

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

MEMORANDUM

FEBRUARY 5, 1998

RECEIVED

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FPSC - Records Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER & WASTEWATER (REDEMANN) *RRK*  
DIVISION OF LEGAL SERVICES (BRUBAKER) *AS* *John* *Bl*

RE: DOCKET NO. ~~98-11~~ - FLORIDA CITIES WATER COMPANY - LEE  
COUNTY DIVISION APPLICATION TO EXTEND TEMPORARY WATER  
SERVICE IN LEE COUNTY, AMENDMENT OF CERTIFICATES NOS. 27-  
W AND 24-S TO INCLUDE TERRITORY IN LEE COUNTY, AND  
DELETION OF A PORTION OF TERRITORY IN WATER CERTIFICATE  
NO. 72-W BY GULF UTILITY COMPANY IN LEE COUNTY.  
COUNTY: LEE

AGENDA: FEBRUARY 17, 1998 - REGULAR AGENDA - INTERESTED PERSONS  
MAY PARTICIPATE.

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\970696W2.RCM

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### CASE BACKGROUND

Florida Cities Water Company - Lee County Division (Florida Cities, FCWC, or utility) provides water and wastewater service in Lee County and serves approximately 18,658 water customers in North and South Ft. Myers. Wastewater service is provided to 6,003 customers in South Ft. Myers and 2,686 customers in North Ft. Myers. The annual report for 1996 shows that the consolidated water annual operating revenue for the Lee County system is \$8,542,616 and the net operating income is \$2,330,909. The North Ft. Myers wastewater system had operating revenue of \$2,362,632 and a net operating income of \$698,730. The South Ft. Myers wastewater system had operating revenue of \$3,557,252 and a net operating income of \$805,957. The utility is a Class A utility company under Commission jurisdiction.

On June 9, 1997, Florida Cities requested that the Commission open a docket to consider approval of an expedited request for an extension of water service. Two adjacent property owners requested water service from Florida Cities, since it had existing lines closest to the properties. Both small parcels were located in the certificated water service area of Gulf Utility Company. This extension was granted to FCWC on a temporary basis at the June 24, 1997 Agenda Conference, resulting in Order No. PSC-97-0784-FOF-WS, issued on July 1, 1997. The Order noted that an application consistent with Section 367.045, Florida Statutes was to be filed within the next several weeks. On July 21, 1997, Florida Cities filed the amendment, which is the subject of this docket, to include more territory. This territory is also in the South Fort Myers area.

Staff has authority to administratively approve applications for amendment when no objections have been filed and the application is without controversy. This case is being brought to the attention of the Commission because it was filed to correct several other situations besides the extension to serve the two customers in Gulf's current service territory: letters of objection to the application were filed; the utility is serving one water customer outside of its certificated territory (Full Service Storage); this is a large amendment area (about 7 square miles of water and wastewater area and 6 square miles of water area); and we are also deleting a portion of Gulf's certificated area as previously discussed by the Commission at the June 24, 1997 Agenda Conference. The objection will be addressed in greater detail in Issue 1. In Issue 2 we will address the utility's violation of Section 367.045(2), Florida Statutes, in that the utility is serving outside of its certificated area. Issue 3 will address the

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amendment of certificate, and in Issue 4 we will address the deletion of Gulf's certificated territory.

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DISCUSSION OF ISSUES

ISSUE 1: Should Florida Cities Water Company's Motion To Dismiss Objection Letters be granted?

RECOMMENDATION: Yes. (BRUBAKER)

STAFF ANALYSIS: Pursuant to Rule 25-30.030, Florida Administrative Code, on July 22, 1997, FCWC mailed written notice to relevant utilities and government officials, and all known property owners of record in the proposed service area. FCWC also published a legal notice of its amendment application in a local newspaper, in this case the Fort Myers News-Press, in Lee County on July 22, 1997. On July 30, 1997, a corrected notice was published in the same newspaper. Pursuant to Rule 25-30.030, Florida Administrative Code, all notices distributed by FCWC stated that:

Any objections to the application must be filed in writing with the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870 no later than thirty (30) days after the last date that this notice was mailed or published, whichever is later.

