

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 941271-WS
amendment of Certificates Nos.) ORDER NO. PSC-95-1363-AS-WS
27-W and 24-S by FLORIDA CITIES) ISSUED: November 3, 1995
WATER COMPANY - Lee County)
Division.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER FINDING SHOW CAUSE PROCEEDING NOT
WARRANTED, ACKNOWLEDGING SETTLEMENT AGREEMENT AND AMENDING
CERTIFICATES NOS. 27-W AND 24-S TO INCLUDE ADDITIONAL TERRITORY

BY THE COMMISSION:

BACKGROUND

Florida Cities Water Company - Lee County Division (Florida Cities or utility) provides water and wastewater service in Lee County and serves approximately 16,911 water and 7,951 wastewater customers in North and South Ft. Myers. The annual report for 1994 shows that the consolidated annual operating revenue for the Lee County system is \$14,035,044 and the net operating income is \$4,155,157. The utility is a Class A utility company under Commission jurisdiction.

On December 6, 1995, the utility applied for an amendment of Water Certificate No. 27-W and Wastewater Certificate No. 24-S in Lee County to include territory that it has been servicing for many years in the South Ft. Myers area. At the time of the application, the utility was serving 93.4 water equivalent residential connections (ERCs), and 61.8 wastewater ERCs outside of its certificated area. The customers included residential, multifamily and commercial.

On December 14, 1994, Gulf Utility Company (Gulf) filed an objection to the notice of application for extension by Florida Cities. On January 1, 1996, Lee County filed a formal objection to Florida Cities' application. On May 11, 1995, Lee County and

DOCUMENT FILED DATE

10855 NOV-30

PROCEEDING REPORTING

Florida Cities filed a copy of a settlement agreement between the parties. Gulf's protest pertains to Florida Cities' provision of water service to the Alico International Trade Center (Alico). Lee County's objection pertains to Florida Cities provision of water service to thirteen residences of the Town and River Subdivision, one undeveloped lot in the Town and River Subdivision and the provision of wastewater service to Standard Brands Plaza II, Galeana Chrysler and Dixie Buick. Standard Brands Plaza II and Galeana Chrysler are currently being served by Florida Cities. Dixie Buick is not currently being served. On July 18, 1995, Florida Cities and Gulf filed their settlement agreement. On August 10, 1995 Alico filed an objection to the agreement between Florida Cities and Gulf.

SHOW CAUSE

Prior to filing its application, the utility was serving 93.4 water ERCs, and 61.8 wastewater ERCs outside of its certificated area. Pursuant to Section 367.045(2), Florida Statutes, a utility may not delete or extend its service area outside the area described in its certificate of authorization, until it has obtained an amended certificate of authorization from the Commission. Section 367.161(1), Florida Statutes, authorizes us to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes.

We first became aware that the utility was serving outside of its certificated area when the utility brought the matter to our attention, shortly before filing this application for amendment of its certificates. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). The utility's extension of its service area outside the area described in its certificate of authorization prior to obtaining our approval, is willful in the sense intended by Section 367.161, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., this Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Although the utility's extension of its service area prior to obtaining Commission approval is an apparent violation of Section 367.045(2), Florida Statutes, we do not believe that such violation rises to the level that warrants a show cause proceeding. The utility took the necessary steps to correct the violation once it was discovered, by filing its application for amendment of its certificates. The utility states, "Much of that territory was described only by subdivision or development name. Only portions of those subdivisions and developments were actually included in the legal description of the certificated territory. FCWC's system and territorial maps mistakenly identified additional portions of these subdivisions and developments as located within the certificated territory." In addition, wastewater service was extended in order to alleviate potential pollution of nearby water bodies and to accommodate provision of County and State regulations mandating connections to collection systems within one quarter mile of the development. Also, Gulf could not have provided water service to the Alico customer at the time they requested service. Gulf's water lines were not extended into this area at that time. Lee County could not have provided wastewater service to the commercial customer at the time they requested service, because their wastewater collection system was not in this area at that time.

