#### Matilda Sanders



From:	ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]	
Sent:	Thursday, March 30, 2006 9:42 AM	
To:	Filings@psc.state.fl.us	CMP
Cc:	Rosanne Gervasi; mfriedman@rsbattorneys.com	com_ <u>5</u>
Subject:	e-filing	CTR
Attachments: 050281.petition on proposed agency action.e-filed version.doc		ECR
Electronic Filing		GCL
a. Person responsible for this electronic filing:		OPC
Stephen C. Reilly, Associate Public Counsel		RCA
Office of Public Counsel c/o The Florida Legislature		SCR
111 West Madison Street, Room 812		SGA
Tallahassee, FL 32399-1400 (850) 488-9330		sec 1
reilly.steve@leg.state.fl.us		OTH KILL O

b. Docket No. 050281-WS

In re: Application for increase in water and wastewater rates in Volusia by Plantation Bay Utility Company.

- c. Document being filed on behalf of Office of Public Counsel
- d. There are a total of 5 pages.
- e. The document attached for electronic filing is a Petition on Proposed Agency Action.

(See attached file: 050281.petition on proposed agency action.e-filed version.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts

Secretary to Stephen C. Reilly, Associate Public Counsel.

Office of Public Counsel Telephone: (850) 488-9330

Fax: (850) 488-4491

DOCUMENT NUMBER-DATE



#### BEFORE THE FLORIDA PUBLIC SERVICE COMMISION

In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

Docket No. 050281-WS Filed: March 30, 2006

### PETITION ON PROPOSED AGENCY ACTION

The Citizens of the State of Florida ("Citizens") by and through their undersigned attorney, pursuant to Section 120.57, Florida Statutes, and Rules 25-22.029 and 28-106.201, Florida Administrative Code, file this objection to the Florida Public Service Commission's ("Commission") Order No. PSC-06-0170A-PAA-WS ("Order"), issued March 9, 2006, and state:

1. The name and address of the agency affected and the agency's file number:

Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 Docket No. 050281-WS

- 2. The Citizens include customers of Plantation Bay Utility Company ("Plantation Bay", "Utility", or "Company") whose substantial interests will be affected by the Order because the Order authorizes the Utility to increase the rates and charges it imposes upon its customers.
- 3. Pursuant to Section 350.0611, Florida Statutes, the Citizens' who file this petition are represented by the Office of Public Counsel ("Citizens", "Petitioner" or "OPC") with the following address and telephone number: Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, telephone No. (850) 488-9330.

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- 4. The Citizens received a copy of the Order by inter-office courier on March 10, 2006.
- 5. At this time the ultimate facts alleged, including the specific facts which the Petitioner contends warrants reversal or modification of the agency's proposed action are as follows:

# Quality of Service

- a. Quality of the water product is unsatisfactory.
- b. Operating conditions of the water facilities are unsatisfactory.
- c. Quality of the wastewater product is unsatisfactory.
- d. Operating conditions of the wastewater facilities are unsatisfactory.
- e. Utility's attempts to address customer satisfaction are unsatisfactory.
- f. Overall quality of service is unsatisfactory.

#### Rate Base

- g. Utility plant in service is overstated.
- h. The amount of contribution in aid of construction is understated.
- i. Non-used and useful components are understated.
- j. Working capital is overstated.
- k. Accumulated depreciation balance is understated.
- 1. Rate base is overstated.

## Capital Structure

- m. The overall cost of capital is overstated.
- n. The utility did not utilize a proper and representative capital structure.

# Operating Statement

- o. Projected test year revenues are understated. The PAA utilizes an erroneous methodology to project growth, which dramatically understates wastewater residential customers, revenues and billing determinants. This erroneous methodology impacts numerous components in determining the projected test year rate base and operating income. There is also substantial loss of revenue because of unmetered water and wastewater being supplied to related parties. The PAA also approves a reuse water rate which inappropriately subsidizes a related party.
- p. Operating expenses are overstated. Again, one of the examples of overstated operating expenses involves the Utility's overpayment to a related party for Contractual Services-Management Fees.

#### Other

- q. The Commission should initiate a Show Cause Proceeding against

  Plantation Bay because of its willful violation of Section 367.071, Florida Statutes.

  Plantation Bay failed to receive prior approval of the Commission for the sale of majority organizational control of the Utility.
- r. The Commission should not order the Utility to discontinue collecting its current system capacity charges of \$635.88 for water and \$530.72 for wastewater.
- 6. Each of the foregoing matters involve disputed issues of material fact.
- 7. Order No. PSC-06-0170A-PAA-WS establishes March 30, 2006 as the date by which protests must be filed.
- 8. Chapter 367.081, Florida Statutes, is a specific statute the Petitioner contends requires reversal of the agency's proposed action.

9. The Petitioner seeks the Commission to take the following actions with respect to the agency's proposed action:

a. Deny to Plantation Bay the authority to increase any of the rates or charges it may impose upon its customers, and approve rate reductions in water or wastewater rates and charges as may be supported by the record of the requested Chapter 120.57 (1), Florida Statutes, proceedings.

b. To the extent final wastewater rates are approved which are less than interim wastewater rates, such over collection shall be refunded to Plantation Bay's customers with interest.

WHEREFORE, the Citizens hereby protest and object to Commission Order No. PSC-06-0170A-PAA-WS, as provided above, and petitions the Commission to conduct a formal evidentiary hearing, under the provisions of Section 120.57(1), Florida Statutes, and further petitions that such hearing be scheduled at a convenient time within or as close as practical to the Utility's certificates service area.

Respectfully submitted,

s/ Stephen C. Reilly
Stephen C. Reilly
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. 050281-WS

# I HEREBY CERTIFY that a true and correct copy of the foregoing Petition on

Proposed Agency Action has been furnished by U.S. Mail and electronic mail to the following parties this 30<sup>th</sup> day of March, 2006.

Rosanne Gervasi, Esquire Florida Public Service Commission Division of Legal Service 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850

Martin S. Friedman, Esquire Rose Sunstrom & Bentley, LLP 600 S. North Lake Boulevard, Suite 160 Altamonte Springs, FL 32701-6177

s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel