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ORIGINAL

January 17, 2003

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JAN 17 PM 3:25

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

Re: Docket No. 020071-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Third Motion to Compel. A diskette in Word format 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,

Charles J. Beck
Deputy Public Counsel

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CAF _____
CMP _____
COM 3 _____
CTR _____ CJB:bsr
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OPC _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Utilities, Inc. of) Docket no. 020071-WS
Florida for a rate increase in Marion, Orange)
Pasco, Pinellas and Seminole Counties) Dated January 17, 2003

CITIZENS' THIRD MOTION TO COMPEL

The Citizens of Florida (Citizens), through their attorney, pursuant to Rules 28-106.204, and 28-106.205, Florida Administrative Code, request the Prehearing Officer issue an order compelling Utilities, Inc. of Florida (Utilities, Inc.) to fully answer interrogatories 6 and 11 of Citizens' first set of interrogatories dated July 25, 2002; fully answer interrogatories 23, 25, 31, and 35 of Citizens' second set of interrogatories dated August 9, 2002; produce all documents responsive to request for production of documents 4 of Citizens' first set of requests for production of documents dated July 25, 2002; and produce all documents responsive to requests for production of documents 10, 11, 25, 30, 33 and 40 of Citizens' second set of requests for production of documents dated August 9, 2002.

1. Citizens' discovery requests, and the responses provided by Utilities, Inc.,¹ are as follows:

¹ Utilities, Inc., never served or filed *any* formal responses to these sets of discovery. The responses from Utilities, Inc., shown in this pleading come from informal responses provided by the company on or about October 31, 2002.

Interrogatory 6: Operating & Maintenance Expense - Refer to Schedules B-5 and B-6. For each schedule provide, by account, the amount of allocated expense included.

Response by Utilities, Inc.: We are still working on this and should have by Friday.

Interrogatory 11: Rate Base - Explain why the Seminole County Schedule A-5 shows a negative amount for Account 348.5. Show how the amount was determined.

Response by Utilities, Inc.: The amount allocated from Seminole is a negative amount because the UPIS is initially booked to Seminole County and then allocated to the other four counties. The allocation is based on customer equivalents. Schedule showing how the amount was determined will be forthcoming.

Interrogatory 23: For any and all transfers and/or sales of parcels of land or assets to or from utility operations from non-related or related parties (former or present: parent company, affiliated company, or greater than 5% owners), please provide:

- (a) A description of and state the original cost of such land and/or assets.
- (b) The cost of any and all improvements to such land or assets, itemized by improvement.
- (c) The total sale and/or transfer price, and show in detail how it was determined.
- (d) The date of the sale and/or transfer.
- (e) The amount of gain or loss (both before and after tax) on such sale and/or transfer, and show in detail how it was calculated and indicate whether it was booked above or below the line for rate making purposes.

Response by Utilities, Inc.: We are still working on this.

Interrogatory 25: Asset Sales.

(a) For the test year and the preceding five years, has the Company sold any property which had formerly been included in Plant Held for Future Use, Plant in Service, or devoted to utility service?

(b) If the response to (a) is affirmative, for each sale, describe the property sold; state whether, when, and in what manner it had been included in rate base; show the details of how the gain or loss was calculated; indicate when the sale occurred and to whom; explain how and whether the Company is amortizing such gain or loss; show how such amortization was computed; and state if booked above or below the line for ratemaking purposes.

Response by Utilities, Inc.: We are still working on this.

Interrogatory 31: Provide, by month, January 1999 through June 30, 2002, customer water and wastewater usage levels by class.

Response by Utilities, Inc.: We are still working on this.

Interrogatory 35: Please describe how adjustments made to rate base by the Florida Public Service Commission in the Company's last rate case are reflected in the test year rate bases in the instant rate proceeding.

Response by Utilities, Inc.: We will have by Friday.

Request for Documents 4: Operating Expense - Provide the workpapers supporting the December negative expense amounts on Seminole Schedules B-5 and B-6.

Response by Utilities, Inc.: We are still working on the documents for this request and should have them by 10/31/02.