For the above reasons, although we recognize that utilities are charged with knowledge of Chapter 367, Florida Statutes, we do not find that this utility's apparent violation of Section 367.045(2), Florida Statutes, rises to the level of warranting that a show cause order be issued. We find it appropriate not to order Florida Cities to show cause for extending its service area prior to obtaining Commission approval.

SETTLEMENT AGREEMENT BETWEEN FLORIDA CITIES AND LEE COUNTY

On January 6, 1995, Lee County formally objected to Florida Cities' application for extension of its certificated territory. On May 11, 1995, the utility filed Florida Cities' and Lee County's settlement agreement with this Commission. The settlement agreement is attached to this order as Attachment A.

The agreement provides that Florida Cities will allow Lee County to connect and provide water service to thirteen residences of the Town and River Subdivision and one undeveloped lot in the Town and River Subdivision that Florida Cities is currently serving. Florida Cities will continue to provide wastewater service to these residents. Also the agreement provides that Florida Cities will allow Lee County to provide wastewater service to Standard Brands Plaza II and Galeana Chrysler, which are

currently being served by Florida Cities. In addition, the agreement provides that Dixie Buick will be served by Lee County. Furthermore, Lee County agrees to waive its usual connection fee for the properties formerly served by Florida Cities. Finally, Lee County agrees to withdraw its formal objection to Florida Cities' application upon the issuance of the Order approving Florida Cities and Lee County's agreement. Florida Cities has revised the territory description to reflect this agreement. Based on the aforementioned, we find it appropriate to acknowledge the settlement agreement between Florida Cities and Lee County.

AMENDMENT OF CERTIFICATES

As stated earlier, on December 6, 1995, the utility applied for an amendment of Water Certificate No. 27-W and Wastewater Certificate No. 24-S in Lee County to extend its certificated territory to include territory that it has been servicing for many years in the South Ft. Myers area. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The application contains a check in the amount of \$200, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided a copy a warranty deed which provides for the continued use of the land as required by Rule 25-30.036(3)(d), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3)(e), (f) and (i), Florida Administrative Code. A description of the water and wastewater territory not being contested is appended to this memorandum as Attachment B and C, respectively. Attachment B, which pertains to wastewater Certificate No. 24-S, includes the thirteen ERCs and one undeveloped lot in the Town and River subdivision. The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. As stated earlier, objections to the notice of application were received by Lee County and Gulf Utility Company. The Lee County protest has already been addressed in this Order. The Gulf and Alico protest shall be addressed at a subsequent Agenda Conference. Therefore, we find it appropriate to exclude the Alico International Trade Center from Florida Cities' amendment, pending our decision regarding the Gulf and Alico protests. The local

planning agency was provided notice of the application and did not file a protest. We have contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation regarding this utility.

Florida Cities has the financial and technical ability to continue to provide service to the customers. Florida Cities is a large, multi-county operation in the State of Florida, and has been in the water and wastewater utility business since 1965. As stated earlier, these customers are already being served. Therefore, we find that the utility has the capacity to serve these customers. The utility has demonstrated the financial and technical expertise to provide quality service to these customers. The rates were last changed on July 1, 1994 by a price index. We placed service availability charges for water into effect on December 11, 1986 by Order Nos. 16768 and 16918 in Docket No. 851007-WU, issued October 24, 1986 and December 3, 1986, respectively, as a result of a rate case. We placed service availability charges for wastewater into effect on March 31, 1987 by Order No. 17169, issued February 9, 1987 in Docket No. 840419-SU, as a result of a rate case. We find it appropriate to apply these approved rates and charges to customers in the new service territory.

Based on the foregoing, we find that it is in the public interest to grant the application of Florida Cities for amendment of Water Certificate No. 27-W and Wastewater Certificate No. 24-S, limiting the amendment to the additional territory described in Attachments B and C. The amendment shall not include the Alico International Trade Center at this time. The utility has returned the certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

As stated earlier, Florida Cities and Gulf filed a settlement agreement on June 18, 1995. The agreement states that Gulf will provide service to Alico within one year of the date of the agreement. Florida Cities agrees to remit to Gulf the service availability charge originally collected by Florida Cities for service to Alico. Alico objected to the agreement stating that "We hereby protest the agreement, attached, between Florida Cities Water Company and Gulf Utility as it appears to be injurious to ourselves, the property owner. We respectfully request that this agreement be held up until our attorney has had time to peruse the documents and be sure that we are protected."

