

LAW OFFICES

MARTIN, ADE, BIRCHFIELD & MICKLER, P.A.

ONE INDEPENDENT DRIVE - SUITE 3000
JACKSONVILLE, FLORIDA 32202

MAILING ADDRESS
POST OFFICE BOX 59
JACKSONVILLE, FLORIDA 32201

TELEPHONE (904) 354-2050
TELECOPIER (904) 354-5842

FILE COPY

JAMES L. ADE
LYNDA R. AYCOCK
W. G. BIRCHFIELD
TIMOTHY A. BURLINGHAM
CHARLES L. CRANFORD
PHILLIP A. DELMONT
STEPHEN H. DURANT
T. WILLIAM GLOCKER
MICHAEL E. GOODBREAD, JR.
STEPHEN D. HALKER
SHARON ROBERTS HENDERSON

BARBARA CHRISTIE JOHNSTON
WILHELMINA F. RIGTLINGER
MYRA LOUGHRAN
RALPH H. MARTIN
ROBERT D. MICKLER
JOHN D. MILTON, JR.
D'NIEL B. NUNN, JR.
SCOTT D. SCHLOBERG
MICHAEL D. WHALEN
GARY L. WILKINSON
L. PETER JOHNSON (1942-1988)

July 11, 1997

VIA FEDERAL EXPRESS

Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: Application for Rate Increase in Duval, Nassau and
St. Johns Counties by United Water Florida Inc.,
Docket No. 960451-WS, ("Application")

Dear Ms. Bayo:

In connection with the above-referenced matter, please find enclosed for filing an original and seven copies of Reply to Citizen's Response to Motion for Reconsideration. Please file the original and distribute the copies in accordance with your usual procedures.

If you have any questions or comments regarding this matter, please do not hesitate to call.

Sincerely yours,

James L. Ade
James L. Ade

ACK _____
AFA 2
APP _____
CAF _____
CMU _____ SGS/msa
CTR _____ Enclosures

EAG _____ cc: Mr. David E. Chardavoyne
LEG 1 Mr. Walton F. Hill
LIN 5 Mr. Robert J. Iacullo
Mr. Frank J. McGuire
Mr. Munipalli Sambamurthi
Ms. Rosanne G. Capeless
Mr. Harold McLean

W. J. Willis

DOCUMENT NUMBER-DATE

07006 JUL 14 97

FPSC-RECORDS&REPORTING

ORIGINAL
FILE COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Rate Increase) DOCKET NO. : 960451-WS
in Duval, Nassau, and St. Johns)
Counties by United Water Florida) Date Submitted for
Inc.) Filing: July 11, 1997
_____)

**REPLY TO CITIZEN'S RESPONSE TO
MOTION FOR RECONSIDERATION**

United Water Florida Inc. ("United Water Florida" or "Company"), by and through the undersigned attorneys, hereby files with the Florida Public Service Commission ("Commission") this Reply to Citizen's Response to Motion for Reconsideration, and states as follows:

1. On June 13, 1997, United Water Florida submitted for filing its Motion for Reconsideration of Order No. PSC-97-0618-FOF-WS ("Motion for Reconsideration").
2. On June 25, 1997, the Office of Public Counsel ("OPC") filed Citizen's Response to Motion for Reconsideration ("OPC's Response").
3. The Commission's decision should be based upon the record. United Water Florida disagrees with the statements in OPC's Response and notes that some of the statements in OPC's Response are not supported by the record. Two of such statements are so erroneous and unsupported that United Water Florida is compelled to file this reply.
4. In its discussion of the Investment Tax Credit ("ITC"), OPC contends that the only "evidence presented by the Company ... is limited to an affidavit by witness McGuire, which in effect

07006 JUL 14 5

EPSC RECORDS REPORTING

states we think we did, we hope we did, but if we didn't we're depending on the IRS to catch us." OPC's Response, page 10. First, OPC is clearly incorrect in asserting that the only evidence on this point is the affidavit. As discussed in pages 16 through 19 of the Motion for Reconsideration, there is other evidence regarding the Investment Tax Credit. Second, there is no affidavit by "witness McGuire"; however, there is an affidavit by James Linn, Director-Taxes for United Water Management and Services, Inc., a copy of which is attached. The affidavit states that United Water Florida, "as a participant in the consolidated income return ... elected Option 2 under Section 46 (f) (2), which was to amortize the ITC ratably over the life of the qualifying property" - which is not, as alleged by OPC, a statement that "we think we did, we hope we did." The affidavit also provides that, to the knowledge of the Director of Taxes, no deficiency or exception in connection with the treatment of ITC has ever been assessed or taken by the Internal Revenue Service - not, as claimed by OPC, "if we didn't we're depending on the IRS to catch us." Moreover, as stated in the affidavit, "If an election had not been made by the Company, the Internal Revenue Service would have disallowed the ITC claimed as a result of a normalization violation in connection with the amortization of the ITC over the life of such property." (emphasis added).