This was followed by a statement that:

A copy of said objection should be mailed to Wayne L. Schiefelbein, Gatlin, Schiefelbein & Cowdery, P.A., 1709-D Mahan Drive, Tallahassee, FL 32308, (904) 877-5609, Attorneys for Florida Cities Water Company.

The last date on which notice was mailed or published was July 30, 1997. Thus, the deadline for filing an objection to FCWC's amendment application with the Division of Records and Reporting was August 29, 1997. No objections were received by the Commission on or before that date.

On August 11, counsel for FCWC received a copy of a letter dated August 7, 1997, from the Southwest Florida Regional Planning Council to the Division of Records and Reporting, in which the Council staff stated its recommendation that FCWC's application was regionally significant and consistent with the Council's regional policy plan.

On or about August 17, 1997, counsel for FCWC received a letter addressed to him and dated August 13, 1997, from Mrs. Mary H. Rutledge, which stated without further explanation that she objected to FCWC's proposed expansion. Mrs. Rutledge and her

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husband, Mr. Duane Rutledge, are property owners in an area of Lee County in which FCWC is seeking to extend water, but not wastewater service. Mr. and Mrs. Rutledge meet their water and wastewater needs through a private well and septic tank system. Mrs. Rutledge's letter did not indicate whether a copy of her objection had been sent to the Commission's Division of Records and Reporting.

On August 22, 1997, counsel for FCWC received a copy of a letter addressed to the Division of Records and Reporting from Mr. Jerry S. Shannon. The letter indicated Mr. Shannon's objection to FCWC's proposed extension on the grounds that he was concerned that the extension would cost him money. Mr. Shannon is also a property owner in an area of Lee County in which FCWC is seeking to extend water, but not wastewater service. His water needs are also currently being met through a private well system.

By letter dated September 18, 1997, counsel for FCWC filed with the Commission copies of the three letters discussed above. In his letter, counsel stated that, upon review of the docket file for this proceeding, he discovered that the file did not include correspondence from the Southwest Florida Regional Planning Council, Mrs. Rutledge or Mr. Shannon.

By letter dated September 29, 1997, the Director of the Division of Records and Reporting notified counsel for FCWC that the letter from the Southwest Florida Regional Planning Council had been received in the Director's office on August 11, 1997, and had been inadvertently forwarded to the Division of Water and Wastewater. The letter had since been retrieved from that Division and placed in the docket file for this proceeding. The Director stated that the August 13, 1997 letter addressed to counsel for FCWC from Mrs. Rutledge was apparently not copied to the Director's office at the time it had been mailed to counsel. The Division of Records and Reporting had no knowledge of Mrs. Rutledge's letter prior to counsel for FCWC's forwarding a copy on September 18, 1997. Finally, although Mr. Shannon's letter of August 19, 1997 was properly addressed to the Director of the Division of Records and Reporting, the Director stated that Mr. Shannon's letter had not been found after an extensive search, and that it was her belief that the letter was never received by her office.

The letter from the Southwest Florida Regional Planning Council merely states the Council's recommendation that FCWC's application is regionally significant and consistent with the Council's regulatory comprehensive plan. Because the Council's letter is not in the nature of an objection, staff believes no further discussion is required in its regard.

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By letters to Mrs. Rutledge and Mr. Shannon dated October 24, 1997, staff counsel inquired as to their intent regarding their objections to FCWC's application, and whether they intended to pursue the matter to formal hearing. Staff requested a response from each by November 5, 1997. Mr. Shannon did not respond to staff's letter, and staff was unable to contact him by telephone.

Staff had several telephone conversations with Mr. Rutledge regarding his objection. Mr. Rutledge stated that an objection had been timely mailed to the Division of Records and Reporting, but could offer no explanation as to why the objection had never been received by the Division. Staff requested that Mr. Rutledge file a second letter with the Commission specifically stating when and how he received notice of FCWC's application, when and by what means his first objection was sent, an explanation as to why his initial objection had not been timely received, and specifically setting forth his objection to FCWC's application in accordance with Rule 25-22.036, Florida Administrative Code.