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Florida Cities' attorney has informed us that Florida Cities is attempting to resolve the protest filed by Alico. This docket shall remain open to allow sufficient time for the parties to resolve the objection.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that a show cause proceeding shall not be initiated against Florida Cities Water Company - Lee County Division for failure to comply with Section 367.045(2), Florida Statutes. It is further

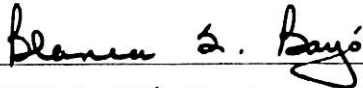
ORDERED that the settlement agreement between Florida Cities Water Company - Lee County Division and Lee County attached as Attachment A and incorporated herein by reference, is hereby acknowledged. It is further

ORDERED that Water Certificate No. 27-W and Wastewater Certificate No. 24-S, held by Florida Cities Water Company - Lee County Division, are hereby amended to include the territory described in Attachments B and C of this Order, which are incorporated herein by reference. It is further

ORDERED that Florida Cities Water Company - Lee County Division, shall charge the customers in the territory added herein the rates and charges approved in its tariffs. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 3rd day of November, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

TV

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.



BOARD OF COUNTY COMMISSIONERS

P.O. Box 398
Fort Myers, Florida 33902-0398
(813) 335-2111
(813) 335-2236

Where's Direct Mail Number

May 9, 1995



- John P. Manning
Chairman
- Harold B. B. Form
Member
- Ray Smith
Member
- Anthony B. Cox
Member
- John P. Adams
Member
- Donald D. Bayo
Member
- James C. Lippert
Member
- Diane M. Smith
Member

Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
101 East Gaines Street, Fletcher Building
Tallahassee, Florida 32399-0850

RE: DOCKET NO. 941271-WS, APPLICATION FOR EXTENSION OF
SERVICE AREAS (AMENDMENT OF CERTIFICATES NOS. 27-W
AND 24-S) BY FLORIDA CITIES WATER COMPANY IN LEE COUNTY,
FLORIDA

Dear Ms. Bayo:

Enclosed is a certified copy of a Settlement Agreement between Lee County and Florida Cities Water Company with respect to the above. The Agreement has been approved by both parties, and is now being submitted for Commission consideration and approval.

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this letter and returning same to me and advise of further Commission action. Thank you for your assistance in this matter.

Cordially,

David M. Owen
Assistant County Attorney

RECEIVED

MAY 15 1995

Florida Public Service Commission
Division of Water and Wastewater

DMO:dm
Enclosure

cc: Wayne L. Schiefelbein, Esq., Galfin, Woods, Carlson & Cowdery
Michael Acosta, P.E., Florida Cities Water Co., Poinciana Utilities
James G. Yeager, County Attorney
Robert W. Gray, Deputy County Attorney
J.W. French, P.E., Director, Public Works
Glenn Greer, P.E., Director, Lee County Utilities
Lisa A. Jaber, Esq., Florida Public Service Commission
Timothy Vaccaro, Esq., Florida Public Service Commission

BY

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ATTACHMENT A
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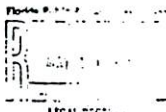
BOARD OF COUNTY COMMISSIONERS

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MAY 9 1995

P.O. Box 398
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When I Don't Dial Number

Wayne L. Schiefelbein, Esq.
Gallin, Woods, Carlson & Cowdery
1709-D Mahan Drive
Tallahassee, Florida 32308



RE: APPLICATION FOR EXTENSION OF SERVICE AREAS
(AMENDMENT OF CERTIFICATES NOS. 27-W AND 24-S)
BY FLORIDA CITIES WATER COMPANY IN LEE COUNTY, FLORIDA
DOCKET NO. 941271-WS

Dear Wayne

Pursuant to the Board of County Commissioners' action on the above matter last Wednesday, May 3, 1995, which was approved unanimously and without comment from the Board, I am providing you with a fully executed original of the Settlement Agreement.

I will be sending a certified copy of same to the Public Service Commission under separate cover within the next few days and will copy you and Mr. Acosta on that correspondence.

