

ORIGINAL

M E M O R A N D U M

November 12, 1998

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (JAEGER) *W*

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.

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Attached for filing is Commission Staff's Prehearing Statement in the above-referenced docket.

RRJ/lw

Attachment

cc: Division of Water and Wastewater (Hill, Lowe, Willis, Crouch, Galloway, Merchant, Moniz, Rendell, Walden)

ACK \_\_\_\_\_

AFA \_\_\_\_\_

APP \_\_\_\_\_

CAF \_\_\_\_\_

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SEC 1 \_\_\_\_\_

WAS \_\_\_\_\_

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DOCUMENT NUMBER-DATE

12690 NOV 12 88

FPSC-RECORDS/REPORTING

ORIGINAL

In re: Application for a rate increase for North Ft. Myers Division in Lee County by Florida Cities Water Company - Lee County Division.

DOCKET NO. 950387-SU  
ORDER NO.  
ISSUED:

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Orders Nos. PSC-98-0483-PCO-SU and PSC-98-1402-PCO-SU, issued April 3, 1998, and October 20, 1998, respectively, the Commission Staff (Staff) files its prehearing statement as follows:

A. Witnesses

Staff intends to call the following witnesses:

Richard L. Addison of the Florida Department of Environmental (FDEP). He will testify on FDEP permitting procedures for domestic wastewater treatment plants in Florida.

Robert J. Crouch of the Division of Water and Wastewater, Florida Public Service Commission, will testify on the methods and procedures used by Staff when calculating used and useful percentages and the need to use comparable periods of time for determining average wastewater flows in both the numerator and denominator of the used and useful equation.

B. Exhibits

Staff intends to sponsor the following exhibits:

- RJC-1: Page 7 of University Physics, Seventh Edition
- RJC-2: DEP Permit Form A2
- RJC-3: Harvey Letter Dated July 30, 1992

Staff reserves the right to use other exhibits for the purpose of cross-examination.

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C. Basic Position

Consistent with Florida Cities v. PSC, 705 So. 2d 620 (Fla. 1st DCA 1998), the Commission has reopened the record to consider what flows should be used in the numerator of the used and useful equation when DEP permits the wastewater treatment plant on the basis of annual average daily flows (AADF). Staff believes that the flows in the numerator must match the flows designated in the denominator. If the flows are not designated in the denominator, then Staff believes the average daily flows for the maximum month (MMADF) should be used. Staff further believes that the utility should be allowed to recover its prudently incurred non-legal appellate rate case expense and additional rate case expense from this portion of the proceeding.

D. Issues of Fact, Law and Policy

The following are issues identified by Staff and its positions on these issues. Non-testifying Staff's positions are preliminary, are based upon materials filed by the utility or obtained through discovery and are intended to inform the parties of Staff's preliminary positions. Staff's final positions will be based upon an analysis of the evidence presented at the hearing.

**RATE BASE**

**ISSUE 1:** Where the DEP permits the wastewater treatment plant based on annual average daily flows, what flows should be used in the numerator of the used and useful equation to calculate used and useful plant?

**STAFF:** Staff believes that the flows in the numerator must match the flows designated in the denominator. If the flows are not designated in the denominator, then Staff believes the utility should be given the benefit of any doubt and average daily flows for the maximum month (MMADF) should be used. (Crouch, Addison)

**NET OPERATING INCOME**

**ISSUE 2:** What is the appropriate provision for rate case expense for reopening the record?

**STAFF:** Only prudently incurred rate case expense should be allowed. Staff takes no position on the final amount pending further development of the record.

**ISSUE 3:** What is the appropriate provision for appellate non-legal rate case expense?

**STAFF:** Only prudently incurred appellate non-legal rate case expense Staff should be allowed. Staff takes no position on the final amount pending further development of the record.

E. Stipulated Issues

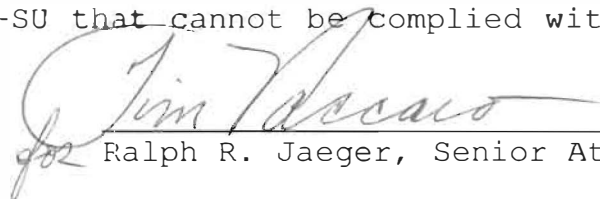
There are no issues that have been stipulated at this time.

F. Pending Matters

FCWC'S petition to allow additional rate case expense filed February 4, 1998 was granted in part and denied in part by Order No. PSC-98-0509-SU to allow consideration of non-legal appellate rate case expense and additional rate case expense associated with reopening this record and completion of this portion of the proceeding.

G. Requirements That Cannot Be Complied With

There are no requirements of Orders Nos. PSC-98-0483-PCO-SU and PSC-98-1402-PCO-SU that cannot be complied with at this time.

  
for Ralph R. Jaeger, Senior Attorney

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
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(850) 413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate  
increase for North Ft. Myers  
Division in Lee County by  
Florida Cities Water Company -  
Lee County Division.

DOCKET NO. 950387-SU  
ORDER NO.  
ISSUED:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the  
Commission Staff's Prehearing Statement has been furnished by U.S.  
Mail, this 12<sup>th</sup> day of November, 1998, to the following:

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