A letter from Mr. and Mrs. Rutledge, dated October 31, 1997, was received by the Division of Records and Reporting on November 6, 1997. The October 31st letter did not explain when and how the Rutledge's received notice of FCWC's application, when and by what means their first objection was sent, or why the initial objection had not been timely received. Instead, the October 31st letter stated that Mr. and Mrs. Rutledge believed that if FCWC's application were granted, they would have to become customers of the utility, which they did not want to happen. They further stated that they had no need of FCWC's services, that service from FCWC would be duplicative of services which they provided for themselves, and that they had general concerns regarding the quality of service that would be provided by FCWC. Included in the Rutledge's October 31st letter, unsigned and marked "copy", was the August 13, 1997 letter originally received by counsel for FCWC, and a letter correctly addressed to the Director of the Division of Records and Reporting from Mrs. Rutledge and dated August 13, 1997. This last letter appears to state Mrs. Rutledge's concerns that the proposed extension would ultimately cost her money, and that she wished to continue utilizing her own private well and septic system.

Subsequently, on January 5, 1998, FCWC filed a Motion to Dismiss Objection Letters. In its Motion, FCWC states that neither Mr. and Mrs. Rutledge or Mr. Shannon timely filed their objections to FCWC's Notice of Application, and that their letters of objection were in fact submitted to the PSC by FCWC's counsel nearly three weeks after the period for filing objections had passed. FCWC further asserts that no good cause has been provided

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for their failure to timely file the objections. Furthermore, FCWC correctly notes that neither Mr. and Mrs. Rutledge or Mr. Shannon have requested a hearing before the PSC in their letters of objection. FCWC also seeks to dismiss the objection letters on the grounds that Mr. and Mrs. Rutledge and Mr. Shannon do not have standing to object to FCWC's application, pursuant to Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2d DCA 1981), discussed below. Finally, FCWC notes in its motion to dismiss that, at best, Mr. and Mrs. Rutledge and Mr. Shannon are property owners within the area which FCWC seeks to include in its water service area, that they are currently meeting their own needs for water service from private wells, and that they do not need or want water service from FCWC. FCWC notes that it has no authority to mandate water service connections, but seeks instead to provide the option of central water service availability to property owners within the area in which the Mr. and Mrs. Rutledge and Mr. Shannon live.

Neither Mr. or Mrs. Rutledge or Mr. Shannon have filed a response to FCWC's Motion to Dismiss Objection Letters, and the time for filing a response has expired.

#### Untimeliness

Staff believes that utility raises a valid argument with respect to the letters of objection being untimely filed pursuant to Section 367.045(3), Florida Statutes, which states that the Commission may dispose of a certificate amendment application without hearing, if a written objection to the notice of application is not received within thirty days after the last day that notice was mailed or published by the applicant, whichever is later. Further, pursuant to Rule 25-30.030, Florida Administrative Code, the last date on which notice was mailed or published was July 30, 1997. Therefore, a written timely objection must have been received by the Commission by August 29, 1997. Additionally, Rule 25-22.036(9)(b)(1), Florida Administrative Code, states that the Commission may deny a petition for a formal proceeding if it is untimely. Whether to grant or deny an untimely petition is within the discretion of the Commission. In prior cases, the Commission has accepted late-filed objections when good cause is demonstrated as to why the petition is untimely. See Order No. PSC-95-1386-FOF-WS, issued November 8, 1995, in Docket No. 950695 WS, wherein the Commission determined good cause was shown for an objection which was filed five days after the expiration of the protest period, where a copy of the objection appeared to have been sent by facsimile three days prior to the expiration of the protest period, and the attorney filing the objection had been in good faith unable

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to mail the objection prior to the thirtieth day of the protest period.

Staff believes that neither Mr. Shannon or Mr. and Mrs. Rutledge have shown good cause why their letters of objection were not timely filed. Indeed, after an extensive search by the Director of the Division of Records and Reporting, there has been no evidence that either letter of objection was ever received by the Commission. Staff had no knowledge of Mr. Shannon and Mr. and Mrs. Rutledge's objection letters prior to counsel for FCWC's forwarding copies of the letters which he himself had received. As has already been noted, Mr. Shannon has never responded to staff's letter or telephone messages. In spite of being specifically requested to do so by staff, Mr. Rutledge has not provided any justification as to why his objection was not timely filed with the Commission.

