

ORIGINAL

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 30, 1999

TESTIMONY

OF

FRANK SEIDMAN

IN REBUTTAL TO OPC WITNESS LARKIN

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
TESTIMONY OF FRANK SEIDMAN
IN REBUTTAL TO OPC WITNESS LARKIN
REGARDING THE APPLICATION FOR TRANSFER OF CERTIFICATES
FROM CYPRESS LAKES ASSOCIATES, LTD. TO CYPRESS LAKES
UTILITIES, INC.
IN POLK COUNTY
DOCKET NO. 971220-WS

Q. Please state your name, profession and address.

A. My name is Frank Seidman. I am President of Management and Regulatory Consultants, Inc., consultants in the utility regulatory field. My mailing address is P.O. Box 13427, Tallahassee, FL 32317-3427.

Q. State briefly your educational background and experience.

A. I hold the degree of Bachelor of Science in Electrical Engineering from the University of Miami. I have also completed several graduate level courses in economics at Florida State University, including public utility economics. I am a Professional Engineer, registered to practice in the state of Florida. I have over 30 years

1 experience in utility regulation, management and
2 consulting. This experience includes nine years as
3 a staff member of the Florida Public Service
4 Commission, two years as a planning engineer for a
5 Florida telephone company, four years as Manager of
6 Rates and Research for a water and sewer holding
7 company with operations in six states, and three
8 years as Director of Technical Affairs for a
9 national association of industrial users of
10 electricity. I have either supervised or prepared
11 rate cases, rates studies, certificate
12 applications and original cost studies or testified
13 as an expert witness with regard to water and
14 wastewater utilities in Florida, California,
15 Indiana, Michigan, Missouri, North Carolina and
16 Ohio. I have participated in, and appeared as a
17 witness at, many of this Commission's rulemaking
18 proceedings with regard to water, wastewater and
19 electric rules, as well as proceedings before the
20 Department of Administrative Hearings.

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1 **Q. On whose behalf are you appearing and for what**
2 **purpose?**

3 A. I am appearing on behalf of the Applicant, Cypress
4 Lakes Utilities, Inc. (Cypress Lakes) a wholly
5 owned subsidiary of Utilities, Inc., to provide
6 rebuttal to the direct testimony of Office of
7 Public Counsel witness Hugh Larkin, Jr.

8

9 **Q. Mr. Larkin's testimony recommends that the rate**
10 **base of Cypress Lakes be reduced by a negative**
11 **acquisition adjustment. Do you agree with him?**

12 A. No. The policy of this Commission is that absent
13 extraordinary circumstances, the purchase of a
14 utility at a premium or discount shall not effect
15 the rate base calculation. Mr. Larkin has made no
16 showing of extraordinary circumstances and
17 therefore there is no basis for an adjustment to
18 rate base.

19

20 **Q. Has Mr. Larkin expressed concerns, other than**
21 **extraordinary circumstances, that the Commission**
22 **should consider in determining whether a negative**
23 **acquisition adjustment to rate base is appropriate?**

24 A. No. Whatever concerns Mr. Larkin has raised are
25 appropriately examined in the context of a rate

1 proceeding and have nothing to do with evaluating
2 the appropriateness of an acquisition adjustment.

3

4 **Q. Has Mr. Larkin testified on the subject of a**
5 **negative acquisition adjustment in any other case**
6 **involving a purchase by a subsidiary of Utilities,**
7 **Inc.**

8 A. Yes, in Docket No. 960235-WS, involving the
9 purchase of Econ Utilities Corporation by
10 Wedgefield Utilities, Inc., also a subsidiary of
11 Utilities, Inc.

12

13 **Q. Did you take part in that proceeding?**

14 A. Yes. I testified on behalf of the Applicant. In
15 that case I did extensive research into the
16 historical development of the policy of this
17 Commission on acquisition adjustments. Nothing in
18 that research and nothing in the Commission's
19 policy development supports Mr. Larkin's suggestion
20 of a negative acquisition adjustment to rate base
21 for Cypress Lakes.

22

23 **Q. Mr. Larkin points out in his prefiled direct**
24 **testimony that without a negative acquisition**
25 **adjustment, the utility would be allowed to earn a**

1 **rate of return on the full original cost rate base**
2 **and include the depreciation expense on that amount**
3 **in its rate recovery. Is that at odds with**
4 **Commission policy?**

5 A. No. Just the opposite. It is Commission policy. The
6 Commission has stated that "...the buyer earns a
7 return on not just the purchase price but the
8 entire rate base of the acquired utility. The buyer
9 also receives the benefit of depreciation on the
10 full rate base.... The customers of the acquired
11 utility are not harmed by this policy because,
12 generally, upon acquisition, rate base has not
13 changed so rates have not changed." [See Order No.
14 25729, issued 2/17/92, in Docket No. 891309-WS].

15
16 **Q. From the point of view of the customer, what is the**
17 **net effect of Commission policy, that is of**
18 **allowing no acquisition adjustment to rate base?**

19 A. The net effect is zero. That is, since the buyer is
20 essentially stepping into the shoes of seller, the
21 assets serving the customers remain unchanged, the
22 cost of those assets remain unchanged, rate base
23 remains unchanged and the basis for rates remains
24 unchanged.

25

1 **Q. If a negative acquisition adjustment is applied to**
2 **rate base based on the concerns discussed by Mr.**
3 **Larkin, what are the consequences?**

4 A. Since all of the concerns discussed by Mr. Larson
5 are rate case issues, a negative acquisition
6 adjustment would have the effect of making
7 permanent, irreversible used and useful and expense
8 adjustments. In addition, when used and useful
9 adjustments are to be made in a future rate
10 proceeding, the utility would be penalized again
11 because the used and useful adjustment would be
12 applied to a rate base that is already less than
13 the cost incurred in making the assets available to
14 the customer. Finally, and ironically, it would
15 thwart conservation of scarce resources by sending
16 a signal to customers that the cost to treat and
17 dispose of wastewater is less than is actually
18 incurred.

19
20 **Q. Does that conclude your rebuttal of Mr. Larkin's**
21 **testimony?**

22 A. Yes.