If I can be of any further service to you in this matter prior to it being heard by the Public Service Commission, please feel free to contact me at your convenience.

Cordially,

David M. Owen
Assistant County Attorney

DMO:dm
Enclosure

xc: James G. Yeager, County Attorney
Robert W. Gray, Deputy County Attorney
J.W. French, P.E., Director, Public Works
Glenn Greer, P.E., Director, Lee County Utilities
Lisa A. Jaber, Esq., Florida Public Service Commission
Timothy Vaccaro, Esq., Florida Public Service Commission

LEE COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY		BLUE SHEET NO: 950443																											
1. REQUESTED MOTION: Action Requested: Consider, approve and authorize Chairman's signature on a Settlement Agreement between Lee County and Florida Cities Water Company resolving certain issues relating to an "Application for Extension to Service Area" made by Florida Cities in December, 1994, before the Florida Public Service Commission. Why Action is Necessary: To resolve certain franchise area interfacing between the Department of Lee County Utilities and Florida Cities Water Company for water and wastewater service. What Action Accomplishes: Settles franchise interface areas between the parties for further Public Service Commission approval.																													
2. DEPARTMENTAL CATEGORY: COMMISSION DISTRICT # 11a		3. MEETING DATE: May 3, 1995 5-3-95																											
4. AGENDA <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> APPEALS <input type="checkbox"/> PUBLIC TIME REQUIRED:	5. REQUIREMENT/PURPOSE (Specify) <input checked="" type="checkbox"/> STATUTE 367, F.S. ORDINANCE ADMIN. CODE <input type="checkbox"/> OTHER Lee Co. Comp Plan	6. REQUESTOR OF INFORMATION: A. COMMISSIONER _____ B. DEPARTMENT <u>ENGINEERING</u> C. DIVISION _____ BY: <u>DELM H. OWEN</u>																											
7. BACKGROUND: On December 7, 1994, Florida Cities Water Company filed its "Application for Extension to Service Area" with the Florida Public Service Commission relating to certain water customers in the "Town & River" area and certain wastewater customers on the east side of U.S. Highway 41 south of Daniels Road. On January 5, 1995, Lee County timely filed its Formal Objection to the Application with the Florida Public Service Commission. On February 10, 1995, Lee County and Florida Cities met with Florida Public Service Commission staff in Tallahassee for a settlement conference and to set parameters for a resolution of Florida Cities' Application. Subsequently, Florida Cities and Lee County developed a Settlement Agreement between the parties. On April 7, 1995, Lee County received the executed Settlement Agreement from Florida Cities.																													
REQUESTED ACTION: Request Board approval and authorization for Chairman's signature on the Settlement Agreement for further presentation to, and approval by the Florida Public Service Commission, which will then formally resolve all outstanding issues relating to the providing of water service to the "Town and River" area and wastewater service east of U.S. Highway 41, south of Daniels Road.																													
8. STANDING COMMITTEE REVIEW: Date Reviewed by MAP Committee _____ OR "Committee Review Not Required" <input checked="" type="checkbox"/>																													
9. RECOMMENDED APPROVAL																													
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11-95		1/14	1/14	1/14	1/14																								

 | | | | || **10. COMMISSION ACTION:** APPROVED DENIED DELETED OTHER | | |
| | | | | |------------------------|--------------------------------------|-----------------------------| | REC'D BY SBS
5/3/95 | DIS FORWARDED TO CO. ATTY
5-11-95 | REC'D BY CO. ATTY
5/3/95 | |------------------------|--------------------------------------|-----------------------------| | | |

SETTLEMENT AGREEMENT

This Settlement Agreement is made this 1st day of May, 1995, by and between LEE COUNTY, a political subdivision of the State of Florida ("County") and FLORIDA CITIES WATER COMPANY, a Florida Public Service Commission ("FPSC")-regulated water and wastewater service provider, conducting business in Lee County ("FCWC"), collectively, "the Parties", hereto.

