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February 7, 2000
VIA HAND DELIVERY

ROBERT M. C. ROSE
OF COUNSEL

Ralph Jaeger, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Re: North Fort Myers Utility, Inc.; PSC Docket No. 971179-SU
Disposition of Gross-up Funds
Our File No. 16319.29

Dear Ralph:

Attached is a fully executed copy of the Settlement Agreement entered into by the parties in the above-referenced matter. It has now been executed by Jack Shreve on behalf of OPC, and by Tony Reeves on behalf of the Utility. I am sending one of the three originals to Records and Reporting with their copy of this letter. The other two originals are being retained by the parties.

In order to avoid the expenditure of anymore funds in this proceeding, and to ensure that this matter is resolved as quickly as possible, please see to it that this is placed on the agenda before the Commission as quickly as is possible, with a favorable recommendation as we have previously discussed.

If you have any questions in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP

F. Marshall Deterding
For The Firm

- AFA _____
- APP _____
- CFE _____
- CFD _____
- CTR _____
- EAG _____
- LEG _____
- MAS _____
- OPC _____
- RPR _____
- SEC _____
- VAW _____
- OTH _____

EMD\trmg

cc:

- Blanca S. Bayo, Director (via hand delivery)
- William Lowe, CPA (via hand delivery)
- Connie McCaskill, CPA (via hand delivery)
- Ann Causseaux, CPA (via hand delivery)
- Steve Reilly, Esquire
- Robert C. Nixon, CPA
- Mr. Tony Reeves

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SETTLEMENT AGREEMENT

This agreement, made and entered into this 4th day of February, 2000, by and between North Fort Myers Utility, Inc., a Florida corporation, whose business address is Post Office Box 2547, Fort Myers, Florida 33902, (hereinafter referred to as "NFMU") and the Office of Public Counsel, whose address is 111 West Madison Street, Suite 812, Tallahassee, Florida 32301-1906 (hereinafter referred to as "OPC").

WHEREAS, NFMU filed its proposed disposition of gross-up funds for the fiscal years ended May 31, 1995 and 1996 which were considered in Docket No. 971179-SU.

WHEREAS, the Florida Public Service Commission, after extensive analysis, proposed certain action in the above-referenced Docket by Proposed Agency Action Order No. PSC-99-1068-PAA-SU with regard to gross-up, previously filed indexes, and a Show Cause proceeding relative to certain related actions of the NFMU.

WHEREAS, the OPC filed a timely protest of Commission Order No. PSC-99-1068-PAA-SU.

WHEREAS, recognizing the expensive uncertainty of continuing this proceeding the parties desire to effectuate a settlement, which will affect all aspects of this case, including gross-up for NFMU, previously filed indexes, and the Show Cause proceeding.

NOW, THEREFORE, in consideration of the premises and mutual undertakings and agreements herein contained and assumed, OPC and NFMU hereby covenant and agree as follows:

1. The foregoing recitations are true and correct and incorporated herein by this reference.

2. The parties agree to support this Settlement Agreement as the final disposition of all matters covered by Order No. PSC-99-1068-PAA-SU and specifically, all matters related to gross-up for NFMU, correction of index rate increases previously filed and considered in Order No. PSC-99-1068-PAA-SU, and all Show Cause proceedings referenced in Order No. PSC-99-1068-PAA-SU.

3. NFMU will immediately refund \$300,000 pro rata to customers who have made gross-up payments during the fiscal years ended May 31, 1995 and May 31, 1996. To the extent monies are still owing on installment contracts, that refund will go to reduce installment payments still owed for the tax impact first, and secondly to credit any payments due for CIAC charges. This refund amount will include any interest owing and no further calculations of interest will be applicable.

4. NFMU will book to CIAC at the end of the year 2000 an additional \$300,000.

5. There will be no rate reductions or refunds related to indexes considered in Order No. PSC-99-1068-PAA-SU. However, NFMU shall forgo the indexes due to be filed no later than March 31, 2000, 2001, and 2002 in the future.

6. NFMU has already foregone two indexes in hopes of settling this case, at a value of approximately \$20,000 per year each beginning in 1997.

7. NFMU shall not file for rate relief during the period of time that indexes are being foregone under item number 5 above (up through March 31, 2002), except under circumstances where additional requirements or costs are imposed by duly authorized authorities which necessitate changes in operations, capital additions, or taxes, for which NFMU may seek recovery.

8. The Order to Show Cause proceeding against NFMU shall be dismissed without penalty to NFMU, and this Settlement Agreement shall act as a settlement without further action for all of the alleged violations of Commission Rule, Order, or Statute referenced in Order No. PSC-99-1068-PAA-SU as a basis for Show Causing, or possibly Show Causing NFMU.

9. The signatories have the authority to execute this agreement and to bind their respective parties.

10. The Settlement Agreement shall be submitted to the Commission as the resolution of all disputes and matters contained in Order No. PSC-99-1068-PAA-SU and in Docket No. 971179-SU, as quickly as is practicable. The parties agree that this Settlement Agreement is made solely for the purpose of settling the instant proceeding and can not be considered as a precedent to any other proceeding.

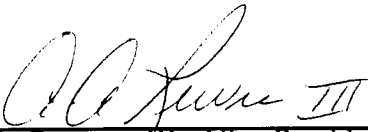
11. The parties hereto agree that all further action in the proceedings to be held in Docket No. 971179-SU as outlined in the Commission's previously issued Orders, schedules, and discovery in this case, shall be suspended pending Commission consideration of this Settlement Agreement.

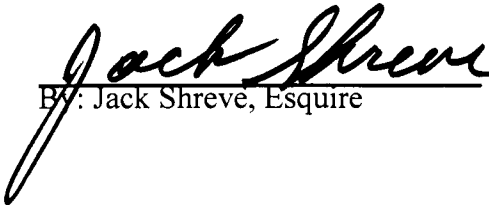
12. The provisions of this Settlement Agreement are not severable and shall become effective only after the Commission has entered an order approving the Agreement in total. In the event the Settlement is not approved in whole, without modification, the Settlement Agreement

shall be deemed withdrawn and null and void, and neither party may use this attempted Settlement Agreement in this or any other proceeding. If this Settlement Agreement is not approved by the Commission, both parties are free to pursue the full range of legal remedies which otherwise would be available to them.

NORTH FORT MYERS UTILITY, INC.

OFFICE OF PUBLIC COUNSEL


By: A.A. Reeves, III - Vice President


By: Jack Shreve, Esquire

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