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OF COUNSEL
THOMAS F. WOODS

RECEIVED

March 17, 1998

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FPSC - Records/Reporting

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Docket No. 971663-WS
Petition of Florida Cities Water Company for limited
proceeding to recover environmental litigation costs for
North and South Ft. Myers Division in Lee County and
Barefoot Bay Divisions in Brevard County.

Dear Ms. Bayo:

Enclosed for filing are an original and one (1) copy of the
Florida Cities Water Company's Synopsis and Certificate of Service,
in the above referenced case.

Please acknowledge receipt of the foregoing by stamping the
enclosed extra copy of this letter and returning same to my
attention.

ACK 1
AFA _____
APP _____ Thank you.

CAF _____

CMU _____

CTR _____

EAG _____

LEG 2 BKG/pav

LIN 5 Enclosures

OPC _____

RCH _____

SEC Wallas

WAS _____

OTH _____

Very truly yours,

B. Kenneth Gatlin

B. Kenneth Gatlin

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Sam Maki

FPSC-BUREAU OF RECORDS DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida
Cities Water Company for limited
proceeding to recover
environmental litigation costs
for North and South Ft. Myers
Divisions in Lee County and
Barefoot Bay Division in Brevard
County.

DOCKET NO. 971663-WS

SYNOPSIS

1. Florida Cities Water Company (FCWC) has applied to the Florida Public Service Commission (PSC) for approval of a rate increase applicable to customers in Lee and Brevard Counties. This application is being processed under PSC Docket No. 971663-WS.

2. The purpose of this petition is to seek approval for the recovery of a portion of FCWC's legal expenses incurred by FCWC in its successful defense of a legal action brought by the United States relating to alleged violations of the Clean Water Act ("CWA"). From 1992 through 1997, FCWC was the subject of an enforcement action initiated by the United States Environmental Protection Agency ("EPA") and prosecuted by the United States Department of Justice ("DOJ"). This enforcement action addressed a number of alleged violations of the Clean Water Act at three FCWC wastewater treatment facilities, Waterway Estates (Lee County), Barefoot Bay (Brevard County) and Carrollwood (Hillsborough County). At the height of the litigation the DOJ sought civil penalties in the amount of \$104,325,000. As a result of FCWC's defense, the final penalty assessed by the United States District

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FPSC-RECORDS/REPORTING

Court was \$309,710. In addition to this reduced penalty, the Court found that FCWC had acted in good faith in its dealings with state and federal regulators, and that none of FCWC's actions caused environmental harm to the waters of the State of Florida.

FCWC does not seek the recovery of the amount of the civil penalties assessed by the court. FCWC incurred legal expenses in the amount of \$3,826,210. Of the \$3,826,210, FCWC is seeking to recover \$2,265,833 plus rate case expense from customers in Lee and Brevard counties. Recovery is sought through a monthly customer rate increase applicable to FCWC's water and wastewater customers in South Ft. Myers, North Ft. Myers (Lee County) and Barefoot Bay (Brevard County). FCWC proposes that it be allowed to collect this rate increase for a period of ten years or until such time as the expenses have been fully recovered, whichever occurs first.

The proposed rate increase to be collected from each water and each wastewater customer is based on meter size as follows:

<u>Meter Size</u>	<u>Monthly Rate Increase For Each Service (Water and Wastewater) By Meter Size</u>
5/8"	\$0.42
1"	1.05
1-1/2"	2.10
2"	3.36
3"	6.72
4"	10.50
6"	21.00
8"	42.00

For example, a typical residential customer who receives both water

and wastewater service would pay \$.42 for water and \$.42 for wastewater or a total of \$.84 monthly.

3. This Petition has been filed as a Petition for Limited Proceeding pursuant to Section 367.0822, Florida Statutes which provides in sub-section (1) as follows:

(1) Upon petition or by its own motion, the commission may conduct limited proceedings to consider, and act upon, any matter within its jurisdiction, including any matter the resolution of which requires a utility to adjust its rates. The commission shall determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other related matters. However, unless the issue of rate of return is specifically addressed in the limited proceeding, the commission shall not adjust rates if the effect of the adjustment would be to change the last authorized rate of return.