5. In its discussion on the Parent-Debt Adjustment, OPC states that:

Clearly, United Water Florida's parent, United Waterworks, is funded by United Water Resources, therefore, the flow of funds from parent to subsidiary to subsidiary is clear. Consequently, in order for the Company to meet its rebuttable assumption [sic], United Water Resources would have to have a capital structure that consists of 100% equity in order to meet its burden of stating that no United Water Resources debt flowed to United Water Florida through its parent, United Waterworks. If there is any debt at all in a parent company's capital structure, then that debt, as part of the capital, automatically flows from the parent to subsidiary to subsidiary via the parent company's investment in those subsidiaries.

OPC's Response, pages 10-11.

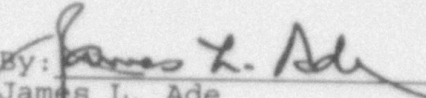
OPC does not cite any support in law or the record for such statements. OPC's position would convert the rebuttable presumption to an irrebuttable presumption, but OPC provides no support for this position. The only uncontradicted evidence in the record on this point is that no debt flowed from United Water Resources Inc. to the equity of United Waterworks Inc. or to the equity of United Water Florida. See e.g., TR. 874; Motion for Reconsideration, p. 20.

6. Accordingly, the Commission should grant the Motion for Reconsideration and the requests made in the motion.

Dated this 11th day of July, 1997.

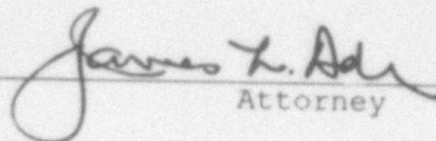
Respectfully submitted,

MARTIN, ADE, BIRCHFIELD &
MICKLER, P.A.

By: 
James L. Ade
Florida Bar No. 0000460
Scott G. Schildberg
Florida Bar No. 0613990
3000 Independent Square
Jacksonville, FL 32202
Telephone: (904) 354-2050
Attorneys for United Water
Florida Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of the Reply to Citizen's Response to Motion for Reconsideration of Order No. PSC-97-0618-FOF-WS, has been furnished by Federal Express this 11th day of July, 1997, to Blanca Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and a copy of the foregoing has been furnished to Rosanne G. Capeless, Attorney for the Staff of the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and to Harold McLean, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400, by U.S. Mail, this 11th day of July, 1997.


Attorney

LATE FILED EXHIBITS
UNITED WATER FLORIDA INC.

DOCKET NO. 960451-WS

REQUEST LFE-51 (J. Linn)

Affidavit of Tax Manager Re: ITC Election and Form

RESPONSE:

Please see the attached affidavit.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate increase in Duval, Nassau, and St. Johns Counties by United Water Florida, Inc.

DOCKET NO. 960451-WC

STATE OF NEW JERSEY
COUNTY OF BERGEN

SS:

I, James Linn, being first duly sworn according to law, depose and say that:

1. I am Director-Taxes for United Water Management and Service Inc., with general responsibility for the preparation, filing and processing of tax returns and associated tax documents for United Water Resources and subsidiaries, including United Water Florida (UWF).

2. I am familiar with the issue that has arisen in the above captioned matter with regard to UWF's election under Section 46 (f) (1) of the Internal Revenue Code relating to the treatment of the Investment Tax Credit.

3. UWF, as a participant in the consolidated income return of General Waterworks Corporation (now United Waterworks Inc.) and subsidiaries, in 1972 elected Option 2 under Section 46 (f) (2), which was to amortize the ITC ratably over the life of the qualifying property.

4. After diligent effort, a copy of the original election was not found.

5. In the most recent audit by the Internal Revenue Service of the consolidated income tax return, which was the 1990 return, no deficiency was cited by the Service in connection with the treatment of the ITC, and to my knowledge, no deficiency or exception has ever been taken by the Service in this regard. If an election had not been made by the Company, the Internal Revenue Service would have disallowed the ITC claimed as a result of a normalization violation in connection with the amortization of the ITC over the life of such property.

6. A change from this methodology would be a normalization violation which would result in the recapture of all the unamortized ITC.

James Linn
James Linn

Sworn to before me this 7th day of February, 1997

JENNIFER A. SCHUSSEL
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES AUG. 29, 2001