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OF COUNSEL  
THOMAS F. WOODS

June 5, 1998

**ORIGINAL**

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

RE: Docket No. 971663-WS  
Petition of Florida Cities Water Company for limited  
proceeding to recover environmental litigation costs for North  
and South Ft. Myers Division in Lee County and Barefoot Bay  
Divisions in Brevard County.

Dear Ms. Bayo:

Enclosed on behalf of Florida Cities Water Company, for filing  
in the above docket, are an original and fifteen (15) copies of an  
Affidavit of Notice of Application.

Please acknowledge receipt of the foregoing by stamping the  
enclosed extra copy of this letter and returning same to my  
attention.

- ACK
- AFA   1
- APP
- CAF
- CMU
- CTR
- EAG
- LEG   2   BKG/l dv
- LIN   5   Enclosures
- OPC      cc: Harold McLean, Esq.
- RCH
- SEC   1
- WAS Willis
- OTH

Thank you.

Very truly yours,

B. Kenneth Gatlin

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

06061 JUN-5 88

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of )  
FLORIDA CITIES WATER COMPANY )  
Barefoot Bay and Ft. Myers Divisions, )  
for Limited Proceeding to Recover )  
Environmental Litigation Costs )  
for North and South Ft. Myers Divisions )  
in Lee County and Barefoot Bay )  
Division in Brevard County, Florida )

Docket No. 971663-WS

**AFFIDAVIT**

STATE OF: FLORIDA

COUNTY OF: SARASOTA

BEFORE ME, the undersigned authority, duly authorized by law to administer oaths and to take acknowledgments, on this day personally appeared Michael E. Murphy, who, after being duly sworn on oath, deposes and says:


1. That the Affiant has personal knowledge of the matters set forth herein;
2. That in April, 1998, a copy of the Notice attached hereto was sent by regular U.S. Mail as a billing insert to all customers of record within the service areas of Florida Cities Water Company, Ft. Myers and Barefoot Bay Divisions (See attached letter from Avatar Utility Services Inc.).

FURTHER AFFIANT SAYETH NOT.

*Michael E. Murphy VP*

Michael E. Murphy  
Vice President & Chief Financial Officer  
Florida Cities Water Company

SWORN TO and SUBSCRIBED BEFORE me on this 29<sup>th</sup> day of May, 1998.

	<b>ANITA J. CHUBBUCK</b> State of Florida My Comm. Exp. Aug. 18, 1998 Comm. # CC 401596
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PERSONALLY KNOWN BY ME  
 PRODUCED I.D. \_\_\_\_\_

*Anita J. Chubbuck*  
NOTARY PUBLIC  
State of Florida at large

April, 1998

**Florida Cities Water Company Files a Request to Recover Environmental Litigation Costs  
for its Barefoot Bay and North and South Fort Myers Divisions**

**PSC Docket No. 971663-WS**

Florida Cities Water Company (FCWC) has applied to the Florida Public Service Commission (PSC) for approval of a rate increase applicable to customers in Lee and Brevard Counties.

The purpose of this request is to seek approval to recover a portion of FCWC's legal expenses incurred by FCWC in its successful defense of a legal action brought by the United States. The legal action alleged violations of the Clean Water Act (CWA). From 1992 through 1997, FCWC was the subject of an enforcement action initiated by the United States Environmental Protection Agency (EPA) and prosecuted by the United States Department of Justice (DOJ). This enforcement action addressed a number of alleged violations of the CWA at three FCWC wastewater treatment facilities, Waterway Estates in Lee County, Barefoot Bay in Brevard County and Carrollwood in Hillsborough County.

