

LAW OFFICES
ROSE, SUNDSTROM & BENTLEY, LLP

2548 BLAIRSTONE PINES DRIVE
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

CHRIS H. BENTLEY, P.A.
F. MARSHALL DETERDING
MARTIN S. FRIEDMAN, P.A.
JOHN R. JENKINS, P.A.
STEVEN T. MINDLIN, P.A.
DAREN L. SHIPPY
WILLIAM E. SUNDSTROM, P.A.
DIANE D. TREMOR, P.A.
JOHN L. WHARTON

MAILING ADDRESS
POST OFFICE BOX 1567
TALLAHASSEE, FLORIDA 32302-1567

TELECOPIER (850) 656-4029

August 11, 2000
VIA HAND DELIVERY

ROBERT M. C. ROSE
OF COUNSEL

Mr. Bob Casey
Division of Economic Regulation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0873

Re: North Peninsula Utilities Corporation; PSC Docket No. 000715-SU
Investigation Into Possible Overearnings
Our File No. 26097.03

Dear Bob:

Attached is a copy of an outline of the Utility's position with regard to the two main issues in the Staff Recommendation. I apologize for the delay in getting you this information. However, the Utility's representatives were out of town last week, and I have been working with them this week to get something finalized.

I believe the attached explanation should be adequate to convince the staff that while the collections from the developer may have been inappropriately booked, they do not represent CIAC, much less unauthorized CIAC. At a minimum, the PSC staff should recognize that at least \$7,700 should be offset against the amount collected from the developer as an appropriate overhead charge related to the Extension of Service Territory to serve the developer and related to administrative costs related to providing that developer with service, in accordance with PSC rules and policy.

If you have any questions in this regard or would like to sit down and meet with me concerning these issues, I am available all day Monday. Unfortunately, I will not be available Tuesday or Wednesday due to depositions in another matter.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP


F. Marshall Deterding
For The Firm

FMD/tmg
cc: Mr. Tyree Wilson
Mr. Bob Hillman
npuc\3casey.ltr

RECEIVED
FLORIDA PUBLIC SERVICE
COMMISSION
00 AUG 14 AM 10:45
DIVISION OF
ECONOMIC REGULATION

NORTH PENINSULA UTILITIES CORPORATION
PSC Docket No. 000715-SU

Overearning and Index Rate Increase

After further review, the Utility has decided that it would rather go ahead and make the refund proposed by the staff in its original recommendation, rather than forgo an index for this year, because of the cumulative effect. The Utility stands ready to proceed with that refund and will shortly file its new index.

Perhaps to the extent that the Commission requires any kind of notice of the refund credit to customers, the Utility will propose that the Commission allow it to combine its index notification with any notification of the refund.

Unauthorized CIAC Collections

The PSC Staff Recommendation, as previously issued, suggests that the Utility has collected from a developer CIAC no longer authorized under the Commission's previous Orders for this Utility and under the Utility's approved Tariff. It is the Utility's position that all that the referenced Order required North Peninsula Utilities Corporation (NPUC) to do was to discontinue collections of cash CIAC. The collection from this developer was reimbursement for overhead costs, or at worst part of property CIAC.

The charge to the developer was in fact reimbursement to the Utility's owners for services provided to that developer. In 1996, NPUC was contacted by developer of property adjacent to their existing service territory. The Utility recognized that it would need to extend its service territory and to require the developer to seek certain permits and modifications to facilities in order to allow that developer to hook on to NPUC's system.

The Utility has a Management Agreement to receive management services from the Utility's owners and their employees in their development business. However, that Management Agreement covers only day to day activities of those individuals and not any exceptional activities above and beyond day to day operation and management. As such, the Utility charged the developer of this new area for two separate and distinct functions performed by the related entity. These were as follows:

1. Territorial Extension - In order to provide service to this new development, NPUC had to seek extension of its service territory. In order to do so, the Utility had to enlist additional services from the developers/shareholders of the Utility, above and beyond their daily duties in operation and management of the Utility, in order to prepare and file an application with the PSC, work with the PSC staff in sheparding that application through, and obtaining the additional territory necessary in order to provide that developer with service. The PSC has long recognized the

appropriateness of a Utility charging a developer in adjacent property for the cost of filing and seeing an application through at the PSC. The related party estimates that they expended at a minimum 100 hours performing these functions. A reasonable rate for their expert services in preparing, filing and finalizing the Application for Extension of Service Territory in order to service this customer is \$50 per hour. In addition, the Utility incurred application fees, travel costs, and noticing costs of approximately \$1,000, for a total of \$6,000 related to adding this developer's property to the Utility service territory.

2. Planning, Permitting and Design of Developer Facilities - In addition to applying to the PSC for Extension of Service Territory in order to service this new property, the shareholders' management team provided expert advice to the developer in designing the interconnection facilities; seeking permits for those facilities; and connecting them to NPUC's system. Those persons expended approximately 30 hours of their time in that regard, and approximately \$200 in costs. At a very reasonable rate of approximately \$50 per hour, this equates to \$1,500 in time and when costs are added, a total of \$1,700 at a minimum should be charged for these services.

The PSC has long recognized the right of a Utility to collect for overheads related to providing service to a developer including legal, administrative, and engineering expenses incurred in providing service to a new developer. This right of the Utility to charge for these services is specifically provided under Rule 25-30.540. In this case, those services were provided by related parties, rather than by the Utility and no distinction was made between the Utility and the related party providing the service, simply because this is a small and relatively unsophisticated company without the resources to provide those services on its own. Technically speaking, these costs should not be CIAC at all, but should instead be treated as administrative services provided to the Utility and compensated for through a third party. To the extent it is treated as CIAC, there should be a similar offset to organizational costs or other capitalized costs. However, in any case the Utility believes that at a minimum, approximately \$7,700 of the charges assessed against the developer were reasonable and appropriate under the PSC's Rule 25-30.540 and its longstanding policy that it is appropriate for a Utility to charge a developer for the Utility's costs in seeking an Application for Extension of Service Territory in order to serve that developer. The Utility believes it was appropriate to charge this developer \$10,500. However, to the extent the Commission believes that the charge was at least in part unauthorized CIAC collection, the Utility would offer that the great majority of that assessment (at a very conservative estimate of \$7,700) is in keeping with both the Commission's Rule and its longstanding policy on similar situations, and should not be treated as inappropriate CIAC collections.