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RECORDS AND REPORTING



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

November 16, 1998

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

Re: Docket No. 950387-SU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Prehearing Statement. A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Harold McLean
Associate Public Counsel

- ACK _____
- AFA 2
- APP _____
- CAF _____
- CMJ _____
- CTR _____
- EAG _____ HM:bsr
- LEG 1
- LIN 3 Enclosures
- OPD _____
- ROH _____
- SEC 1
- WAS Willis
- DTH _____

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DOCUMENT NUMBER-DATE

12824 NOV 16 98

FPSC-RECORDS/REPORTING

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

Filed: November 16, 1998

CITIZENS' PREHEARING STATEMENT

The Citizens of the State of Florida file their Prehearing Statement in the above-captioned docket and say:

1) **WITNESSES:**

Kimberly H. Dismukes. Ms. Dismukes has prefiled testimony in this docket consisting of nine pages of substantive testimony and an appendix of qualifications consisting of seven pages.

Ted L. Bidy, PE. Mr. Bidy has prefiled testimony in this docket consisting of eleven pages of substantive testimony.

2. **EXHIBITS:**

The Citizens will sponsor two Exhibits:

_____ (TLB-1) FDEP Construction Permit DC36-237227
page 1 of 15

_____ (TLB-2) Operation Permit Application Form,
Pages 2A-3 and 2A-6

3. **BASIC POSITION:**

The Citizens believe that the extent to which FCWC's wastewater treatment plant is used and useful should be determined by a comparison of load with capacity, where load and capacity are expressed in similar units. If a variant of peak capacity is to be utilized, then the same variant of peak load should be utilized; if a variant of average capacity is to be used than the same variant of average load should be utilized.

1399

DOCUMENT NUMBER-DATE

12824 NOV 16 88

F.P.S.C.-REC'D./S/REPORTING

4. ISSUES OF FACT LAW AND POLICY

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?

CITIZENS' POSITION:

Because the permitted capacity issued for FCWC's wastewater treatment plant (WWTP) is expressed in terms of annual average daily flows, the load presented to the WWTP must also be expressed in terms of annual average daily flows.

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

CITIZENS' POSITION:

No Position

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

CITIZENS' POSITION:

No position; however the Citizens believe that the Commission should include adequate provision in its order to ensure that should there be any award of attorney's fees by any appellate court, that FCWC does not recover rate case expense from the customers through rates for the same work done.

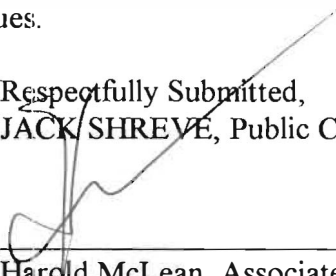
5. PENDING MATTERS

The Citizens will tender an *ore tenus* motion at the Pre-hearing Conference for the Commission to accept its November 16, 1998 Prehearing Statement out of time.

6. REQUIREMENTS WITH WHICH COMPLIANCE MAY NOT BE HAD:

The Citizens are aware of no such issues.

Respectfully Submitted,
JACK SHREVE, Public Counsel



Harold McLean, Associate Public Counsel
111 W. Madison St.
Room 814
Tallahassee, Florida 32399
Attorney for the Citizens of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 950387-SO**

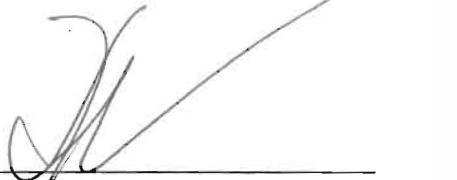
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail
or by *Hand-delivery to the following party representatives on this 16th day of November, 1998.

Kenneth Gatlin, Esquire
Ruden, McClosky, Smith, et al.
215 S. Monroe St.
Ste. 815
Tallahassee, FL 32301

Ralph R. Jaeger
Division of Legal Services
Fla. Public Service
Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Jerilyn Victor
1740 Dockway Dr.
N. Fort Myers, FL 33903

Cheryl Walla
1750 Dockway Dr.
N. Fort Myers, FL 33903



Harold McLean
Associate Public Counsel