#### Failure to State Cause of Action

Even if Mr. Shannon and Mr. and Mrs. Rutledge had demonstrated good cause as to why their letters of objection were not filed with the Commission, staff believes that their objections are nevertheless still subject to dismissal. The standard used in addressing a motion to dismiss is whether, assuming all allegations in the petition are facially valid, the petition nevertheless fails to state a cause of action for which relief may be had. See Order No. PSC-95-0062-FOF-WS, issued January 11, 1995 in Docket No. 940091-WS; Order No. PSC-95-1386-FOF-WS, issued November 8, 1995 in Docket No. 950695-WS. In this instance, both Mr. Shannon and Mr. and Mrs. Rutledge expressed concern that the proposed expansion of service territory would cost them money in the form of rates and service availability charges. Mr. and Mrs. Rutledge expressed their concern that they would ultimately be forced to abandon their existing well system and interconnect with FCWC's regional water facilities, and that they had apprehensions regarding the quality of FCWC's water service.

As mentioned previously, both Mr. Shannon and Mr. and Mrs. Rutledge are meeting their water needs by private wells. Under the existing circumstances, there are no statutes or administrative rules which would require Mr. Shannon or Mr. and Mrs. Rutledge to interconnect with FCWC's regional water system, if FCWC's application is granted. Staff has conferred with the Lee County Attorney's Office, and has learned that there are likewise no County ordinances which would mandate interconnection with FCWC's facilities. In conversations with staff, Mr. Rutledge has expressed his concern that it would only be a matter of time before such an ordinance would be placed into effect. However it is

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staff's belief that such concerns are speculative and remote at best. Even assuming all allegations in the letters of objection are facially valid, they nevertheless fail to state a cause of action for which relief may be had.

#### Lack of Standing

In its motion to dismiss, FCWC states that before one can be considered to have a substantial interest in the outcome of a proceeding, he or she must show (1) that he or she will suffer injury in fact which is of sufficient immediacy to entitle him or her to a Section 120.57 hearing, and (2) that his or her substantial injury is of a type or nature which the proceeding is designed to protect. Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2d DCA 1981). See also Order No. PSC-93-0363-FOF-WS, issued March 9, 1993 in Docket No. 921237-WS. FCWC asserts in its motion that Mr. and Mrs. Rutledge and Mr. Shannon's letters fail to meet either prong of this test for substantial interest. Staff is inclined to agree.

As discussed above, because there is no requirement that Mr. Shannon or Mr. and Mrs. Rutledge use FCWC's service, concerns regarding interconnection and any associated costs are essentially moot. Under the circumstances, the letters of objection fail to demonstrate that Mr. and Mrs. Rutledge or Mr. Shannon will suffer injury in fact of sufficient immediacy to entitle them to a hearing pursuant to Section 120.57, Florida Statutes. Furthermore, the substantial injury they allude to in their letters is not of a type or nature a hearing in this proceeding would be designed to protect.

In conclusion, staff believes that Mr. and Mrs. Rutledge and Mr. Shannon's letters of objection should be dismissed as untimely. Even if the letters could be considered as having been timely filed, they nevertheless should be subject to FCWC's motion to dismiss for failure to state a cause of action and for lack of standing. Staff therefore recommends that the Commission grant FCWC's Motion to Dismiss Objection letters.

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**ISSUE 2:** Should the Commission order Florida Cities Water Company to show cause, in writing within twenty days, why it should not be fined for violation of Section 367.045(2), Florida Statutes?

**RECOMMENDATION:** No. Show cause proceedings should not be initiated. (BFUBAKER)

**STAFF ANALYSIS:** At the time of the application, the utility was serving one customer outside of its certificated territory, Full Service Storage, which FCWC has been serving since 1987. FCWC believes that at the time it initiated service to such customer that there were ambiguities in the legal description of its territory. This customer should have been included by FCWC in its last extension application (Docket No. 941271-WS), but was inadvertently omitted.

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 the Commission 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.