WHEREAS, the Board of County Commissioners as the governing body in and for Lee County, Florida, is providing certain water and wastewater services throughout unincorporated Lee County; and,

WHEREAS, FCWC, as a Florida Public Service Commission-certificated water and wastewater service provider, holds certain franchised areas (Certificates 27-W and 24-S) within Lee County authorizing the providing of water and wastewater service within certain designated areas of Lee County; and,

WHEREAS, on December 7, 1994, FCWC filed with the Florida Public Service Commission its "Application for Extension of Service Areas (Amendment of Certificate Nos. 27-W and 24-S) in Lee County", requesting from the Florida Public Service Commission an extension to its service areas for certain water and wastewater service; and,

WHEREAS, on January 5, 1995, Lee County filed its Formal Objection to FCWC's application; and,

WHEREAS, as the result of certain discussions between the Parties, and the Florida Public Service Commission staff, the Parties now wish to resolve their

differences with respect to FCWC's "Application for Extension", and seek Florida Public Service Commission approval for such resolution; and,

WHEREAS, with Florida Public Service Commission approval, the Parties, their successors or assigns, in consideration of the foregoing and for other good and valuable consideration to include the terms and covenants as set out further herein, shall abide by the terms of this Settlement Agreement as follows:

General Matters

1. The foregoing recitals are incorporated herein as if further set out at length.
2. This Agreement shall be construed and interpreted according to Florida Law, in particular, Chapters 125 and 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code.
3. This Agreement shall become binding upon the Parties, their successors or assigns upon execution by duly authorized representatives of the respective entities, and upon formal approval by the Public Service Commission.
4. This Agreement may not be amended or altered without approval and execution of a writing adopted by the Parties hereto with the same formalities as this Agreement, and formal approval by the Florida Public Service Commission.
5. This Agreement supersedes any and all discussions,

understandings or agreements between the Parties, whether written or oral, to the extent that such previous understandings may be inconsistent with the terms and conditions of this Settlement Agreement.

6. It is the intention of the Parties hereto to amicably resolve their differences with respect to the providing of water and wastewater service to certain water and wastewater customers in Lee County, as further outlined below.

Obligations of FCWC

7. FCWC agrees to allow Lee County to connect and provide water service to thirteen (13) certain residences currently being served by FCWC, located along Cypress Lake Drive in the "Town and River" Subdivision of Lee County, and as further described at Section 2., paragraph a. of FCWC's "Application for Extension".
8. FCWC agrees to allow Lee County to provide water service to one (1) certain undeveloped lot located along Cypress Lake Drive in the "Town and River" Subdivision of Lee County, when it is developed, and which is further described at Section 2., paragraph c. of FCWC's "Application for Extension".
9. FCWC agrees to continue to provide wastewater service to the aforementioned thirteen (13) certain residences and shall provide wastewater service to the one (1) undeveloped lot, once

developed, all of which are located along Cypress Lake Drive in the "Town and River" Subdivision of Lee County.

10. FCWC agrees to allow Lee County to connect and provide wastewater service to two (2) certain businesses currently being served by FCWC, located on the east side of U.S. Highway 41 in south Lee County, to wit: "Standard Brands Plaza II", and "Galeana Chrysler", and as further described at Section 2., paragraph b. of FCWC's "Application for Extension".
11. FCWC agrees to allow Lee County to provide wastewater service to one (1) business proposed for service, located on the east side of U.S. Highway 41 in south Lee County, to wit: "Dixie Buick", and as further described at Section 2., paragraph d. of FCWC's "Application for Extension".
12. Subject to the limitations and requirements as set out at Section 367.045(5)(a) and (b), Florida Statutes, and Rule 25-30.036, Florida Administrative Code, FCWC acknowledges that the wastewater service area lying east of U.S. Highway 41 in south Fort Myers from Daniels Road southerly to approximately Island Park Road and bounded to the east by the Six-Mile Parkway and Metropolitan Parkway, respectively, as outlined in the Lee County Comprehensive Plan, "Future Sanitary Sewer Service Areas Map #7.", is currently a planned Lee County wastewater service area

(viz., part of the Lee County "South Fort Myers Sewer System").

