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RECORDS AND REPORTING



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

June 30, 1998

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 950387-SU

Dear Ms. Bayó:

Enclosed please find an original and fifteen copies of Citizens' Motion for Continuance for filing in the above referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

RECEIVED & FILED
ABJ
OFFICE OF THE PUBLIC COUNSEL

Sincerely,
Harold McLean

Harold McLean
Associate Public Counsel

- ACK _____
- AFA 2
- APP _____
- CAF _____ HM/dsb
- CMU _____ Enclosures
- CTR _____
- EAG _____
- LEG Laizer
- LIN 3
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

DOCUMENT NUMBER & DATE

06868 JUN 30 98

RECORDS AND REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application for a rate)
increase for North Ft. Myers)
Division in Lee County by)
Florida Cities Water Company -)
Lee County Division.)
_____ /

DOCKET NO. 950387-SU

FILED: June 30, 1998

To: Commissioner Joe Garcia, Prehearing Officer

CITIZENS' MOTION FOR CONTINUANCE

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, (Citizens) move the Florida Public Service Commission for a continuance in this docket and as grounds therefore say:

1. This case was initiated by Florida Cities Water Company (FCWC) in 1995, proceeded though a hearing, and saw the Commission issue its order resolving the various issues in the docket. FCWC, however, took an appeal to the District Court of Appeal, First District in which it obtained reversal and remand of some aspects of the Commission order. Upon argument from the parties, the Commission by Order PSC-98-0509-PCO-SU, issued April 14, 1998, resolved to schedule an evidentiary hearing regarding a material issue addressed by the court, and to schedule that hearing in the service area of the utility. FCWC took an appeal (by petition) of this decision to the same Appellate court, and sought a stay of the Commission's offending remand order, which the Commission granted. In due course, the Appellate Court denied FCWC's petition seeking an appeal. The way is now clear for the Commission to schedule an administrative hearing as to the issue address in this chain of events;

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2. On Friday, June 26, 1998, undersigned counsel learned from Staff Counsel, Ralph Jaeger that the evidentiary hearing for this case is now set for August 24, 1998, and that derivative dates, e.g., the filing of testimony, are scheduled appropriate to the August date;
3. The issues remaining in this docket are complex, the Citizens have no time at this point to retain the services of expert(s) relative to those issues; moreover, undersigned counsel, who has been assigned to this case from the Citizens' initial intervention, and since, already has five days of hearings concerning this utility scheduled in another docket (971663-WS) between this date and the proposed date for the hearing; the briefing schedule in docket runs through September 14, 1998;
4. In deferring preparations for the evidentiary hearing, the Citizens relied upon the order of the Commission staying these proceedings until resolution of the appeal; the Citizens would have risked the waste of public resources had hearing preparations continued for a hearing which might be delayed over the course of a full appeal, and indeed, might never have taken place at all had the appellate court so ruled;
5. The hearing's going forward as Mr. Jaeger now advises would inure to the severe prejudice of the Citizens and would seriously lessen the effectiveness of its point of entry into the administrative process;
6. Undersigned counsel represents to the Commission that counsel for FCWC does not oppose this motion, and that intervenors Jerilyn Victor and Cheryl Walla support it.

such future time as will permit the Citizens to prepare for the hearing; and to such other relief as may appear appropriate in the premises.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'H. McLean', written over a horizontal line.

Harold McLean
Associate Public Counsel

111 West Madison St.
Room 812
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(850) 488-9330

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE


I certify that a true copy of the foregoing Citizens' Motion for Continuance was served by United States Mail, or where the party is denoted by an asterisk (*) by hand delivery upon representatives of the following parties on this the 30th day of June, 1998.

Kenneth Gatlin, Esquire
3301 Thomasville Road, #300
Tallahassee, Florida 32312

Jerilyn Victor
1740 Dockway Drive
North Fort Myers, Florida 33903

Cheryl Walla
1750 Dockway Drive
North Fort Myers, Florida 33903

Ralph Jaeger, Esquire*
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Harold McLean
Associate Public Counsel