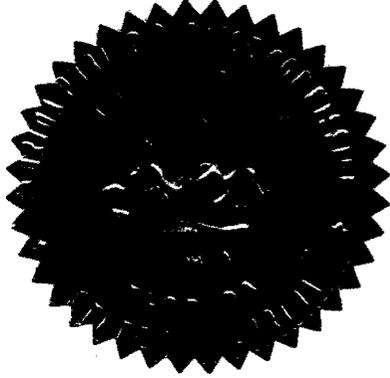


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of :
Application for Increased :
Wastewater Rates by :
Florida Cities Water :
Company - North Ft. Myers :
Division in Lee County. :

DOCKET NO. 950387-SU



PROCEEDINGS: **PREHEARING CONFERENCE**

BEFORE: COMMISSIONER JOE GARCIA
 Prehearing Officer

DATE: **Wednesday, November 18, 1998**

TIME: Commenced at 9:30 a.m.
 Concluded at 9:50 a.m.

PLACE: Betty Easley Conference Center
 Room 152
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: H. RUTHE POTAMI, CSR, RPR
 Official Commission Reporter

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1 **APPEARANCES:**

2 **B. KENNETH GATLIN**, Ruden McClosky Smith
3 Schuster & Russell, P.A., 215 South Monroe Street,
4 Suite 815, Tallahassee, Florida 32301, appearing on
5 behalf of **Florida Cities Water Company, North Fort**
6 **Myers.**

7 **HAROLD McLEAN**, Associate Public Counsel,
8 Office of Public Counsel, 111 West Madison Street,
9 Room 812, Tallahassee, Florida 32399-1400, appearing
10 on behalf of the **Citizens of the State of Florida.**

11 **RALPH R. JAEGER**, Florida Public Service
12 Commission, Division of Legal Services, 2540 Shumard
13 Oak Boulevard, Tallahassee, Florida 32399-0862,
14 appearing on behalf of the **Commission Staff.**

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1 because it sounds stupider than this. I was simply
2 asleep at the switch. It's as simple as that. I
3 wrote it down in the wrong place on my calendar.

4 **COMMISSIONER GARCIA:** Okay. And that's all
5 right. So we're going to allow him to file late. Is
6 that what --

7 **MR. JAEGER:** That's the Staff
8 recommendation, that --

9 **COMMISSIONER GARCIA:** Okay. Very good.

10 **MR. JAEGER:** -- he be --

11 **MR. McLEAN:** And I might point out, I've
12 already filed it.

13 **COMMISSIONER GARCIA:** Perfect. Very good.
14 So there are no -- there's no issues on the case
15 background, or there's no change on the witness list?

16 **MR. JAEGER:** The only thing I would change
17 on the order of witnesses would be that the issues --
18 because those numbers are going to change, and so
19 we'll just match --

20 **COMMISSIONER GARCIA:** Very good. And so
21 let's do that, and the parties can see you after, and
22 you can make it part of what we do.

23 **MR. GATLIN:** Commissioner, in the
24 description of the case over on Page 3, I think
25 there's a part missing there. It recites that you

1 issued the proposed agency action order, and then it
2 sort of jumps to the appeal, and I think maybe it
3 ought to be in there what happened between the PAA and
4 the final order.

5 **MR. JAEGER:** Okay. On the top of Page 3 we
6 talk about the proposed agency action --

7 **MR. GATLIN:** Right.

8 **MR. JAEGER:** -- was issued. This order was
9 timely protested. Administrative hearing was held on
10 April 24 --

11 **MR. GATLIN:** Right.

12 **MR. JAEGER:** -- 25th. And then subsequent
13 to this hearing the Commission issued its final order
14 on -- however -- I'm not sure what --

15 **MR. GATLIN:** Well, we had no objection to
16 the PAA order. What we appealed was Order 961133,
17 which reduced the rates.

18 **MR. JAEGER:** What language do you suggest?

19 **MR. GATLIN:** I don't have any -- you're
20 reciting the background of the case, and I think you
21 ought to put it all in there.

22 **MR. JAEGER:** Well, I say "Subsequent to this
23 hearing, the Commission issued its final order --

24 **MR. GATLIN:** It's no big issue. I mean, if
25 you don't want to put it in there, that's fine.

1 **MR. JAEGER:** Well, no. I'm just trying to
2 figure out what we're missing. PSC -- you know,
3 that's the final order --

4 **MR. GATLIN:** Okay.

5 **MR. JAEGER:** And then on October 7th --

6 **COMMISSIONER GARCIA:** Mr. Gatlin, if you
7 want to add some wording, think about it as we move
8 this --

9 **MR. GATLIN:** Sure. It's no big deal. I
10 didn't --

11 **COMMISSIONER GARCIA:** -- and then we'll --

12 **MR. GATLIN:** -- you know, I just thought all
13 the facts ought to be there.