Staff first became aware that the utility was serving outside of its certificated area through the filing of this application. 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 failure to obtain antecedent Commission approval to extend its service area outside the area described in its certificate of authorization appears to be 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 Saving Refund for 1988 and 1989 For GTE Florida, Inc., the 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.

Staff is recommending that no show cause proceedings be initiated for violation of Section 367.045(2), Florida Statutes. Upon preparation of the instant amendment application, FCWC

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discovered that due to inadvertent errors in interpretation of the legal description of its certificated service areas, water service was being provided to one customer located outside its certificated area. The amendment application explains that the utility was initially preparing this amendment application to extend water service to several areas adjacent to its existing service area. During the process of interpreting the legal description, the company determined that there was an additional customer outside of the utility's service area. The utility acknowledged the problem and attempted to correct it through this application.

In consideration of the foregoing, Staff does not believe that this utility's violation of Section 367.045(2), Florida Statutes, rises to the level of warranting that a show cause order be issued. Therefore, Staff recommends that the Commission not order FCWC to show cause why it should not be fined for failing to obtain the Commission's approval for extending its service area prior to serving that area.

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**ISSUE 3:** Should the application of Florida Cities Water Company for amendment of Water Certificate No. 27-W and Wastewater Certificate No. 24-S be granted?

**RECOMMENDATION:** Yes, Florida Cities Water Company's application should be granted for the additional territory described in Attachments A and B. (REDEMANN)

**STAFF ANALYSIS:** As stated earlier, on July 21, 1997, the utility applied for an amendment of certificate to Water Certificate No. 27-W and Wastewater Certificate No. 24-S in Lee County to extend its certificated territory to include one customer that it has been servicing since 1987 and for additional water and wastewater area all in the South Ft. Myers area. Except as noted in Issue 2, 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 \$3,250, (\$2,250 for water and \$1,000 for wastewater) which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided a copy of their warranty deeds 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 is appended to this memorandum as Attachment A and B, respectively. Attachment A includes the water area. Attachment B includes the wastewater area. 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, an objection to the notice of application have been received. Issue 1 addresses the objection. Issue 4 addresses the deletion of area by Gulf utility. The local planning agency was provided notice of the application and did not file a protest. Staff has contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation regarding this utility.

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, one customer is already being served. Water will be provided by the Green Meadows and College Parkway Water Treatment Plants (WTP). The combined treatment capacity is 10.5 mgd, but is currently limited to 9.75

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mgd due to raw water withdrawal limitations at the College Parkway WTP. The peak flow was 7.78 mgd. The utility estimates an increase in the peak flow of 2.079 mgd. It appears that there is sufficient water treatment capacity to serve the proposed extension.

The Fiesta Village Advanced Wastewater Treatment Plant will serve the proposed wastewater extension. The permitted capacity of the facility is currently 2.5 mgd on annual average daily flow. The annual average daily flow is 2.026 mgd. The estimated increase in average annual daily flow associated with the proposed extension is .255 mgd. The utility has submitted an application to the DEP to construct a 2.5 mgd expansion of its Fiesta Village Advanced Wastewater Plant. The plant expansion is being constructed to meet anticipated growth in the service area and not specifically because of the proposed extension. The utility uses and continues to use spray irrigation as well as surface water discharge as a means of effluent disposal. Therefore, it is apparent that the utility has the capacity to serve these customers. Staff believes the utility has demonstrated the financial and technical expertise to provide quality service to these customers.

The water rates were last set on July 2, 1996, by Order No. PSC-96-0859-FOF-WU in Docket NO. 951029-WU an overearnings investigation. The wastewater rates were last set on September 7, 1993, by Order No. PSC-93-1228-FOF-SU in Docket No. 920808-SU. Minor corrections were addressed by Order No. PSC-93-1278A-FOF-SU to fix some typographical errors. Service availability charges for water became effective 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. Service availability charges for wastewater became effective on March 31, 1987 by Order No. 17169, issued February 9, 1987 in Docket No. 840419-SU as a result of a rate case. Staff recommends the rates and charges approved by the Commission be applied to customers in the new service territory. The utility has returned the certificates for entry of the additional territory and filed revised tariff sheets which reflect the amended territory description.

