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FILE COPY



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

August 6, 1996

ACK          Blanca S. Bayo, Director  
—          Division of Records and Reporting  
AFA   1   Florida Public Service Commission  
APP          2540 Shumard Oak Blvd.  
—          Tallahassee, FL 32399-0850

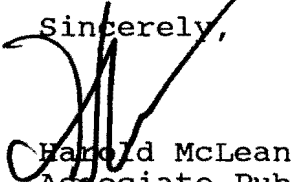
CAF           
CMM          Re: Docket No. 950387-SU

CTP          Dear Ms. Bayo:

ENC          Enclosed for filing in the above-referenced docket are the  
LET   1   original and 15 copies of Citizens' Response to Motion to  
REV   3   Supplement Record.

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

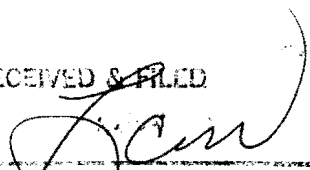
SEC   1    
WAS           
OTH         

Sincerely,  
  
Harold McLean  
Associate Public Counsel

HM:bsr

Enclosures

RECEIVED & FILED

  
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
08208 AUG-6 96  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Florida  
Cities Water Company, North Ft.  
Myers Division, for an increase in  
wastewater rates in Lee County,  
Florida )  
\_\_\_\_\_ )

Docket No. 950387-SU  
Filed: August 6, 1996

CITIZENS' RESPONSE  
TO MOTION TO SUPPLEMENT RECORD

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel (Citizens), respond to the July 30, 1996 Motion for the Commission to acknowledge or in the alternative, to open the record and receive a purported FDEP letter, said motion filed by Florida Cities Water Company, North Ft. Myers Division (FCWC) and say as follows:

1. The capacity of FCWC's wastewater treatment plant was a matter disputed at hearing and upon which the Commission received considerable evidence which is in the record;
2. The letter purports to address the capacity of FCWC's wastewater treatment plant;
3. Commission Rule 25-22.048(2)<sup>1</sup> provides:

Each party shall have the right: to present evidence relevant to the issues; to cross-examine opposing witnesses; to impeach any witness in accordance with §90.608, F.S., regardless of which party first called that witness to testify; and to rebut the evidence presented against it.

Under the provisions of this rule (and of fundamental

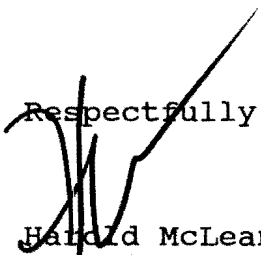
<sup>1</sup> Florida Administrative Code

DOCUMENT NUMBER-DATE  
08208 AUG-6 8 00937  
FPSC-RECORDS/REPORTING

notions of due process) the Citizens' right to cross-examine the author of the letter, and the Citizens' right to rebut the letter by means of its own witnesses would be violated by the twelfth-hour receipt of this letter into the record of this case;

WHEREFORE, the Citizens of the State of Florida urge the Commission to decline to include the letter into the record in this case.

Respectfully submitted,

  
Harold McLean  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida  
Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-  
1400

Attorney for the Citizens  
of the State of Florida

CERTIFICATE OF SERVICE  
DOCKET NO. 950387-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or by \*Hand-delivery to the following party representatives on this 6th day of August, 1996:

Wayne L. Shiefelbein, Esquire  
Gatlin, Woods, Carlson  
& Cowdery  
The Mahan Station  
1709-D Mahan Drive  
Tallahassee, FL 32308

Dawn Coward  
951 Tropical Palm Ave.  
N. Fort Myers, FL 33903

Doris Hadley  
1740 Dockway Dr.  
N. Fort Myers, FL 33903

Eugene Brown, President  
Lakeside at Lockmoor Condo  
Assoc., Inc. #32  
2069 W. Lakeview Blvd.  
N. Fort Myers, FL 33903

Belle Morrow  
691 Camellia Dr.  
N. Fort Myers, FL 33903

Eugene Rettesselli  
4300 Glasgow Court  
N. Fort Myers, FL 33903

Jerilyn Victor  
1740 Dockway Dr.  
N. Fort Myers, FL 33903

Harry Bowne  
4274 Harbor Lane  
N. Fort Myers, FL 33903

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

Mr. Paul H. Bradtmiller  
Florida Cities Water Co.  
Lee County Division  
P.O.Box 21119  
Sarasota, FL 34276-4119

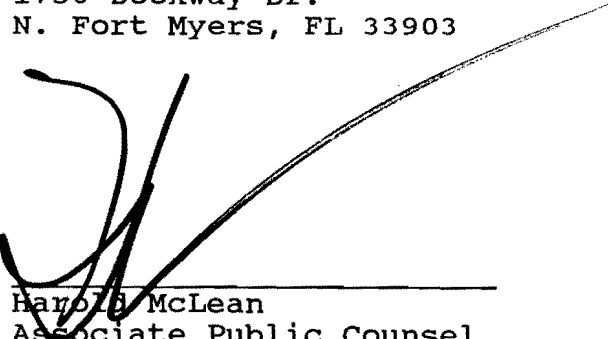
Robert & Beverly Hemenway  
4325 S. Atlantic Circle  
N. Fort Myers, FL 33903

Nancy McCullough  
683 Camellia Dr.  
N. Fort Myers, FL 33903

Kevin Morrow  
905 Poinsettia Dr.  
N. Fort Myers, FL 33903

Fay Schweim  
4640 Vineta Ave.  
N. Fort Myers, FL 33903

Cheryl Walla  
1750 Dockway Dr.  
N. Fort Myers, FL 33903

  
\_\_\_\_\_  
Harold McLean  
Associate Public Counsel