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March 3, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 951056-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Response to Palm Coast Utility Corporation's Second Amended Motion for Reconsideration or, Alternatively, Amended Motion to Correct Computational Errors a/k/a Palm Coast Utility Corporation's Third Motion for Reconsideration in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Reilly
Associate Public Counsel

ACK _____

AFA 1 _____

APP _____

CAF _____

CMU _____ SCR/dsb

CTR _____

EAG _____ Enclosures

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Rate)
Increase in Flagler County)
by Palm Coast Utility)
Corporation)
_____)

DOCKET NO. 951056-WS
FILED: March 3, 1997

**CITIZENS' RESPONSE TO PALM COAST UTILITY CORPORATION'S
SECOND AMENDED MOTION FOR RECONSIDERATION
OR, ALTERNATIVELY, AMENDED MOTION TO CORRECT
COMPUTATIONAL ERRORS AKA
PALM COAST UTILITY CORPORATION'S
THIRD MOTION FOR RECONSIDERATION**

Pursuant to Rules 25-22.028 and 25-22.060, Florida Administrative Code, the Citizens of the State of Florida ("Citizens") file this response in opposition to Palm Coast Utility Corporation's ("PCUC, Utility or Company") "Third Motion for Reconsideration" and the accompanying Request for Oral Argument, and state:

1. The Final Order in this docket, Order No. PSC-96-1338-FOF-WS, was issued on November 7, 1996.
2. Commission Rule 25-22.060, F.A.C., requires motions for reconsideration to be filed no later than fifteen (15) days after issuance of the order. Failure to timely file a motion for reconsideration constitutes a waiver of the right to seek reconsideration.
3. The Utility filed a timely motion for reconsideration of Commission Order No. PSC-96-1338-FOF-WS, on November 22, 1996. There is no Commission rule authorizing a party to later "bootstrap" additional matters it wishes to have the Commission reconsider to a timely filed motion for reconsideration. This is particularly true when these additional matters are raised for the first time seventy-eight (78) days after the final order has been issued; as to the Utility's "Second Motion for Reconsideration," and one hundred and eleven (111) days after the final order has been issued, as to

the Utility's "Third Motion for Reconsideration." There is no Commission rule authorizing amended motions for reconsideration.

4. Palm Coast has again alleged an error in the Commission's calculations of the amount of CIAC that should be imputed against margin reserve. With minor exceptions, the allegations made by PCUC show mistakes that err in their favor. That is, they would increase the utility's revenue requirement relative to the Commission's Order. Given the apparent thorough analysis undertaken by PCUC it would seem probable that PCUC found errors going in the other direction, but failed to bring these to the Commission's attention.

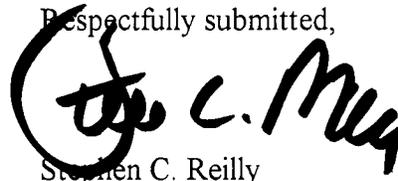
5. One such error, which the Citizen's believe was addressed by the Staff at the meeting between the Staff, PCUC, OPC, and Flagler County on February 19, 1997, is the understatement of imputed CIAC for the Company's water operations. Specifically, the Staff workpapers show a total amount of imputed CIAC of \$1,395,685. However, the Commission limited the imputation of CIAC to 50%, not to exceed the net plant included in rate base associated with margin reserve. Fifty percent (50%) of the imputed CIAC equals \$697,843. The amount of net plant included in rate base as a result of margin reserve is \$688,864 for the water operations. Since 50% of imputed CIAC exceeds the amount of net plant included in rate base associated with margin reserve, CIAC is limited to \$688,864. However, the Commission's final Order at page 20 showed CIAC imputation of only \$344,432, or half of the amount that it should be. Apparently, the Staff's workpapers applied the 50% criteria to the net plant included in margin reserve, when such a criteria should only apply to the gross amount of imputed CIAC. Accordingly, the Commission's final order understates the amount of CIAC that should be deducted from the water rate base by \$344,432.

6. Another error addressed at the meeting of February 19, 1997, also brought up by Staff, was the system capacity charges used to calculate the amount of imputed CIAC. According to the Commission's Order, the appropriate system capacity charge for the wastewater operations was \$1,600. However, the Staff's workpapers inadvertently used a charge of \$1,570, understating the amount of CIAC that should be imputed for the wastewater operations. Accordingly, when the Staff and the Commission address PCUC's motions for reconsideration, they should correct for the two errors just identified.

7. It is not necessary for the Commission to receive oral argument on the Utility's "Third Motion for Reconsideration." The Commission should rule based upon the pleadings after its Staff issues its recommendation.

WHEREFORE, the Commission should not consider untimely motions for reconsideration or in the alternative should make the additional corrections outlined in this response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen C. Reilly", is written over a circular stamp or mark.

Stephen C. Reilly
Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 951056-WS**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail
or *hand-delivery to the following parties on the 3rd day of March, 1997.

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