14 **COMMISSIONER GARCIA:** Okay.

15 **MR. GATLIN:** If Staff is comfortable the way
16 it is, that's fine with me.

17 **COMMISSIONER GARCIA:** All right. We're
18 going to change the -- the parties are going to get
19 together with Mr. Jaeger after, and we're going to put
20 on the witness list the issues that they're going to
21 address, because there is going to be some change.

22 **MR. GATLIN:** Sure.

23 **COMMISSIONER GARCIA:** Issue 1A.

24 **MR. JAEGER:** I believe that needs to be
25 renumbered just Issue 1, and then also Issue 1B should

1 be Issue 2.

2 **COMMISSIONER GARCIA:** Okay. So we're going
3 to --

4 **MR. JAEGER:** And Issue --

5 **COMMISSIONER GARCIA:** That was Mr. Gatlin's
6 request, right, that we keep those --

7 **MR. JAEGER:** Those are his two issues, and
8 Staff thought we could reach a compromise on how to do
9 those, but he would rather just keep the issues as
10 they are. And it's also the -- Issue 1A comes close
11 to what the Court said in its order, so --

12 **COMMISSIONER GARCIA:** Yeah, let's keep it
13 that way. That makes sense.

14 All right. Then Issue --

15 **MR. JAEGER:** 1 will be Issue 3.

16 **COMMISSIONER GARCIA:** Very good.

17 **MR. JAEGER:** And then on Page 9 --

18 **COMMISSIONER GARCIA:** Well, there's no
19 other -- nobody wants any changes there, right? We're
20 going down this -- so we don't have to come back to
21 it; okay?

22 **MR. GATLIN:** We will have to supply our
23 position on Issue 3, of course. We haven't supplied
24 that.

25 **COMMISSIONER GARCIA:** Correct.

1 **MR. JAEGER:** So we'll get rid of --

2 **MR. GATLIN:** Yes --

3 **MR. JAEGER:** -- compromise Issue 1 will be
4 totally deleted.

5 **COMMISSIONER GARCIA:** Totally deleted. Then
6 Issue 2 will be Issue 4?

7 **MR. JAEGER:** Issue 4.

8 **COMMISSIONER GARCIA:** Issue --

9 **MR. JAEGER:** And I think Mr. Gatlin wanted
10 to change that wording slightly. It's "What is the
11 appropriate provision for rate case expense for
12 reopening the record?" And I think what we really
13 need to say is "What is the appropriate provision for
14 rate case expense since the remand of the Commission's
15 final order by the 1st DCA?"

16 Is that correct, Ken?

17 **MR. GATLIN:** Well, if we have another issue
18 as to what the rate case expense was during the
19 appellate process --

20 **MR. JAEGER:** Okay. Well --

21 **MR. GATLIN:** -- because we would --

22 **MR. JAEGER:** -- that's the next issue.

23 **MR. GATLIN:** All right. Okay.

24 **MR. JAEGER:** Let's go to Issue 3 on Page 10,
25 and it says "What is the appropriate provision for

1 appellate nonlegal rate case expense?" Do you have
2 any problem with that issue?

3 **MR. GATLIN:** No. And that would be -- that
4 number, to make it clear, as I understand it is -- and
5 I think you understand this -- is part of the amount
6 of 229,399 -- let me start over -- \$229,399, which is
7 the total rate case expenses we're asking for in this
8 case. And as I understand it, what you want is a
9 breakout of rate cases expense that was incurred
10 during the appellate process.

11 **MR. JAEGER:** Yes.

12 **MR. GATLIN:** Okay.

13 **MR. McLEAN:** That was Issue 5 you're
14 changing that --

15 **COMMISSIONER GARCIA:** Right. Issue 3
16 becomes Issue 5. Issue 3A is -- we're going to take
17 that one out. Issue 4 becomes Issue 6. Issue 5
18 becomes Issue 7. And I guess the utility will also
19 have to file a position there as well as in Issue 5.

20 Issue 6 becomes Issue 8, and Issue 7 becomes
21 Issue 9.

22 **MR. McLEAN:** My version has as its last
23 issue, 3A on Page 10. Maybe I don't have an
24 updated -- (Document handed to Mr. McLean.)

25 **COMMISSIONER GARCIA:** Mr. McLean, do you

1 need a few minutes to go through it or --

2 **MR. MCLEAN:** No, sir. Those are boilerplate
3 ones I'm fairly familiar with.

4 **COMMISSIONER GARCIA:** Okay.

5 **MR. MCLEAN:** Thank you, sir.

6 **COMMISSIONER GARCIA:** All right, is there
7 any correction to the exhibit list?

8 **MR. GATLIN:** Commissioner, I assume we'll
9 get a redraft of what's happened today, and we'll
10 check it to make sure everything is correct.

