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OF COUNSEL
THOMAS F. WOODS

April 14, 1998

HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-1850

RE: Docket No. 950387-SU
Application for a rate increase for North Ft. Myers
Division in Lee County by Florida Cities Water Company -
Lee County Division

Dear Ms. Bayo:

Enclosed on behalf of Florida Cities Water Company is an
original and 15 copies of an Amended Motion for Stay Pending
Judicial Review.

ACK Please acknowledge receipt of the foregoing by stamping the
AFA 2 enclosed extra copy of this letter and returning same to my
APP attention. Thank you for your assistance.

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CTR

EAG

LEG 1 WLS/cas

LIN 3 Enclosures

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SEC 1 RECEIVED & FILED

WAS Willis

OTH FPSC-BUREAU OF RECORDS

Very truly yours,
Wayne L. Schiefelbein
Wayne L. Schiefelbein

DOCUMENT NUMBER-DATE

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FROM: DIVISION OF RECORDS

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate) DOCKET NO. 950387-SU
increase for North Ft. Myers)
Division in Lee County by)
Florida Cities Water Company -) Filed April 14, 1998
Lee County Division.)

FLORIDA CITIES WATER COMPANY'S AMENDED MOTION
FOR STAY PENDING JUDICIAL REVIEW
AND REQUEST FOR EXPEDITED TREATMENT

Florida Cities Water Company (FCWC), pursuant to Rule 25-22.061(2), Florida Administrative Code, hereby files this Amended Motion for Stay Pending Judicial Review, and as grounds states:

1. On April 10, 1998, FCWC filed a Motion for Stay Pending Judicial Review, indicating that it would appeal the Order Establishing Procedure and Issues, Order No. PSC-98-0483-PCO-SU, and any related order, through a Petition for Review of Non-Final Agency Action, pursuant to Sections 120.68(1) and (6)(b), Florida Statutes. At that time, FCWC was uncertain whether and when the Commission would render a substantive order on remand and in an abundance of caution, filed its initial Motion for Stay.

2. On April 14, 1998, the Commission issued its Order on Remand Setting Capacity of Wastewater Treatment Plant, Reopening Record for Limited Purpose, Granting in Part and Denying in Part Request for Hearing, Granting in Part and Denying in Part Request for Consideration of Additional Rate Case Expense, and Maintaining Security, Order No. PSC-98-0509-SU.

3. FCWC now amends its Motion to specify that it will appeal-DATE

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this latter Order No. PSC-98-0509-SU, through a Petition for Review of Non-Final Agency Action, pursuant to Section 120.68(1) and (6) (b), Florida Statutes.

4. FCWC believes it is likely to prevail on appeal, as the Court did not authorize or "invite" the PSC to reopen the record; the PSC's decision is not consistent with the Court's directions; and the PSC is improperly pursuing "a second bite of the apple" on an issue on which all parties already have had an opportunity to address in this proceeding (i.e., what flows should be recognized in determining the extent to which plant is used and useful in providing service).

5. FCWC will suffer substantial harm if a stay is not granted, because absent a stay obtained from either the PSC or the Court, it will incur needless expense both in pursuing appellate relief and participating in the proceedings before the PSC. This unnecessary duplication of effort will also affect all other parties to this proceeding, and the PSC itself. Such needless burden and expense is contrary to the public interest. All required filing and hearing dates established by Order No. PSC-98-0483-PCO-SU should be canceled pending final review by Court.

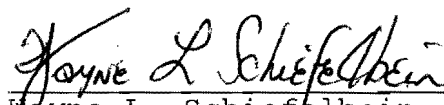
6. On November 20, 1996 FCWC posted a corporate undertaking in the amount of \$940,755, as security for potential refunds of the wastewater rates in effect. At the March 24, 1998 agenda conference, the PSC found that pending further proceedings before

the PSC, the amount of security should not be modified. The First District Court of Appeal will hopefully address FCWC's Petition for Review of Non-Final Agency Action on an expedited basis; thus, the amount of existing security would appear to be adequate. In any event, FCWC requests that the PSC determine whether it will require additional security as a condition of the requested stay.

7. In view of the May 15, 1998 filing deadline set by said Order Establishing Procedure and Issues, FCWC requests expedited consideration of this Amended Motion for Stay.

WHEREFORE, FCWC requests that this Motion be granted.

Respectfully submitted,



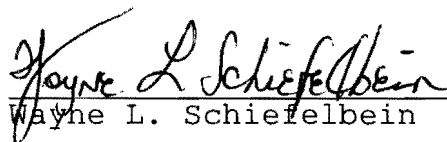
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ATTORNEYS FOR FLORIDA CITIES
WATER COMPANY

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion for Stay Pending Judicial Review has been served by hand-delivery to Rob Vandiver, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; Diana Caldwell, Associate General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; Ralph Jaeger, Staff Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; Harold McLean, Associate Public Counsel, Claude

Pepper Building, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400; and by U.S. Mail to Cheryl Walla, 1750 Dockway Drive, North Fort Myers, Florida 33903, this 14th day of April, 1998.


Wayne L. Schiefelbein

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