

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase)
in water rates in Orange County)
by Wedgefield Utilities, Inc.)
_____)

DOCKET NO. 991437-WU

Filed: June 25, 2001

MOTION TO STRIKE
PORTIONS OF PREFILED DIRECT TESTIMONY
OF OPC WITNESSES LARKIN AND BIDDY

COMES NOW Wedgefield Utilities, Inc. (Wedgefield or the "Utility"), and in support of its Motion to Strike states:

1. There are two bases for the dismissal of portions of the OPC testimony. First, portions of the testimony relate to rate base components prior to December 31, 1995 and must be stricken. Second, portions of the testimony relate to negative acquisition adjustment. If either of Wedgefield's Renewal of Motions (for Summary Final Order or to Strike and Dismiss) filed simultaneously herewith are granted, portions of the OPC testimony relating thereto must be stricken.
2. In Order PSC-98-1092-FOF-WS, the Commission established rate base as of December 31, 1995, for purposes of transfer of the utility from Econ to Wedgefield Utilities, Inc.,. The only difference between rate base for purposes of transfer and rate base in a rate case is that, for purposes of transfer, ratemaking adjustments such as working capital and used and useful are not included. For a rate case they are included. (See, for example, Jasmine Lakes, Order No. 23728, issued November 7, 1990, 90 FPSC 11:114 at 118.

3. In the Wedgefield transfer Order No. PSC-98-1092-FOF-WS, the Commission based its decision on the undisputed testimony of the PSC Staff auditor, four undisputed PSC Staff audits, and the testimony of OPC witness Larkin that OPC was not disputing the audits. The formal hearing resulted in a final order that was not appealed. Therefore, the rate base, as of December 31, 1995 stands, and any testimony in this case relating to rate base components, as of December 31, 1995 or earlier, other than regarding the application of used and useful adjustments, should be stricken.

4. Accordingly, because rate base was established in the transfer docket, it was not disputed, and it was not appealed, the following portions of the prefiled testimony of witness Larkin should be stricken:

- a. Page 8, lines 3 through 6, delete in their entirety.

5. Similarly, the following portions of the prefiled testimony of witness Bidy should be stricken:

- a. Page 2, line 12 through page 16, line 6.
- b. Table of Contents lines listing Tabs 1 through 21.
- c. Exhibits TLB-1 through TLB-6, in their entirety.

6. Simultaneously with filing of this Motion to strike testimony, Wedgefield has filed two other motions. The renewal of Wedgefield's motion for summary final order points out that there is no material issue of fact as to negative acquisition adjustment. The Renewal of Wedgefield's Motion to Strike and Dismiss the Office of Public Counsel's Petition Requesting 120.57 Hearing and Protest of Proposed Agency Action, as Amended, renews Wedgefield's objections based upon the legal principals of res judicata, collateral estoppel,

stare decisis and administrative finality.

7. Accordingly, if either one of those two motions is granted by the Commission, the following portions of the prefiled testimony of witness Larkin should be stricken:

- a. Table of Contents - Strike through "NEGATIVE ACQUISITION ADJUSTMENT".
- b. Page 2, line 5 through Page 2, line 6, delete the words "negative acquisition adjustment issues and".
- c. Page 2, line 11, delete the words "Exhibit ___ (HL-1)" and "Exhibit ___ (HL-3)".
- d. Page 2, line 12 and line 13, delete in their entirety.
- e. Page 2, line 22, delete in its entirety.
- f. Page 2, line 16 through Page 2, line 19, delete in their entirety.
- g. Page 2, line 23, delete the word "Second".
- h. Page 2, line 24 through Page 3, line 1, delete the sentence beginning with "Finally, I will address..." in its entirety.
- i. Page 3, line 3 through Page 16, line 15, delete in their entirety.
- j. Page 18, line 1 through Page 19, line 14, delete in their entirety.
- k. Exhibit HL-1 in its entirety.
- l. Exhibit HL-3, in its entirety.

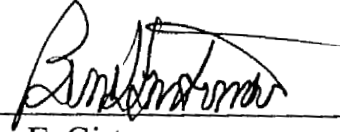
8. Similarly, if either one of those two motions is granted by the Commission, the following portions of the prefiled testimony of witness Bidy should be stricken:

- a. Page 2, line 12 through page 16, line 6.
- b. Table of Contents lines listing Tabs 1 through 21.
- c. Exhibits TLB-1 through TLB-6, in their entirety.

9. As required by Rule 28-106-204(3), F.A.C., the undersigned counsel has contacted Mr. Charles Beck for OPC and Mr. Jason Fudge for PSC Staff. OPC will file a response in opposition, and Staff reserves objections to the motion until they have had an opportunity to review it.

WHEREFORE, Wedgefield Utilities, Inc. moves for an order striking the above referenced portions of the prefiled testimony of witness Larkin and of witness Bidy.

RESPECTFULLY SUBMITTED,



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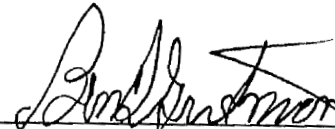
Attorney for
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent to the following by U.S. mail (or by hand delivery#) this 25th day of June, 2001.

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