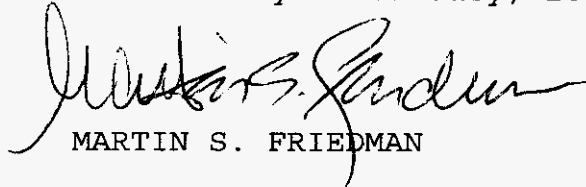
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MARTIN S. FRIEDMAN  
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For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Matthew J. Feil, Esquire, Florida Water Services Corporation, P.O. Box 609520, Orlando, Florida 32860-9520, Haus Development, Inc., Post Office Box 3024, Port Charlotte, Florida 33949, John Marks, Esquire, Knowles, Marks & Randolph, 215 South Monroe Street, Suite 130, Tallahassee, Florida 32301 and Tim Vaccaro, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 3<sup>rd</sup> day of January, 2000.



MARTIN S. FRIEDMAN

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