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JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

December 2, 1996

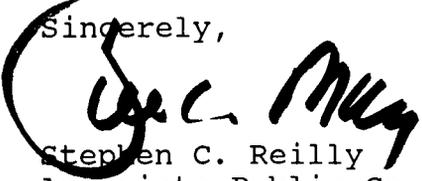
Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. ~~950156-WS~~ 951056-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizen's Response to Palm Coast Utility Corporation's Motion for Reconsideration and Motion for Oral Argument. A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Stephen C. Reilly
Associate Public Counsel

- ACK _____
- AFA 3
- APP _____
- CAF _____ SCR:bsr
- CMU _____
- CTR _____ Enclosure
- EAG _____
- LEG 1
- LIN 3
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DOCUMENT NUMBER-DATE
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

951056-WS

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

DOCKET NO. ~~950156-WS~~
FILED: December 2, 1996

CITIZENS' RESPONSE TO PALM COAST UTILITY CORPORATION'S
MOTION FOR RECONSIDERATION AND MOTION FOR ORAL ARGUMENT

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") Motion For Reconsideration and Motion for Oral Argument, and state:

1. The Citizens rely upon the Commission's Staff to design rates to provide the utility with an opportunity to collect the revenue requirement authorized by the final order. The Staff always excludes miscellaneous, reuse and bulk service contract revenues from the total revenue requirement before designing rates to produce the remaining revenue requirement. To the extent any changes or adjustments need to be made to these calculations the Citizens will rely upon the Staff to make those adjustments.

2. PCUC in paragraph 4 of its motion argues that the actual number of connected lots recognized by the Commission in the "lot count" methodology utilized in Final Order No. PSC-96-1338-FOF-WS is understated.

3. At paragraph 5 of its motion PCUC suggests that the Commission relied upon the testimony of Witness Amaya, which was based upon her understanding of system maps provided by PCUC. She is the witness who testified concerning the number of connected lots to be put in the numerator and the total number lots to be put in the denominator, which formed the basis for establishing the used and useful percentages for the water distribution and transmission mains, water services and wastewater gravity, PEP and forced mains. The utility suggests that Ms. Amaya offered an invalid count because her projected connected lot number of 10,985 did not include multi-family, general service or beachside connections. However, the record of this proceeding does not substantiate that the denominator of 46,764 used by Ms. Amaya includes anything other than residential lots. There is no evidence in the record that any of the multi-family, general services or beachside lots are included in the 46,764 lots that comprise the denominator of Ms. Amaya's equation. In fact, the record indicates that there are a substantial number of beachside lots that are not currently connected and being provided service. It would be improper to include the multi-family, general service and beachside connected lots in the numerator without also including the total number of multi-family, general service and beachside lots in the denominator.

4. If in fact the beachside lines are contributed it would be improper to include any investment of these line in rate base.

5. The Citizen's have had no opportunity to test the validity of attachment 5 to PCUC's motion, and this attachment is not a part of the record of this proceeding. Ms. Amaya was available at the hearing to answer the utility's questions, concerning her use of the utility's maps. It was PCUC which failed to challenge Ms. Amaya's numbers at the hearing. The Commission should reject the utility's attempt to selectively add to the record (post hearing) in a manner to skew the numbers to their advantage. The Commission should rely upon the evidence presented at the hearing.

6. Proper evaluation of the suggestions of error made by PCUC in paragraph 9 of its motion require review of the workpapers to Staff's Recommendation. Given the limited time available to the Citizens during the Thanksgiving holidays and two weekends we were unable to secure a copy of those workpapers. We will rely upon Staff to evaluate the merits of the questions raised in paragraph 9 of the motion.

7. At paragraph 10, PCUC argues that the Commission should not have used the system capacity charges proposed in the instant case to impute CIAC. The Commission should reject the utility's request for reconsideration as the Commission's decision was based upon the evidence presented in this proceeding, not on a proceeding

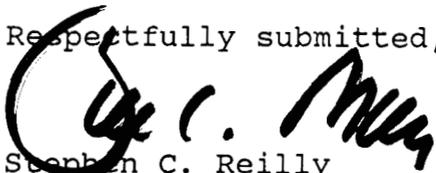
which is outside the record of the instant case. There is record evidence to support the Commission's decision, specifically the testimony of Ms. Dismukes which recommended that the Commission use the Company's proposed system capacity charges for imputing CIAC (Tr. 563-564.) Since only the proposed and current system capacity charges were part of the record, the Commission correctly used the proposed capacity charges. Accordingly, the Commission should reject the Company's request for reconsideration, as it has presented no legitimate mistake of fact or law.

8. At paragraphs 14 through 19, PCUC argues that there is no record evidence for not prorating ITCs when reconciling the capital structure to rate base. The utility similarly argues that the Staff recommendation inadequately informed the Commission that OPC when performing the cost of capital calculations, reconciled ITCs to rate base. Whether or not this was part of the Staff's recommendation should have no bearing on the Commission's decision concerning this instant request for reconsideration. The basis on which the Staff recommendation and the Commission Order were founded was not the testimony of OPC's witness, but the testimony of PCUC's witness. In particular, the Commission's decision was based upon the testimony of Mr. Seidman which indicated that it was appropriate to specifically include in the capital structure customer deposits, ITCs and deferred taxes that are specifically related to rate base. (Tr. 223-224.) Based upon the testimony of Mr. Seidman, the Staff and the Commission correctly included all ITCs in the capital structure, without reconciliation. PCUC's

contention is nothing more than a reargument of the issues in the case and present no legitimate mistake of fact or law. The Commission should summarily reject the utility's request for reconsideration of the Commission's Order.

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

Respectfully submitted,


Stephen C. Reilly
Associate Public Counsel

Office of Public Counsel
The Florida Legislature
111 West Madison St., Rm. 812
Tallahassee, FL 32399-1400

(904) 488-9330

Attorney for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET 950156-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 this 2nd day of December, 1996.

B. Kenneth Gatlin, Esquire
Gatlin, Woods & Carlson
The Mahan Station
1709-D Mahan Drive
Tallahassee, FL 32308

*Bobbie Reyes, Esquire
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Jim Martin
Post Office Box 351541
Palm Coast, FL 32135

Manuel D. Rivera
6 Bowman Place
Palm Coast, FL 32137

Richard D. Melson, Esquire
Hopping Green Sams & Smith
Post Office Box 6526
Tallahassee, FL 32314

Albert J. Hadeed, Esq.
Flagler County Attorney
1200 E. Moody Blvd. #11
Bunnell, Florida 32110

Arthur L. Sirkin
c/o County Attorney
1200 E. Moody Blvd. #11
Bunnell, Florida 32110



Stephen C. Reilly
Associate Public Counsel