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April 15, 1998

Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Reference: Docket No. 971663-WS

Dear Director:

In our April 1998 bill from Florida Cities Water Company (FCWC) we received a notice (copy attached) of their intent to seek a rate increase from both water and waste water service customers. The rate increase is for legal fees incurred in defending violations at three of their waste water treatment facilities.

Our condominium is a customer of FCWC for water service only--our waste water service is provided by Lee County Sewer.

FCWC proposal to recover legal fees incurred defending violations at waste water treatment facilities from water service only customers is unreasonable and unfair. As a water service only customer we did not contribute to the waste water problem or receive any benefit from the legal defense. The legal costs, if allowed at all, should be recovered only from those customers that receive waste water service from FCWC.


- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- LIN _____
- OPC ~~cc: B.~~ Kenneth Gatlin
- RCH
- SEC 1
- WAS 1
- YTH _____

____ Please make our objection part of the record.

Sincerely,

Kenneth P. Mellor
Treasurer
Sunset Board of Directors

DOCUMENT NUMBER DATE
04453 APR 20 98
FRODO BAGGINS



This Petition has been filed as a Petition for Limited Proceeding pursuant to Section 367.0822, Florida Statutes. Copies of the Petition and Synopsis are available for review at FCWC's offices between the hours of 8:00 AM and 5:00 PM, Monday through Friday at the following locations.

Florida Cities Water Company
Barefoot Bay Division
931 Barefoot Bay Boulevard, Suite 2
Barefoot Bay, Florida 32976

Florida Cities Water Company
Fort Myers Division
7401 College Parkway
Fort Myers, Florida 33907

Case Schedule

The following dates have been established to govern the key activities of this case:
(Please note that these dates are tentative and subject to revision.)

- | | |
|--|--------------------|
| 1. Intervenors' 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 - Fort Myers | July 8, 1998 |
| 7. Prehearing Conference | July 13, 1998 |
| 8. Hearing | August 12-14, 1998 |
| 9. Briefs | September 14, 1998 |
| 10. Agenda | November 3, 1998 |

Written comments concerning the utility's service or the proposed surcharge should be addressed to the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and should reference Docket No. 971663-WS. A copy of the written comments should be mailed to FCWC's attorney, B. Kenneth Gatlin at 3301 Thomasville Road, Suite 30, Tallahassee, Florida 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.



Your Source for News and Accurate Information about Florida Cities Water Company

April, 1998

**Florida Cities Water Company Files a Request to Recover Environmental Litigation Costs
for its Barefoot Bay and North and South Fort Myers Divisions**

PSC Docket No. 971663-WS

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.

The purpose of this request is to seek approval to recover a portion of FCWC's legal expenses incurred by FCWC in its successful defense of a legal action brought by the United States. The legal action 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 CWA at three FCWC wastewater treatment facilities, Waterway Estates in Lee County, Barefoot Bay in Brevard County and Carrollwood in Hillsborough County.

At the height of the litigation, the DOJ claimed 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 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 to recover the amount of the civil penalties assessed by the court. However, FCWC incurred \$3,826,210.00 in legal defense. The Company is seeking to recover, through a monthly customer rate increase, a portion of the legal expenses totaling \$2,265,833, plus rate case expense, from FCWC water and wastewater customers regulated by the PSC in Lee and Brevard Counties. FCWC proposes that it be allowed to collect the rate increase for a period of ten years or until 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:

| Meter Size (In Inches) | Monthly Rate Increase for each Service (Water and Wastewater) By Meter Size |
|-----------------------------------|--|
| 5/8" | \$0.42 |
| 1" | 1.05 |
| 1.5" | 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.