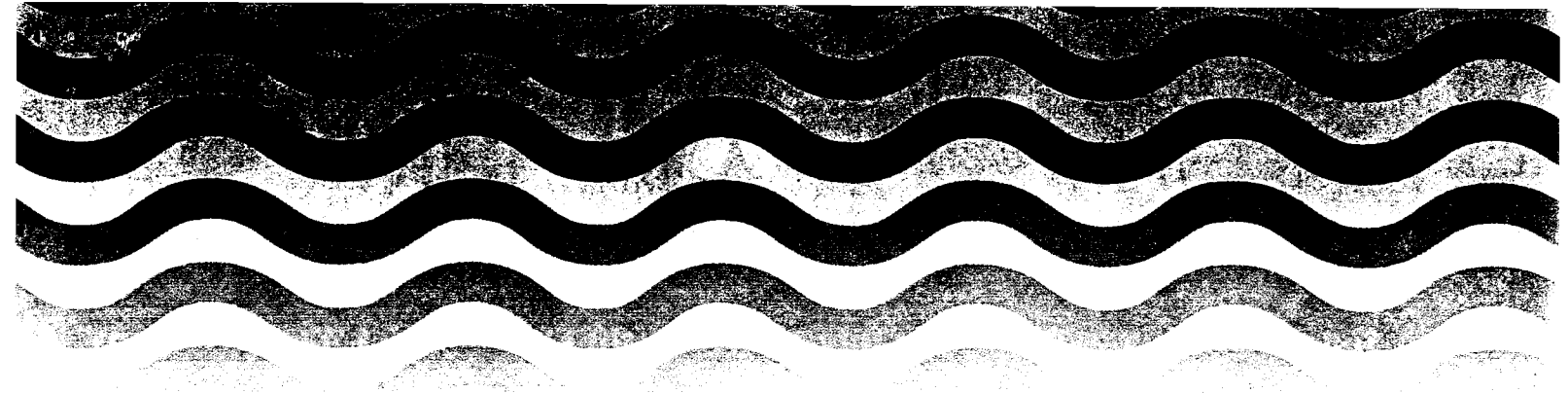
At the height of the litigation, the DOJ claimed civil penalties in the amount of \$104,325,000. As a result of FCWC's defense, the final penalty assessed by the United States District Court was \$309,710. In addition to this reduced penalty, the Court found that FCWC had acted in good faith in its dealings with state and federal regulators, and that none of FCWC's actions caused environmental harm to the waters of the State of Florida.

FCWC does not seek to recover the amount of the civil penalties assessed by the court. However, FCWC incurred \$3,826,210.00 in legal defense. The Company is seeking to recover, through a monthly customer rate increase, a portion of the legal expenses totaling \$2,265,833, plus rate case expense, from FCWC water and wastewater customers regulated by the PSC in Lee and Brevard Counties. FCWC proposes that it be allowed to collect the rate increase for a period of ten years or until the expenses have been fully recovered, whichever occurs first.

The proposed rate increase, to be collected from each water and each wastewater customer, is based on meter size as follows:

<u>Meter Size (In Inches)</u>	<u>Monthly Rate Increase for each Service (Water and Wastewater) By Meter Size</u>
5/8"	\$0.42
1"	1.05
1.5"	2.10
2"	3.36
3"	6.72
4"	10.50
6"	21.00
8"	42.00

*For example, a typical residential customer who receives both water and wastewater service would pay \$.42 for water and \$.42 for wastewater or a total of \$.84 monthly.*



This Petition has been filed as a Petition for Limited Proceeding pursuant to Section 367.0822, Florida Statutes. Copies of the Petition and Synopsis are available for review at FCWC's offices between the hours of 8:00 AM and 5:00 PM, Monday through Friday at the following locations.

Florida Cities Water Company  
Barefoot Bay Division  
931 Barefoot Bay Boulevard, Suite 2  
Barefoot Bay, Florida 32976

Florida Cities Water Company  
Fort Myers Division  
7401 College Parkway  
Fort Myers, Florida 33907

#### Case Schedule

The following dates have been established to govern the key activities of this case:  
*(Please note that these dates are tentative and subject to revision.)*

- |  |                    |
|--|--------------------|
| 1. Intervenors' direct testimony and exhibits    | May 22, 1998       |
| 2. Staff's direct testimony and exhibits, if any | June 12, 1998      |
| 3. Prehearing Statements                         | June 30, 1998      |
| 4. Rebuttal testimony and exhibits               | July 3, 1998       |
| 5. Service Hearing - Barefoot Bay                | July 7, 1998       |
| 6. Service Hearing - Fort Myers                  | July 8, 1998       |
| 7. Prehearing Conference                         | July 13, 1998      |
| 8. Hearing                                       | August 12-14, 1998 |
| 9. Briefs  | September 14, 1998 |
| 10. Agenda                                       | November 3, 1998   |

*Written comments concerning the utility's service or the proposed surcharge should be addressed to the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and should reference Docket No. 971663-WS. A copy of the written comments should be mailed to FCWC's attorney, B. Kenneth Gatlin at 3301 Thomasville Road, Suite 30, Tallahassee, Florida 32312. Complaints regarding service may be made to the Commission's Division of Consumer Affairs at the following toll-free number: 1-800-342-3552.*



**Avatar Utility Services, Inc.**

2140 Gulf Gate Drive  
Sarasota, FL 34231  
Phone: 941-921-5209  
Fax: 941-924-3563

**MEMORANDUM**

To: Larry Coel, Florida Cities Water Company  
From: Larry Daszynski  
Subject: Inserts for Barefoot Bay and Fort Myers  
Date: May 20, 1998

This memo is to notify you that bill inserts for the following companies were inserted into customer bills during the month of April, 1998:

Florida Cities Water Company - Barefoot Bay Division  
Florida Cities Water Company - Fort Myers Division

If there is any questions that I can answer, please call.

Thanks,

Larry Daszynski