



ORIGINAL

Public Service Commission

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RECORDING AND REPORTING

DATE: February 9, 2000
TO: Division of Records and Reporting (Bayo)
FROM: Division of Legal Services (Vaccaro) OV
RE: Docket No. 970657-WS - Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

Docket No. 980261-WS - Application for amendment of Certificates Nos. 570-W and 496-S to add territory in Charlotte County by Florida Water Services Corporation.

Please place the attached letters, dated January 31 and February 2, 2000, along with their attachments, in the above referenced docket files. The combined attachments constitute the parties' settlement agreement and stipulations in this matter.

TV/lw

Attachments

i:\memor&r.tv

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- MAS _____
- OPC _____
- RRR _____
- REG _____
- VJAW _____
- OTH _____

DOCUMENT NUMBER-DATE
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FPSC-RECORDS/REPORTING

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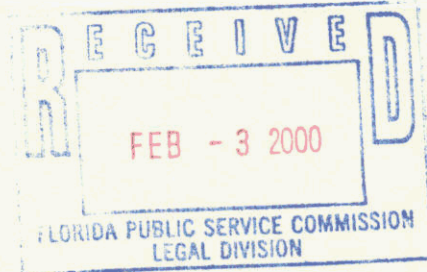
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AMY J. YOUNG

January 31, 2000

Tim Vaccaro, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard, Room 370
Tallahassee, FL 32399-0850



Re: Docket Nos. 970657-WS and 980261-WS

Dear Tim:

As a follow-up to our telephone conversation yesterday, enclosed please find the executed Settlement Agreement bearing the original signature of John Cirello, the President of Florida Water Services Corporation and MP Water Resources Group, Inc. In accordance with our discussion, it is my understanding that you are obtaining the original executed document from Lake Suzy. Please give me a call if you have any questions.

Sincerely,


J. Stephen Menton

JSM/knb

cc: Matthew J. Feil, Esq.
Martin Friedman, Esq.
John Marks, III, Esq.
Martha Burton
Preston Everett, Esq.
Ms. Charlotte L. Sopko
Tony Pires, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 970657-WS

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

Filed: January __, 2000

SETTLEMENT AGREEMENT AND STIPULATION

This Settlement Agreement and Stipulation ("hereinafter referred to the Agreement") is entered into on this ___ day of January, 2000, by and between Lake Suzy Utility, Inc. ("Lake Suzy"), AquaSource Utility, Inc. and AquaSource, Inc. (collectively "AquaSource") and Florida Water Services Corporation and MP Water Resources Group, Inc. (collectively "Florida Water").

WHEREAS, Lake Suzy has filed an original certificate application ("Lake Suzy's Application") to provide water and wastewater service in DeSoto and Charlotte Counties which is pending in Docket No. 970657-WS; and

WHEREAS, DeSoto County was granted intervention to object to Lake Suzy's Application; and

WHEREAS, Florida Water has timely filed an objection and petition to intervene to challenge Lake Suzy's Application; and

WHEREAS, Florida Water has filed its own application ("Florida Water's Application") for amendment on February 19, 1998 to add territory in Charlotte County which is pending as Docket No. 980261-WS; and

WHEREAS, Charlotte County, Lake Suzy and Haus Development, Inc. ("Haus"), have each timely filed objections to Florida Water's Application; and

WHEREAS, DeSoto County has enacted an Ordinance Number 1999-10, which grants Florida Water franchise territory in DeSoto County a portion of which Lake Suzy has requested in this proceeding before the Commission; and

WHEREAS, Lake Suzy timely filed a challenge to that ordinance in a lawsuit filed against Florida Water and DeSoto County; and

WHEREAS, the Commission has consolidated Docket Nos. 970657-WS and 980261-WS and the consolidated proceedings are scheduled for a hearing on February 3-4, 2000; and

WHEREAS, all of the stock of Lake Suzy has been purchased by AquaSource in May, 1999; and