13. As part of the transition for the above, FCWC hereby agrees to use its best efforts to assist and cooperate with Lee County with respect to all aspects of the transition of existing FCWC water service or wastewater service customers to Lee County, to include but not be limited to: notification of existing customers by written communication, coordination of changing meters, and providing billing histories for the transferred customers, prior to the transition of any existing FCWC customers.
14. Following the effective date of any FPSC Order approving this Settlement Agreement, FCWC agrees to amend its original "Application for Extension of Service Areas" to reflect the intent, terms and conditions of this Settlement Agreement, for further consideration by the Florida Public Service Commission.

Obligations of Lee County

15. Lee County shall connect and provide water service to those thirteen (13) certain residences in the "Town and River" Subdivision of Lee County, as soon as practicable, and in no event later than one hundred twenty (120) days following the effective date of any FPSC Order approving this Settlement Agreement. Lee County shall make no demand from any of the thirteen (13) residential customers nor from FCWC, for any "Lee County

Connection Fee" charges for such connections.

16. Lee County agrees that the thirteen (13) said residences, once connected, shall become Department of Lee County Utilities customers, entitled to the standard County-wide Department of Lee County Utilities water rates and charges (except the Connection Fee charges), and subject to the rules and regulations of the Department of Lee County Utilities Operations Manual, as adopted by the Board of County Commissioners and amended from time to time.
17. Lee County shall provide water service to that one (1) certain undeveloped lot in the "Town and River" Subdivision of Lee County, when it is developed. Upon such development and application by the developer/owner, Lee County shall have the right to collect the current "Lee County Connection Fee" for the particular development on the property for connection to the Lee County water system. Further, said development shall become a Department of Lee County Utilities customer, entitled to the standard County-wide Department of Lee County Utilities water rates and charges, and subject to the rules and regulations of the Department of Lee County Utilities Operations Manual, as adopted by the Board of County Commissioners and amended from time to time.

18. Lee County shall connect and provide wastewater service to "Standard Brands Plaza II" and "Galeana Chrysler", located east of U.S. Highway 41 in south Lee County, as soon as practicable, and in no event later than one hundred twenty (120) days following the effective date of any FPSC Order approving this Settlement Agreement. Lee County shall make no demand from either business nor from FCWC for any "Lee County Connection Fee" charges for such connection.
19. Lee County agrees that the above two businesses, once connected, shall become Department of Lee County Utilities customers, entitled to the standard rates and charges (except the Connection Fee charges) for the County's South Fort Myers Sewer System, and subject to the rules and regulations of the Department of Lee County Utilities Operations Manual, as adopted by the Board of County Commissioners and amended from time to time.
20. Lee County shall provide central wastewater service to "Dixie Buick", located east of U.S. Highway 41 in south Lee County, as soon as practicable, and in no event later than December 1, 1995. Upon connection, Lee County shall have the right to collect the current "Lee County Connection Fee" for the "Dixie Buick" development for its connection to the South Fort Myers Sewer System. Further, said development shall become a Department of

Lee County Utilities customer, entitled to the standard rates and charges for the County's South Fort Myers Sewer System, and subject to the rules and regulations of the Department of Lee County Utilities Operations Manual, as adopted by the Board of County Commissioners and amended from time to time.

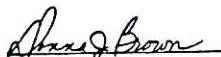
21. Lee County, in conjunction with FCWC, and prior to transition, shall notify in writing all affected FCWC customers as outlined herein, of all matters relating to the transition from FCWC service to Department of Lee County Utilities service, to include Department of Lee County Utilities rates and charges, and specific times for individual customer transition to either Department of Lee County Utilities water service or Department of Lee County Utilities wastewater service.
22. Lee County agrees to cooperate with and assist FCWC with any other matters related to the transition of the water service and wastewater service customers, both existing and proposed, in order to complete such transition in an orderly and efficient manner.
23. Following the effective date of any FPSC Order approving this Settlement Agreement, Lee County agrees to withdraw its Formal Objection to FCWC's "Application for Extension of Service Areas" once amended by FCWC as contemplated at paragraph 14. herein,

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and shall make no further objections to the amended Application so long as the same conforms to the intent, terms and conditions as outlined in this Settlement Agreement and approved by the FPSC.


WHEREFORE, the Parties have executed this Settlement Agreement on the date as first set out above, by the signature of their duly authorized representatives.