Request for Documents 10: Please provide all current contracts between Utilities, Inc. and any and all subsidiaries and affiliates of Utilities, Inc., including but not limited to Water Service Corporation.

Response by Utilities, Inc.: We are still working on the documents for this request and should have them by 10/31/02.

Request for Documents 11: Please provide all current contracts between Utilities, Inc. and any and all subsidiaries where Utilities, Inc. provides services to the subsidiary or affiliate.

Response by Utilities, Inc.: We are still working on the documents for this request and I should have them by 10/31/02.

Request for Documents 25: Please provide a copy of each adjusting entry, including supporting documentation, proposed by the Company's independent auditors in their two most recent audits of the Company.

Response by Utilities, Inc.: The Utility has recently switched auditors to PriceWaterhouseCoopers and the prior years' workpapers are currently in storage. When the documents are retrieved the requested documents will be provided.

Request for Documents 30: Please provide any appraisals of property purchased by the Company since the last rate case that involved an affiliated party.

Response by Utilities, Inc.: We are still working on the documents for this request.

Request for Documents 33: Refer to Schedule B-10. Please provide all invoices from consultants, witnesses, and counsel supporting the estimated rate case expenses.

Response by Utilities, Inc.: Applicant states that no document exists. Will send invoices of actual rate case expense thus far.

Request for Documents 40: Please provide all documents which demonstrate that adjustments made to rate base by the Florida Public Service Commission in the Company's last rate case are reflected in the test year rate bases in the instant rate proceeding.

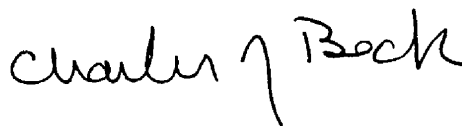
Response by Utilities, Inc.: We are still working on the documents for this request.

2. It has now been well over 5 months since Citizens served these discovery requests on Utilities, Inc., yet repeated efforts to obtain responsive answers to these interrogatories and to obtain the documents responsive to these requests have been futile. The continued egregious violation of time frames for responding to

discovery by Utilities, Inc., threatens our right to due process and ability to prepare the case in a timely manner.

WHEREFORE, Citizens request the Prehearing Officer issue an order compelling Utilities, Inc. to fully and immediately answer interrogatories 6 and 11 of Citizens' first set of interrogatories dated July 25, 2002; fully and immediately answer interrogatories 23, 25, 31, and 35 of Citizens' second set of interrogatories dated August 9, 2002; immediately produce all documents responsive to request for production of documents 4 of Citizens' first set of requests for production of documents dated July 25, 2002; and immediately produce all documents responsive to requests for production of documents 10, 11, 25, 30, 33 and 40 of Citizens' second set of requests for production of documents dated August 9, 2002.

Respectfully submitted,



Charles J. Beck
Deputy Public Counsel

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

(850) 488-9330

Attorney for Florida's Citizens

CERTIFICATE OF SERVICE
DOCKET NO. 020071-WS

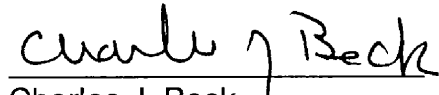
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery, facsimile and/or U.S. Mail to the following parties on this 17th day of January, 2003.

By U.S. Mail & Facsimile:

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
650 S. North Lake Blvd.
Suite 420
Altamonte Springs, FL 32701

By Hand Delivery:

Rosanne Gervasi, Esquire
Lorena Holley, Esquire
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850


Charles J. Beck
Deputy Public Counsel

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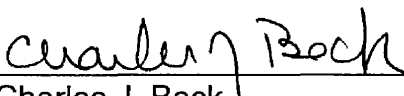
I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Third Motion to Compel had been furnished by hand delivery, facsimile and/or U.S. Mail to the following parties on this 17th day of January, 2003.

By U.S. Mail & Facsimile:

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
650 S. North Lake Blvd.
Suite 160
Altamonte Springs, FL 32701

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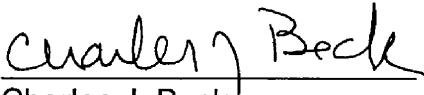
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