WHEREAS, the parties to this Agreement seek to resolve their pending disputes and controversies without the need for further litigation and have determined that it is in their mutual best interests to resolve their differences in a cooperative, amicable and orderly fashion, and in a manner consistent with sound utility planning which will benefit present and future customers in the respective territories; and

WHEREAS, Lake Suzy, AquaSource and Florida Water have entered into this Agreement to resolve all of their disputes and the consolidated dockets as set forth herein:

NOW THEREFORE, in consideration of the premises and mutual benefits to be derived from the Agreement by the parties and in consideration of the representations, warranties, covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Upon completion and execution of this Agreement, Florida Water shall withdraw with prejudice and without leave to refile that portion of its objection to Lake Suzy's Application (Docket No. 970657-WS) pertaining to the territory Lake Suzy has requested in Charlotte County i.e., the Links subdivision.

2. Florida Water will withdraw with prejudice and without leave to refile the territory amendment application it filed in Docket No. 980261-WS. Florida Water agrees not to file any future applications for authority to provide service to the territory referred in Docket No. 980261-WS in Charlotte County.

3. Florida Water agrees that it will not dispute Lake Suzy or AquaSource's right to serve either the Links subdivision in Charlotte County or the territory which the Commission had authorized Lake Suzy to serve pursuant to Certificate Nos. 416-S and 480-W prior to DeSoto County's March 1997 resolution to reassume jurisdiction over water and wastewater utilities within the County. Florida Water further agrees that it will not provide utility service in the territory described in those certificates.

4. Lake Suzy will dismiss with prejudice and without leave to refile all appeals and court actions pending against Florida Water and DeSoto County in the Twelfth Judicial Circuit in and for DeSoto County, in particular Case No. 99-0380CA, Case No. 99-0379CA and Case No. 99-381CA.

5. Lake Suzy acknowledges DeSoto County's authority to grant Florida Water a franchise in DeSoto County and Lake Suzy agrees that it will not dispute Florida Water's right to serve the franchise area in DeSoto County granted to Florida Water by DeSoto County Ordinance No. 99-10 dated June 8, 1999. Lake Suzy will withdraw without leave to refile that portion of its certificate application in Docket No. 970657-WS which overlaps the aforesaid Florida Water

Franchise Area. Lake Suzy further agrees that it will not provide utility service to the area described in that Ordinance.

6. Lake Suzy and AquaSource agree that they will not sue or take any action against Florida Water or DeSoto County to dispute the Water Supply Agreement between Florida Water and DeSoto dated December 14, 1999 or Florida Water's right to the water allocation described therein.

7. Lake Suzy, AquaSource and Florida Water hereby mutually release, discharge and covenant not to sue each other for any and all claims, demands, damages, obligations, promises, administrative actions, charges and causes of actions, both known or unknown, in law or in equity, of any kind whatsoever, which either party ever had, now has, or may have against the other for or by reason of any of the matters discussed herein including but not limited to Lake Suzy's Application, Florida Water's Application, DeSoto County's grant of a franchise to Florida Water and AquaSource's acquisition of Lake Suzy.

8. This Agreement constitutes and contains the entire agreement and understanding between the parties.

9. The parties agree and acknowledge that the signatories hereto are the proper and only necessary parties to this Agreement.

10. The parties agree to cooperate in good faith in seeking approval of this Agreement by the Commission. The parties intend that the Commission approve this Agreement to the extent the Commission has jurisdiction to do so.

11. This Agreement shall become effective upon execution of the Agreement by all parties. The parties agree that neither they, nor any employees, agents, consultants or affiliated entities, will bring any action to contest the legality or enforceability of this Agreement.

12. Any waiver of any term or condition of this Agreement or of any subsequent amendment or modification of this Agreement, shall be effective only if set forth in a written document executed by a duly authorized officer or partner of the waiving party, in the case of waiver, and by each of the parties in the case of a modification or amendment. A waiver of any breach or failure to enforce any of the terms of the Agreement by a party shall not in any way effect, limit or waive that party's other rights hereunder at any time to enforce strict compliance thereafter with each and every term of this Agreement.

13. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Florida.

14. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. The parties intend that this Agreement shall survive any and all mergers, acquisitions, or reorganizations of any of the parties and will be binding on all affiliates, subsidiaries and related entities.


15. This Agreement may be executed simultaneously in two or more identical counterparts, each of which shall be deemed to be an original. Facsimiles of signatures shall be deemed to be the same as original signatures.


16. Each party agrees to bear its own attorney's fees and costs incurred to date for any of the proceedings discussed herein. The parties covenant and agree to act in good faith in carrying out the terms and provisions of this Agreement. In the event that any party incurs legal expenses to enforce or interpret any provision of this Agreement through a judicial or administrative proceeding, the prevailing party in such a proceeding shall be entitled to recover its legal expenses including,

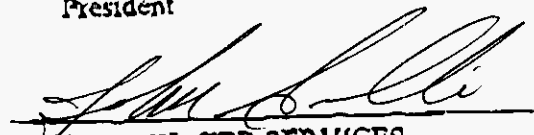
without limitation, attorney's fees, costs, and necessary expenses and disbursements, in addition to any other relief to which such party may be entitled.

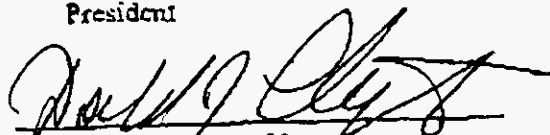
17. The parties each represent to each other that the undersigned have full authority to execute this Agreement and to bind the parties hereto, including all predecessors and affiliated entities.


IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.


LAKE SUZY UTILITY, INC.
By: Donald J. Clayton
President


AQUA SOURCE UTILITY, INC.
By: Donald J. Clayton
President


FLORIDA WATER SERVICES CORPORATION
By: John Cirello
President


AQUA SOURCE, INC.
By: Donald J. Clayton
President


MP WATER RESOURCES GROUP, INC.
By: John Cirello
President

FAUSERS\ROXANNE\LakeSuzy\settlement.agr

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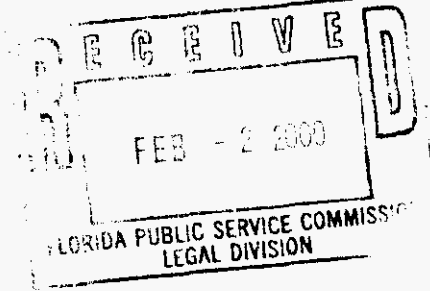
TELECOPIER (850) 656-4029

February 2, 2000

ROBERT M. C. ROSE
OF COUNSEL

VIA HAND DELIVERY

Tim Vaccaro, Esquire
Florida Public Service Commission
Legal Division
2540 Shumard Oaks Boulevard
Tallahassee, Florida 32399-0850




Re: AquaSource Utility, Inc.; Application for certificates to operate a water and wastewater utility in Charlotte & DeSoto Counties; Docket No. 970657-WS
Application of Florida Water Services Corporation for amendment of its certificates; Docket No. 980261-WS
Our File No. 33087.15

Dear Tim:

In accordance with our recent telephone conference, enclosed is the signature page of the Settlement Agreement between Lake Suzy Utility, Inc. and Florida Water Services Corporation which possesses the original signatures of Don Clayton, who executed the Settlement Agreement on behalf of Lake Suzy Utility, Inc., AquaSource Utility, Inc., and AquaSource, Inc.

Very truly yours,


MARTIN S. FRIEDMAN
For the Firm


MSF/brm


cc: Rick Herskovitz, Esquire
Mr. Johnnie Overton
Mr. Kim Pandapas
Steve Menton, Esquire

without limitation, attorney's fees, costs, and necessary expenses and disbursements, in addition to any other relief to which such party may be entitled.


17. The parties each represent to each other that the undersigned have full authority to execute this Agreement and to bind the parties hereto, including all predecessors and affiliated entities.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.


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By: Donald J. Clayton
President


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CORPORATION
By: John Cirello
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AQUA SOURCE, INC.
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MP WATER RESOURCES GROUP, INC.
By: John Cirello

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