Witness


Witness

CORPORATE SEAL

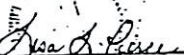
FOR FLORIDA CITIES WATER COMPANY:

By: 
Name
Michael Acosta
Vice President
Engineering and Operations
Title

APPROVED AS TO FORM & LEGALITY.

By: 
Counsel to FCWC

ATTEST: CHARLIE GREEN

By: 
Deputy Clerk

FOR LEE COUNTY:

By: 
John E. Albion, Chairman
Board of County Commissioners

APPROVED AS TO FORM & LEGALITY:

By: 
Office of the Lee County Attorney

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

Section 12, Township 46 South, Range 24 East.

All of the northeast quarter (NE-1/4) of the northwest quarter (NW-1/4) of the northeast quarter (NE-1/4).

Section 4, Township 46 South, Range 25 East.

From the southwest corner of Section 4, Township 46 South, Range 25 East run N 00° 16' 32" W along the west line of said Section 4 for 1,320 more or less, to an intersection with a line that is 1,320 north of (as measured on a perpendicular) and parallel with the south line of said Section 4 and the Point of Beginning.

From said Point of Beginning continue N 00° 16' 32" W along the west line of said Section 4 for 1,150.27 feet; thence run N 89° 47' 16" E for 1,014.22 feet; thence run S 00° 16' 32" E for 1,050.20 feet to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 4; thence run S 89° 47' 01" W along said parallel line for 1,014.22 feet to the Point of Beginning.

Bearings hereinabove mentioned are based on the west line of Section 4, Township 46 South, Range 25 East to bear N 00° 16' 32" W.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

Section 5, Township 46 South, Range 25 East.

From the south quarter (S-1/4) corner of Section 5, Township 46 South, Range 25 East run N 89° 47' 03" E along the south line of Section 5 for 1,632.63 feet; thence run N 00° 16' 03" W for 1,320 feet, more or less to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 5 and the Point of Beginning.

From said Point of Beginning continue N 00° 16' 03" W for 1,150.11 feet; thence run N 89° 47' 16" E for 1,016.69 feet to an intersection with the east line of said Section 5; thence run S 00° 16' 32" E along said east line for 1,150.27 feet to an intersection with a line that is 1,320 feet north of (as measured on a perpendicular) and parallel with the south line of said Section 5; thence run S 89° 47' 03" W along said parallel line for 1,017 feet, more or less, to the Point of Beginning.

Bearings hereinabove mentioned are based on the south line of Section 5, Township 46 South, Range 25 East to bear N 89° 47' 03" E.

Section 8, Township 46 South, Range 25 East.

All of the southeast quarter (SE-1/4) of the northwest quarter (NW-1/4).

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WASTEWATER SERVICE AREA

Sections 20 and 21, Township 45 South, Range 24 East.

From the intersection of the centerline of McGregor Boulevard (State Road 867) and the south line of the northwest quarter (NW-1/4) of Section 21, Township 45 South, Range 24 East, run S 89° 00' 14" W along said south fractional line for a distance of 194.26 feet to the Point of Beginning.

From said Point of Beginning continue S 89° 00' 14" W along the south line of the northwest quarter (NW-1/4) of said Section for 2363.31 feet; thence run N 00° 59' 46" W for 140.02 feet; thence run N 89° 00' 14" E for 409.97 feet; thence run N 88° 38' 45" E for 160.00 feet; thence run N 89° 00' 14" E for 1485.00 feet; thence run N 64° 35' 14" E for 36.02 feet; thence run S 63° 32' 13" E for 131.53 feet; thence run N 17° 43' 00" E for 91.20 feet; thence run S 72° 17' 00" E for 181.00 feet; thence run S 17° 43' 00" W for 130.46 feet; to the Point of Beginning.

Bearings hereinabove mentioned are based on the south line of the northwest quarter (NW-1/4) of Section 21, Township 45 South, Range 24 East to bear S 89° 00' 14" W.

Section 29, Township 45 South, Range 24 East.

All that part of the west half (W-1/2) of the west half (W-1/2) of the east half (E-1/2) of the southwest quarter (SW-1/4) lying south of McGregor Boulevard (State Road 867).