Based on the above information, staff believes 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 to the additional territory described in Attachments A and B. This area now includes area granted to Gulf Utility Company. Issue 4 will address the deletion of area by Gulf.

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**ISSUE 4:** Should the area described in Attachment C be deleted from Certificate No. 72-W held by Gulf Utility Company?

**RECOMMENDATION:** Yes, the area described in Attachment C should be deleted from Gulf Utility Company. Gulf Utility Company shall file tariff sheets reflecting this deletion and return certificates No. 72-W to the Commission within thirty days of the issuance date of the order. (REDEMANN, BRUBAKER)

**STAFF ANALYSIS:** As stated earlier, two adjacent property owners requested water service from Florida Cities, since it had existing lines closest to the properties. Both small parcels are located in the certificated water service area of Gulf Utility Company. FCWC was granted a temporary extension to serve these customers at the June 24, 1997 Agenda Conference resulting in Order No. PSC-97-0784-POF-WS, issued July 1, 1997.

The order noted that FCWC, Gulf utility and Lee County had met informally and indicated they would not object to FCWC extending service to the two adjacent parcels and other adjacent undeveloped land located nearby. In order for FCWC to provide "permanent" service to the Gulf customers, a corresponding deletion of territory from Gulf's certificated area is required in addition to FCWC's extension.

At the June 24, 1997 Agenda Conference the Commission stated that Gulf would not have to file for a separate deletion of territory. Rather, the deletion could be accomplished within this amendment docket, since the parties were in agreement with the service arrangement. Therefore, in compliance with the Commission's decision, the territory in Attachment C should be deleted from Gulf's Certificates. Gulf Utility Company shall file tariff sheets reflecting this deletion and return certificates No. 72-W to the Commission within thirty days of the effective date of the order.

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ISSUE 5: Should this docket be closed?

RECOMMENDATION: Yes. No issues remain in this docket and it should be closed. (BRUBAKER)

STAFF ANALYSIS: No issues remain in this docket and it should be closed.

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ATTACHMENT A  
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FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH PORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

**Section 8, Township 46 South, Range 24 East.**

All that part of the Southeast quarter (SE-1/4), Less the North 650 feet thereof.

**Section 9, Township 46 South, Range 24 East.**

All that part of the South half (S-1/2), Less the North 650 feet thereof.

**Section 10, Township 46 South, Range 24 East.**

All that part of the South half (S-1/2), Less the North 650 feet thereof.

**Section 11, Township 46 South, Range 24 East.**

All that part of the Southwest quarter (SW-1/4) lying Westerly of Hendry Creek, Less the North 650 feet thereof.

**Section 14, Township 46 South, Range 24 East.**

All that part Westerly of Hendry Creek.

**Section 15, Township 46 South, Range 24 East.**

All of the Section.

**Section 16, Township 46 South, Range 24 East.**

All of the Section.

**Section 17, Township 46 South, Range 24 East.**

All of the Section, Less the Northwest quarter (NW-1/4) thereof.

**Section 18, Township 46 South, Range 24 East.**

All of the South half (S-1/2) Easterly of Hurricane Bay.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH PORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

**Section 19, Township 46 South, Range 24 East.**

All the East half (E-1/2) Easterly of Hurricane Bay and Northerly of Matanzas Pass.

**Section 20, Township 46 South, Range 24 East.**

All of the section, less Hurricane Bay, Hell Peckney Bay and that part on Estero Island.

**Section 21, Township 46 South, Range 24 East.**

All of the Section, less Hell Peckney Bay.

**Section 22, Township 46 South, Range 24 East.**

All of the Section.

**Section 23, Township 46 South, Range 24 East.**

All of the Section Westerly of the Hendry Creek and Rocky Bay.

**Section 26, Township 46 South, Range 24 East.**

All of the Section, less Estero Bay.

**Section 27, Township 46 South, Range 24 East.**

All of the Section, less Estero Bay.

**Section 28, Township 46 South, Range 24 East.**

All of the section, less Hell Peckney Bay, Estero Bay and that part on Estero Island.

**Section 29, Township 46 South, Range 24 East.**

All that part Northerly of Matanzas Pass.

**Section 1, Township 46 South, Range 25 East.**

All the Section, Less the South 1320 feet thereof.

