

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in water and  
wastewater rates in Charlotte, Highlands, Lake,  
Lee, Marion, Orange, Pasco, Pinellas, Polk and  
Seminole Counties by Utilities, Inc. of Florida

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Docket No. 160101-WS

**UTILITIES, INC. OF FLORIDA'S RESPONSE TO SUMMERTREE WATER  
ALLIANCE AND ANN MARIE RYAN'S MOTION TO DISMISS**

Applicant, UTILITIES, INC. OF FLORIDA ("UIF") by and through its undersigned attorneys files this Response to the Motion to Dismiss ("Motion"), filed by Summertree Water Alliance and Ann Marie Ryan (jointly "SWA"), and states as follows:

1. UIF filed its Application on August 31, 2016 and although UIF is not certain of the exact date a presiding officer(s) was assigned, it is believed to have been either before or shortly after that date.

2. SWA filed its Motion to Dismiss on May 2, 2017, a mere seven days before the start of the final hearing.

3. Rule 28-106.204(2), *Florida Administrative Code*, which governs this proceeding provides:

Unless otherwise provided by law, motions to dismiss the petition or request for hearing shall be filed no later than 20 days after assignment of the presiding officer, unless the motion is based upon a lack of jurisdiction or incurable errors in the petition.

4. There is no otherwise applicable law which supersedes this Rule and the Motion does not challenge this Commission's jurisdiction. All of the grounds upon which SWA alleges as a basis of dismissal are what it perceives to be inadequacies in the documentation filed with the

application and afterwards, which if they were valid and had been timely raised in a timely manner, would have been able to be cured. Obviously UIF denies any inadequacies.

5. Thus, it is clear that SWA's Motion is untimely.

6. As to the merits of SWA's Motion, the claims it makes is much like those which this Commission addressed in denying OPC's Motion to Strike in Order No. PSC-17-0147-PCO-WS. Much of it is irrelevant rhetoric. The rest are statements which SWA believes UIF has to prove. The real issues in this proceeding have been identified in the Prehearing Order which the parties are going to address in the final hearing and on which the Commission will ultimately issue a Final Order.

WHEREFORE, based upon the argument and authorities set forth above, Utilities, Inc. of Florida, respectfully requests this Commission deny SWA and Ms. Ryan's 's Motion to Dismiss.

Respectfully submitted this 4<sup>th</sup> day of  
May, 2017

Friedman & Friedman, P.A.  
766 N. Sun Drive, Suite 4030  
Lake Mary, FL 32746  
Phone: (407) 830-6331  
/s/ Martin S. Friedman  
MARTIN S. FRIEDMAN  
For the Firm

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 4<sup>th</sup> day of May, 2017, to:

Erik L. Saylor, Esquire  
Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400  
[SAYLER.ERIK@leg.state.fl.us](mailto:SAYLER.ERIK@leg.state.fl.us)

Walter Trierweiler, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0855  
[trierwe@psc.state.fl.us](mailto:trierwe@psc.state.fl.us)

Brian P. Armstrong, Esquire  
Law Office of Brian Armstrong, PLLC  
P.O. Box 5055  
Tallahassee, FL 32314-5055  
[brian@brianarmstronglaw.com](mailto:brian@brianarmstronglaw.com)

William S. Bilenky, Esquire  
Douglas P. Manson, Esquire  
Manson, Bolves, Donaldson & Varn  
1101 Swann Avenue  
Tampa, FL 33606  
[bbilenky@mansonbolves.com](mailto:bbilenky@mansonbolves.com)  
[dmanson@mansonbolves.com](mailto:dmanson@mansonbolves.com)  
[dcantwell@mansonbolves.com](mailto:dcantwell@mansonbolves.com)

Edward de la Parte, Jr., Esquire  
Nick Porter, Esquire  
de la Parte & Gilbert P.A.  
101 E. Kennedy, Suite 2000  
Tampa, FL 33601  
[edelaparte@dgfirm.com](mailto:edelaparte@dgfirm.com)  
[nporter@dgfirm.com](mailto:nporter@dgfirm.com)

*/s/Martin S. Friedman*  
MARTIN S. FRIEDMAN  
For the Firm