4. The issue in the case is whether the Commission should approve FCWC's proposal to recover its legal expense incurred by FCWC in its successful defense of a legal action brought by the United States relating to alleged violations of the Clean Water Act.

5. The PSC staff will conduct an appropriate investigation for the purpose of discovering all relevant facts concerning FCWC's proposal. For the convenience of customers, hearings will be held in Ft. Myers and Barefoot Bay. A hearing will be held to receive all relevant testimony and exhibits from the parties. The PSC Staff will analyze the testimony and exhibits and make a recommendation to the PSC Commissioners. The PSC Commissioners at a scheduled agenda conference will consider the staff

recommendation and all matters of record. The PSC at the agenda conference will make a decision and issue a final order setting forth the decision.

6. The following dates have been scheduled for key activities in this case, but these dates are tentative and subject to revision.

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| 1. Intervenor's direct testimony and exhibits | May 22, 1998 |
| 2. Staff's direct testimony and exhibits, if any | June 12, 1998 |
| 3. Prehearing Statements | June 30, 1998 |
| 4. Rebuttal testimony and exhibits | July 3, 1998 |
| 5. Service Hearing -- Barefoot Bay | July 7, 1998 |
| 6. Service Hearing -- Ft. Myers | July 8, 1998 |
| 7. Prehearing Conference | July 13, 1998 |
| 8. Hearing | August 12-14, 1998 |
| 9. Briefs Due | September 14, 1998 |
| 10. Agenda | November 3, 1998 |

7. Copies of the Petition and Synopsis are available for review at FCWC's offices as follows:

Florida Cities Water Company
Barefoot Bay Division
931 Barefoot Blvd., Suite 2
Barefoot Bay, FL 32976

Office Hours:
8:00 a.m.-5:00 p.m.
Monday - Friday

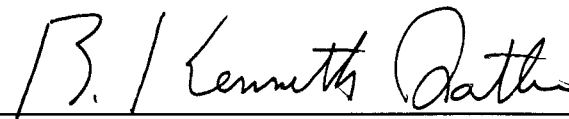
Florida Cities Water Company
Ft. Myers Division
7401 College Parkway
Ft. Myers, FL 33907

Office Hours:
8:00 a.m.-5:00 p.m.
Monday - Friday

8. Written comments concerning the utility's service or FCWC proposed rate increase should be addressed to the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, and should reference Docket No. 971663-WS. Please mail a courtesy copy of the written comments to FCWC's attorney, B. Kenneth Gatlin at 3301 Thomasville Road, Suite 300, Tallahassee, FL 32312. Complaints regarding service may be made to the Commission's Division of Consumer Affairs at the following toll-free number: 1-800-342-3552.

DATED this 17th day of March, 1998.

Respectfully submitted,



B. Kenneth Gatlin
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Attorneys for
FLORIDA CITIES WATER COMPANY

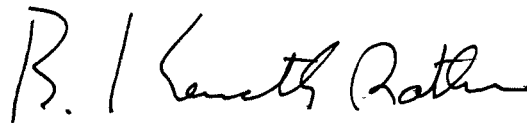
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DOCKET NO. 971663-WS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Florida Cities Water Company's Synopsis have been furnished by regular U.S. Mail to Chairmen of the Board of County Commissioners of Brevard County, 1515 Sarono Road, Bldg. B, Melbourne, Florida 32935 and Chairmen of the Board of County Commissioners of Lee County, P.O. Box 398, Ft. Myers, Florida 33902 and to Rosanne Gervasi, Senior Attorney, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on this 14th day of March, 1998.



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Florida Bar No.0027966
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Attorneys for
FLORIDA CITIES WATER COMPANY