



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

January 31, 1997

Ms. Blanco S. Bayó
Director, Division Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Fl 32399

Re: Docket No. 951056-WS
Application for Rate Increase in Flagler County by Palm
Coast Utility Corporation.

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket is an original and fifteen (15) copies of Citizens' Response to Palm Coast Utility Corporation's Amended Motion for Reconsideration and Motion for Oral Argument.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,

Stephen C. Reilly
Associate Public Counsel

ACK _____
 AFA _____
 APP _____
 CAF _____ SR/ddj
 CUB _____
 CCR _____ Enclosures
 EAG _____ cc: Parties of Record
 LER _____
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 RCP _____ RECEIVED & FILED
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FILE COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 951056-WS
FILED: January 31, 1997

**CITIZENS' RESPONSE TO PALM COAST UTILITY CORPORATION'S
AMENDED 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") Amended Motion For Reconsideration and Motion for Oral Argument, and state:

1. The Final Order in this docket, Order No. PSC-96-1338-FOF-WS, was issued on November 7, 1996.
2. Commission Rule 25-22.060, F.A.C., requires motions for reconsideration to be filed no later than fifteen (15) days after issuance of the order. Failure to timely file a motion for reconsideration constitutes a waiver of the right to seek reconsideration.
3. The Utility filed a timely motion for reconsideration of Commission Order No. PSC-96-1338-FOF-WS, on November 22, 1996.

There is no Commission rule authorizing a party to "bootstrap" 1347

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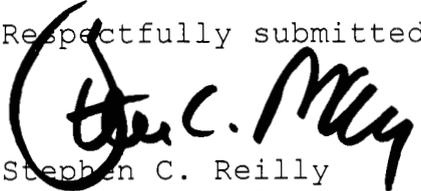
additional matters it wishes to have the Commission reconsider to a timely filed motion for reconsideration. This is particularly true when these additional matters are raised for the first time seventy-eight (78) days after the final order has been issued. There is no Commission rule authorizing amended motions for reconsideration.

4. In its motion, the Utility suggests it has authority to file the amended motion for reconsideration by virtue of Commission Rule 25-22.035(3), F.A.C., and Rule 1.190, Fla. R. Civ. P. Commission Rule 25-22.035, F.A.C., merely provides that generally the Florida Rules of Civil Procedure shall govern in proceedings before the Commission, except that the provisions of the Commission's rules supersede the Florida Rules of Civil Procedures where conflict arises between the two. Rule 1.190, Fla. R. Civ. P., authorizes a party to amend a pleading as a matter of course at any time before a response pleading is served, or if the pleading is one to which no responsive pleading is permitted and the action has not been placed on the trial calendar, may so amend it any time within 20 days after the original pleading has been served.
5. In this case the Citizens timely filed on December 2, 1996 a responsive pleading to the Utility's original motion for reconsideration. The Utility's attempt to amend its motion

for reconsideration was filed 53 days after the Citizens filed their responsive pleading to the Utility's original motion. The Utility's pleading is untimely and the Commission is free to disregard the motion.

6. It is not necessary for the Commission to receive oral argument on the Utility's amended motion for reconsideration. The Commission should rule based upon the pleadings after its 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 951056-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 the 31st day of January, 1997.

B. Kenneth Gatlin, Esquire
Gatlin, Schiefelbein & Cowdery
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, FL 32110

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


Stephen C. Reilly