11 **COMMISSIONER GARCIA:** Mr. Jaeger, on Page 13
12 when you order by Commissioner Joe A. Garcia, drop the
13 "A" if you can, since we're already informal with
14 "Joe".

15 **MR. JAEGER:** And I'll put in the ore tenus
16 motion was granted.

17 **COMMISSIONER GARCIA:** Was granted. Is
18 that --

19 **MR. GATLIN:** I have just a couple items. I
20 have a witness, Mr. Harley Young, who is employed by
21 the Florida Department of Environmental Protection,
22 and I need to set kind of a parameter if the parties
23 would agree as to when I can produce him, preferably
24 on the afternoon of the 8th sometime.

25 **COMMISSIONER GARCIA:** Okay.

1 **MR. McLEAN:** No objection.

2 **MR. JAEGER:** No objection.

3 **COMMISSIONER GARCIA:** Okay.

4 **MR. GATLIN:** The other item is, I assume
5 that what goes on in this part of the case is in
6 addition to what's already of record. This is in
7 addition to the existing record. The existing record
8 is still the record.

9 **COMMISSIONER GARCIA:** Right.

10 **MR. GATLIN:** As I understand.

11 **MR. JAEGER:** That's correct.

12 **MR. GATLIN:** And I would like to file an
13 update on the rate case expenses, to put some of the
14 projections, get the actual numbers. I can do it
15 next -- by Monday.

16 **COMMISSIONER GARCIA:** Is that enough time
17 for you Mr. McLean?

18 **MR. McLEAN:** Yes, that's fine.

19 **MR. JAEGER:** That will be fine. That's the
20 23rd?

21 **MR. GATLIN:** Yes.

22 **MR. JAEGER:** I want to make sure we have
23 issue -- the renumbered Issue 4 correct, Mr. Gatlin.
24 I want to make sure we are in total agreement on that
25 issue. And we have "What is the appropriate provision

1 for rate case expense for reopening the record?" And
2 maybe it should be phrased -- and we said "since the
3 remand of the 1st DCA."

4 **MR. GATLIN:** Right. So we'll have two parts
5 of rate case expense.

6 **MR. JAEGER:** Yes.

7 **MR. GATLIN:** Okay. One that went on during
8 the appellate process and, two, the part that has
9 occurred since the remand.

10 **MR. JAEGER:** Right.

11 **COMMISSIONER GARCIA:** Very well. Anything
12 else?

13 **MR. JAEGER:** Okay. How soon can we get the
14 positions for these issues Harold?

15 **MR. McLEAN:** As quick as you get us the
16 numbers correctly, I can knock it out within an hour
17 of when I get them. I don't know -- maybe I can get
18 with you after this proceeding and get the numbers
19 correctly and then I can get them to you as soon as I
20 get back to the office.

21 **MR. JAEGER:** Okay.

22 **MR. GATLIN:** It would be helpful, if it's
23 possible, if you could just do a redraft now with the
24 way it looks or supposed to look from the final form.
25 I think we can deal --

1 **COMMISSIONER GARCIA:** I think we can do that
2 if --

3 **MR. GATLIN:** -- with the issues a lot
4 better.

5 **MR. McLEAN:** Agreed.

6 **COMMISSIONER GARCIA:** Probably do that by
7 noon today and just give them out.

8 **MR. JAEGER:** I'll get it done by maybe a
9 little bit after lunch.

10 **MR. McLEAN:** Just fax them over, and I'll
11 fax you the answers back.

12 **MR. JAEGER:** Okay. And I'm not sure if we
13 ever took appearances. I don't know if we needed to
14 do --

15 **COMMISSIONER GARCIA:** Okay. Well, let's,
16 just in case, take appearances.

17 **MR. GATLIN:** I'm B. Kenneth Gatlin
18 representing the applicant in this case.

19 **MR. McLEAN:** Harold McLean of the Office of
20 Public Counsel representing the citizens of the state
21 of Florida.

22 **MR. JAEGER:** Ralph R. Jaeger on behalf of
23 Commission Staff.

24 **COMMISSIONER GARCIA:** Okay. Very good. And
25 then we're going to have this then finished out by

1 Thursday. I guess everybody will have their positions
2 in to you, and we won't have --

3 **MR. JAEGER:** Well, we should have that order
4 to you to sign no later than Friday morning early. Is
5 that --

6 **COMMISSIONER GARCIA:** Perfect. Thank you.

7 **MR. JAEGER:** Thank you.

8 **MR. GATLIN:** Thank you.

9 **MR. McLEAN:** Thank you, sir.

10 (Thereupon, the hearing concluded
11 at 9:40 a.m.)

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1 STATE OF FLORIDA)

2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, H. RUTHE POTAMI, CSR, RPR, Official
4 Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 980387-SU was heard by the
7 Prehearing Officer at the time and place herein
8 stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 14 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 20th day of November, 1998.

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