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July 19, 1999

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RECORDS AND
REPORTING

Ms. Blanca Bayo
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. ⁹⁷¹²²⁰~~981220~~-WS - Application for transfer of Certificates Nos. 592-W and 509-S from Cypress Lakes Associates, Ltd. to Cypress Lakes Utilities, Inc. in Polk County Florida.


Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of the following documents:

1. Utility's Motion to Strike the Office of Public Counsel's Direct Testimony of Hugh Larkin, Jr.

Thank you for your assistance. If there are any questions, please let me know.

Sincerely yours,


Ben E. Girtman

Encl.

cc w/encl: Mr. Carl Wenz

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FPSC-BUREAU OF RECORDS

- AFA _____
- APP _____
- CAF _____
- CMU _____
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- EAG _____
- LEG *by Baker* _____
- MAS *3* _____
- OPC _____
- RRR _____
- SEC *1* _____
- WAW *2* _____
- OTB _____

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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer)
of Certificate Nos. 592-W and)
509-S from Cypress Lakes)
Associates, Ltd., to Cypress Lakes)
Utilities, Inc., in Polk County.)
_____)

DOCKET NO. 971220-WS

Filed: July 19, 1999

UTILITY'S MOTION TO STRIKE
THE OFFICE OF PUBLIC COUNSEL'S
DIRECT TESTIMONY OF HUGH LARKIN, JR.

COMES NOW Utilities, Inc. and its wholly owned subsidiary, Cypress Lakes Utilities, Inc., and in support of the motion to strike state that:

1. On April 16, 1999, the transferee utility timely filed its Direct Testimony of Carl Wenz.
2. The direct testimony and exhibits of protestant OPC were due to be filed on or before May 21, 1999. No motion has been filed by OPC explaining the delay or requesting an extension of time to file.
3. On June 16, 1999, which was 26 days after OPC's filing deadline, the utility's attorney contacted the OPC attorney by telephone to determine if OPC would be filing testimony and exhibits. OPC's attorney stated that (as of June 16), they had not decided whether they would be filing testimony and exhibits in this case. OPC's attorney stated that, although they had previously acquired a copy of the utility applicant's testimony, they had not been served with a copy of the testimony by the utility's attorney. On that same day, June 16, 1999, a copy of the utility's direct

testimony was hand delivered to the OPC attorney, and a signed receipt for the testimony was acquired. In any event, OPC's obligation to file testimony and exhibits timely is not contingent on the filing of, or receipt of, the direct testimony of the utilities or of anyone else.

4. On July 12, 1999, movants filed their Motion to Dismiss the Office of Public Counsel's Protest and Petition for Section 120.57(1) Hearing. A copy was served upon OPC by hand delivery on July 12. The background and legal arguments set forth therein are incorporated as if set forth verbatim herein.
5. On July 16, 1999, the undersigned attorney for movants received, by U.S. Mail, the Direct Testimony of Hugh Larkin, Jr., OPC's witness. The certificate of service states that days after the testimony was served by U.S. Mail on July 15, 1999, which was just three days after service of the motion to dismiss on OPC.
6. No motion, request for extension of time, or other pleading was filed with OPC's direct testimony of Mr. Larkin.
7. OPC's testimony was filed 67 days late. It was due on May 21, 1999, but was not filed until July 15, 1999.
8. Rebuttal testimony and exhibits are due to be filed by all parties on or before July 30, 1999, just 15 days after OPC filed its direct testimony.
9. The current revised list of controlling dates includes the following:
 - 1) Utility's direct testimony and exhibits April 16, 1999
 - 2) Intervenors' direct testimony and exhibits May 21, 1999

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|----|---|-------------------|
| 3) | Staff's direct testimony and exhibits, if any | June 25, 1999 |
| 4) | Rebuttal testimony and exhibits | July 30, 1999 |
| 5) | Prehearing Statements | September 3, 1999 |
| 6) | Prehearing Conference | October 4, 1999 |
| 7) | Hearing | October 20, 1999 |
| 8) | Briefs | November 17, 1999 |
10. The parties, including OPC, have been on notice since September 14, 1998, the date of the first Order Establishing Procedure, that direct testimony and exhibits would be due in this case. OPC's deadline was deferred twice, from the original March 15, 1999, to April 16, 1999, and finally to May 21, 1999.

WHEREFORE, Utilities, Inc. and its wholly owned subsidiary, Cypress Lakes Utilities, Inc., move to strike the Office of Public Counsel's Direct Testimony of Hugh Larkin, Jr.

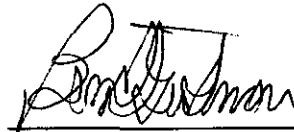
RESPECTFULLY SUBMITTED, this 19thth day of July, 1999.



Ben E. Girtman
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1020 E. Lafayette St.
Suite 207
Tallahassee, FL 32301
Attorney for Utilities, Inc. and
Cypress Lakes Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent to Harold McLean, Esq. Office of Public Counsel, 111 W. Madison St., Tallahassee, FL 32399-1400; Jennifer Brubaker, Esq., Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee FL 32399-0850, by hand delivery this 19th day of July 1999.



Ben E. Girtman