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September 4, 1996

FILED

HAND DELIVERY

Ms. Blanca S. Bayo, Director
 Division of Records and Reporting
 Florida Public Service Commission
 2540 Shumard Oak Blvd.
 Tallahassee, Florida 32308

RE: Docket No. 960898-WS
 Resolution 96-62 by Board of Flagler County Commissioners
 rescinding Florida Public Service Commission jurisdiction over
 private water and wastewater utilities in Flagler County, Florida

Dear Ms. Bayo:

Enclosed for filing on behalf of Palm Coast Utility Corporation are an original and fifteen copies of Palm Coast Utility Corporation's (PCUC) Response to Flagler County's (County) Reply to PCUC's Objections to County Resolution, and Palm Coast Utility Corporation's (PCUC) Response to Flagler County's (County) Reply to PCUC's Motion to Intervene, in reference to the above docket.

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

Very truly yours,

B. Kenneth Gatlin

B. Kenneth Gatlin

cc:w/encl.: Mr. Charles H. Hill, Director
 Division of Water and Wastewater

Motion to Intervene
 DOCUMENT NUMBER-DATE
09416 SEP-4 96
 FPSC-RECORDS/REPORTING

- ACK
- AFA
- APP
- CAF
- CMJ
- CTR
- EAG
- LEP BKG/met
- MDI 5 Enclosures
- SEC *Walker*
- WAS
- OTH

objection
 DOCUMENT NUMBER-DATE
09415 SEP-4 96
 FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution 96-62 by Board of Flagler)
County Commissioners rescinding Florida)
Public Service Commission jurisdiction over)
private water and wastewater utilities in)
Flagler County, Florida)

Docket No. 960898-WS

Filed: September 4, 1996

PALM COAST UTILITY CORPORATION'S (PCUC)
RESPONSE TO FLAGLER COUNTY'S (COUNTY)
REPLY TO PCUC'S OBJECTIONS TO COUNTY RESOLUTION

PCUC files this its response to the County's reply to PCUC's objections to County resolution and states:

1. County takes the position in paragraph 2 of its reply that PCUC's position would mean that Flagler County would be the only county in the state that would be unable to utilize a county resolution to pass jurisdiction back to the county. That is exactly correct. Flagler County is the only county currently under the PSC's jurisdiction that came under the PSC's jurisdiction by an act of the legislature and not a county resolution. That being a fact, it will take an act of the legislature to place jurisdiction back to the County.

2. Paragraphs 3 and 7 of the County's reply concerns the County's apparent position that the County's 1980 action was a resolution passing jurisdiction to the PSC as contemplated by statute. Any reading of the 1980 action shows that the 1980 action was to write a letter to the Flagler County legislature delegation seeking the delegation to amend Section 367.0171(3), Florida Statutes, so that Flagler County would come under the PSC's jurisdiction. In paragraph seven the County cites as its main authority a text on municipal corporations. How that text is an authority on Florida counties is not explained. No Florida cases are cited.

3. The County argument in paragraphs 3, 5, 6, 7 and 8, seem to place great emphasis on the form of the 1980 action. Even if the form was correct, the substance and intent of the 1980 action clearly indicates a request to amend the statute.

4. Paragraph 9 and 10 describes the legislative process which shows conclusively that it was the legislature and not the County that placed Flagler County under the jurisdiction of the PSC.

5. Paragraph 11 of the County's reply again attempts to argue that a county resolution placed Flagler County under the PSC jurisdiction, however, the County does not cite any legislative language that authorizes the County to take back jurisdiction by resolution when it was the act of the legislature that placed the County under the PSC's jurisdiction.

6. Paragraphs 12 and 13 discuss the non delivery to the PSC of the 1980 County action. It does not matter about the delivery. Even if a copy of the County Board's minutes showing the 1980 County action had been delivered, it is immaterial. Those minutes show only that the County was requesting the Flagler delegation to amend the statute and place the County under the PSC jurisdiction. It is extremely doubtful that the 1980 PSC, or for that matter, whether the 1996 PSC would assume jurisdiction over water and wastewater utilities in Flagler county on the basis of that County action.

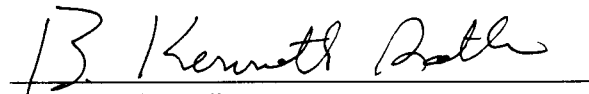
7. Paragraph 14 of the County's reply indicates that PCUC is relying on Orange City Water Company v. Town of Orange City, 188 So.2d 306, 309 (Fla. 1966). That case certainly holds very clearly that there has to be specific statutory authority for a county to take jurisdiction back from the PSC. The amendment to section 367.0171(1), F.S., does allow a county to take back jurisdiction when the county had come under the PSC's jurisdiction by county resolution. The current amended statute does not grant authority to the County to take back PSC jurisdiction when the County came

under PSC jurisdiction pursuant to a statutory amendment, as is the case with Flagler County. The fact that Flagler County came under the PSC's jurisdiction by statute was determined by the PSC Order No. 9598 entered on October 17, 1980. If the County believed that the order to be incorrect it should have taken some action in the past 16 years to make a correction.

8. The County in paragraph 15 takes the position that the County "met the intent of law" in "giving" the PSC jurisdiction and rescinding it. The PSC must determine whether it is charged by the legislative authority to regulate water and wastewater utilities in Flagler County.

DATED this 4th day of September, 1996.

Respectfully submitted,

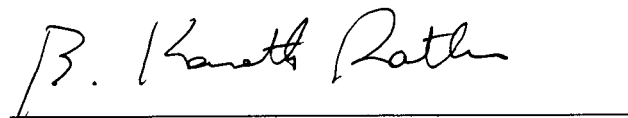


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Attorneys for
PALM COAST UTILITY CORPORATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to Ms. Donna Cyrus-Williams, Esquire, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Blvd, Tallahassee, Florida 32399-0850, and by U.S. mail to Mr. Albert Hadeed, County Attorney, Flagler County, 1200 East Moody Blvd. #11, Bunnell, Florida 32110-9764, on this 4th day of September, 1996.



B. Kenneth Gatlin