**Section 2, Township 46 South, Range 25 East.**

All the Section, Less the South 1320 feet thereof.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WATER SERVICE AREA

**Section 3, Township 46 South, Range 25 East.**

All the Section, Less the South 1320 feet thereof.

**Section 4, Township 46 South, Range 25 East.**

All the Section, Less the South 1320 feet thereof.

**AND LESS:**

All that part of Section 4 being described as follows:

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 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 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.**

All the Section, Less the South 1320 feet thereof.

AND LESS:

All that part of Section 5 being described as follows:

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 1,106.69 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 6, Township 46 South, Range 25 East.**

All of the East half (E-1/2), Less the South 1320 feet thereof.

**Section 7, Township 46 South, Range 25 East.**

All that part of the North half (N-1/2) lying Westerly of a line 1000 feet Westerly from and parallel with the Westerly right-of-way line of U.S. 41 (State Road 45).

**Section 8, Township 46 South, Range 25 East.**

All of the West half (W-1/2) of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4).

**Section 5, Township 46 South, Range 26 East.**

The West half (W-1/2), Less the South 1320 feet thereof.

**Section 6, Township 46 South, Range 26 East.**

All the Section, Less the South 1320 feet thereof.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WASTEWATER SERVICE AREA

**Section 8, Township 46 South, Range 24 East.**

All that part of the Southeast quarter (SE-1/4), Less the North 650 feet thereof.

**Section 9, Township 46 South, Range 24 East.**

All that part of the South half (S-1/2), Less the North 650 feet thereof.

**Section 10, Township 46 South, Range 24 East.**

All that part of the South half (S-1/2), Less the North 650 feet thereof.

**Section 11, Township 46 South, Range 24 East.**

All that part of the Southwest quarter (SW-1/4) lying Westerly of Hendry Creek. Less the North 650 feet thereof.

**Section 14, Township 46 South, Range 24 East.**

All that part Westerly of Hendry Creek.

**Section 15, Township 46 South, Range 24 East.**

All of the Section.

**Section 16, Township 46 South, Range 24 East.**

All of the Section.

**Section 17, Township 46 South, Range 24 East.**

All of the Section, Less the Northwest quarter (NW-1/4) thereof.

**Section 18, Township 46 South, Range 24 East.**

All of the South half (S-1/2) Easterly of Hurricane Bay.

**Section 19, Township 46 South, Range 24 East.**

All the East half (E-1/2) Easterly of Hurricane Bay and Northerly of Matarzas Pass.

FLORIDA CITIES WATER COMPANY - LEE COUNTY DIVISION

SOUTH FORT MYERS SERVICE AREA

TERRITORY DESCRIPTION

WASTEWATER SERVICE AREA

**Section 20, Township 46 South, Range 24 East.**

All of the Section, less Hurricane Bay, Hell Peckney Bay and that part on Estero Island.

**Section 21, Township 46 South, Range 24 East.**

All of the Section, less Hell Peckney Bay.

**Section 22, Township 46 South, Range 24 East.**

All of the Section.

**Section 23, Township 46 South, Range 24 East.**

All of the Section Westerly of the Hendry Creek and Rocky Bay.

**Section 26, Township 46 South, Range 24 East.**

All of the Section, less Estero Bay.

**Section 27, Township 46 South, Range 24 East.**

All of the Section, less Estero Bay.

**Section 28, Township 46 South, Range 24 East.**

All of the Section, less Hell Peckney Bay, Estero Bay and that part on Estero Island.

**Section 29, Township 46 South, Range 24 East.**

All that part Northerly of Matanzas Pass.

DOCKET NO. 970696-WS  
DATE: FEBRUARY 5, 1998

ATTACHMENT C  
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GULF UTILITY COMPANY  
TERRITORY DELETION  
WATER SERVICE AREA

**Section 7, Township 46 South, Range 25 East.**

All that part of the North half (N-1/2) lying Westerly of a line 1000 feet Westerly from and parallel with the Westerly right-of-way line of U.S. 41 (State Road 45)

**Section 8 Township 46 South, Range 25 East.**

All of the West half (W-1/2) of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4)