

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
certificates to provide water
and wastewater service in Clay
County by Point Water & Sewer,
Inc.

DOCKET NO. 961321-WS

FILED: June 9, 1997

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-97-0346-PCO-WS, issued March 25, 1997, the Commission staff (staff) files its prehearing statement as follows:

A. All Known Witnesses

Staff intends to call Lynal DeFalco as a witness. She will testify on the utility's compliance with Department of Environmental Protection (DEP) rules and regulations concerning the water facility.

Staff intends to call Susan L. Fraser as a witness. She will testify on Clay County's policy regarding mandatory sewer connections as set forth in Clay County's Comprehensive Plan.

Staff intends to call Ray O. Avery as a witness. He will testify on the location of Clay County Utility Authority's facilities with respect to the Point Condominiums and the estimated interconnection costs to the Authority.

B. All Known Exhibits

Staff has identified a list of exhibits which it intends to utilize at hearing which are listed below. Staff reserves the right to identify additional exhibits at the Prehearing Conference and at hearing for purposes of cross-examination.

- ACK
- AFA
- APP
- CAF
- CMU
- CTR
- EAG
- LEG
- LIN
- OPC
- RCH
- SEC
- WAS
- OTH

Exhibit No.

Description

LDF-1

DEP construction permit for the water facility.

LDF-2

Deficiency letter regarding the DEP Sanitary Survey Report and return receipt.

DOCUMENT NUMBER-DATE
05707 JUN-97
FPSC-RECORDS/REPORTING

COMMISSION STAFF'S PREHEARING STATEMENT
DOCKET NO. 961321-WS

<u>Exhibit No.</u>	<u>Description</u>
LDF-3	DEP Sanitary Survey Report and cover letter.
SLF-1	Letter from Susan L. Fraser to Mark Easterling regarding the Clay County Comprehensive Plan.
SLF-2	Minutes from the April 8, 1997 Clay County Board of Commissioners meeting.
ROA-1	Clay County Utility Authority's ERC calculation for the Point Condominiums and Whitney's Marina.
ROA-2	Conceptual map of water and sewer line extensions to the Point Condominiums.
ROA-3	Chart of the costs of connection and service to the Point and Whitney's Marina by Clay County Utility Authority.
ROA-4	Clay County Utility Authority's tariffs.
ROA-5	Application for Clay County Utility service by the Point Property Owners Association.

C. Staff's Statement of Basic Position

The information gathered through prefiled testimony indicates that the utility appears to have the technical ability to continue to provide service to its existing territory as currently developed. A determination of whether the utility has the long term technical ability, the financial ability to continue service, and whether granting a certificate of authorization to Point Water & Sewer, Inc., would be in the

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public interest cannot be made until the evidence presented at hearing is analyzed.

D. Issues of Fact, Law and Policy

The following are issues identified by staff and its positions on these issues. Non-testifying staff's positions are preliminary, are based upon materials filed by the utility and the objector and are intended to inform the parties of staff's preliminary positions. Staff's final positions will be based upon an analysis of the evidence presented at the hearing.

ISSUE 1: Does Point Water & Sewer, Inc., have the financial ability to continue to serve the existing service area, pursuant to Rule 25-30.034(1)(d), Florida Administrative Code?

POSITION: No position pending further development of the record.

ISSUE 2: Does Point Water & Sewer, Inc., have the technical ability to continue to serve the existing service area, pursuant to Rule 25-30.034(1)(d), Florida Administrative Code?

POSITION: Yes, Point Water & Sewer, Inc. appears to have the technical ability to serve the existing territory as currently developed. No position pending further development of the record with respect to long term technical ability. (DeFalco)

ISSUE 3: Does service exist from other sources within geographical proximity to the area Point Water & Sewer, Inc., is requesting to serve?

POSITION: According to witness Avery, the Clay County Utility Authority (CCUA) has extended its service lines to within one quarter mile of the Point condominiums. Extension of the county's water and sewer service would require lines, by jack and bore, under U.S. Highway 17 at a CCUA-

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estimated total cost in excess of \$200,000. Staff has no position concerning the cost effectiveness of such interconnection pending further development of the record. (Avery)

ISSUE 4: Is the continued provision of service by Point Water & Sewer, Inc., consistent with the adopted Clay County Comprehensive Plan?

POSITION: Pursuant to Section 367.045(5)(b), Florida Statutes, the Commission need not consider whether the issuance of a certificate is inconsistent with the local comprehensive plan unless a timely objection has been made based on the comprehensive plan. Since no such timely objection was made in this case regarding the comprehensive plan, the Commission is neither bound by the comprehensive plan nor required to consider it. However, if the Commission does choose to consider the comprehensive plan, it should be noted that witness Fraser has indicated that the county weighs the cost of the extension in its determination of availability of service. Fraser has also testified that continued provision of service by Point Water & Sewer, Inc., is not inconsistent with the comprehensive plan and the county will not support a mandatory connection in this case due to the cost for extension and the satisfactory performance of the existing plant. (Fraser)

ISSUE 5: Should the utility be required to pay regulatory assessment fees for 1996 and any applicable penalties and interest to the Commission?

POSITION: Yes, the utility should be required to remit regulatory assessment fees for 1996 within 45 days of the date of the final order in this matter.

ISSUE 6: Should the Point Water & Sewer, Inc., be fined for operating a water and wastewater utility without a certificate, in violation of Section 367.031, Florida Statutes?

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POSITION: Section 367.031, Florida Statutes, requires all utilities subject to the Commission's jurisdiction to obtain, from the Commission, a certificate of authorization to provide water or wastewater service. Staff has no position at this time, pending further development of the record, regarding whether the utility should be fined for this violation.

ISSUE 7: Is it in the public interest for the Commission to grant Point Water & Sewer, Inc., certificates of authorization to continue providing service to the existing service area?

POSITION: The public interest consideration is dependent upon the resolution of all issues outlined above and on a combination of factors such as the operations history of the plant, long term effectiveness of continued plant operations, compliance with rule criteria, and the feasibility of other service options. Staff's final position on the issue cannot be determined until the evidence presented at the hearing is analyzed.

COMMISSION STAFF'S PREHEARING STATEMENT
DOCKET NO. 961321-WS

E. Stipulated Issues

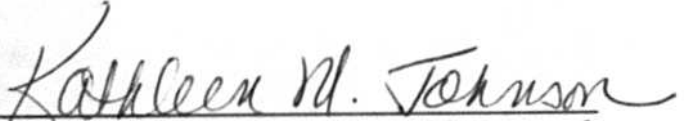
There are no issues that have been stipulated at this time.

F. Pending Matters

Staff has no matters pending at this time.

G. Requirements That Cannot Be Complied With

There are no requirements of Orders Nos. PSC-97-0245-PCO-WS and PSC-97-0346-PCO-WS that cannot be complied with at this time.


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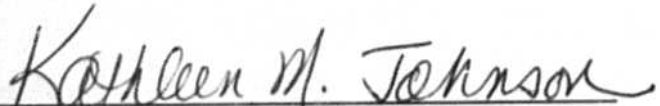
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **COMMISSION
STAFF'S PREHEARING STATEMENT**, has been furnished to the following
by U.S. Mail this 9th day of June, 1997:

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