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FLORIDA CITIES WATER COMPANY
FT. MYERS & BAREFOOT BAY DIVISIONS
WATER AND WASTEWATER OPERATIONS
REBUTTAL TESTIMONY OF MICHAEL E. MURPHY
TO
DIRECT TESTIMONY
OF
HUGH LARKIN, JR. AND PATRICIA MERCHANT
DOCKET NO. 971663-WS

- Q. Please state your name.
- A. Michael E. Murphy, 4837 Swift Rd., Ste. 100, Sarasota, FL 34231.
- Q. What is your position with Florida Cities Water Company (FCWC)?
- A. I am Vice President and Chief Financial Officer.
- Q. Have you offered direct testimony in this proceeding on behalf of FCWC?
- A. Yes.

TESTIMONY OF HUGH LARKIN:

Q. On page 22, line 22, of the direct testimony of Mr. Hugh Larkin Jr., he brings up a point concerning legal fees incurred for the defense of some of FCWC's employees. Did you present exhibit MM-2, Legal Expense Schedule, which is a complete listing of legal expenses and costs for which FCWC is seeking to

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1 recover in this case?

2 A. Yes I did.

3 Q. Did you exclude any and all legal expenses incurred
4 for personal legal counsel for FCWC's employees in
5 exhibit MM-2?

6 A. Yes. To the best of my knowledge, there are no legal
7 expenses incurred for personal legal counsel for any
8 FCWC employee included in MM-2.

9 **TESTIMONY OF PATRICIA MERCHANT:**

10 Q. On page 5, line 24, of the direct testimony of Ms.
11 Patricia Merchant, she brings up a point concerning
12 whether the penalties and legal fees caused severe
13 financial damage to FCWC, would you please respond to
14 her point?

15 A. In my prefiled direct testimony (beginning on page 4,
16 line 6) I pointed out that over \$100 million in
17 penalties requested by the DOJ were of such magnitude
18 as to constitute a possible financial calamity to
19 FCWC. I never indicated that FCWC would be placed in
20 financial calamity because of the legal expenses
21 incurred by FCWC or penalty imposed by the Court.

22 Q. Has there been any financial harm to FCWC caused by
23 the legal expenses incurred by FCWC or penalty imposed
24 by the Court?

25 A. Financial harm is rather strong language. Certainly

1 the Company would be better off financially if it had
2 not incurred over \$4.0 million in legal expenses and
3 penalties in connection with this litigation.
4 Obviously the Company has less cash to pay operating
5 and capital outlays and the Company has reduced equity
6 and reduced financial ratios which are important when
7 it comes time to borrow additional funds from outside
8 sources.

9 Q. On page 6, line 6 Ms. Merchant indicates these costs
10 were incurred because of violations at specific
11 wastewater divisions. Is this correct?

12 A. No. Legal expenses were incurred for all FCWC
13 wastewater divisions. As indicated in Mr. Allen's
14 prefiled direct testimony (beginning on page 40, line
15 12), the DOJ was conducting discovery at all FCWC
16 wastewater divisions until the Amended Complaint was
17 filed in March 1995.

18 Q. On page 10, line 3 Ms. Merchant indicates that allowed
19 costs should only be recovered from North Ft. Myers,
20 Barefoot Bay and Carrollwood wastewater customers.
21 How would this effect the Company's current proposal
22 of collecting \$.42 per water and wastewater customer
23 per month?

24 A. That amount of \$.42 per month would need to be
25 increased to \$3.44 per month for wastewater customers

1 in the North Ft. Myers, Barefoot Bay and Carrollwood
2 divisions only. If somehow the Commission determined
3 that an appropriate allocation method might be a ratio
4 of the amount of penalty incurred by division, then
5 North Ft. Myers wastewater customers would be charged
6 \$9.11 per month. Barefoot Bay and Carrollwood
7 wastewater customers would be charged \$.57 and \$2.49
8 per month, respectively. All of these options assume
9 a recovery period of 10 years.

10 Q. Does this conclude your testimony?

11 A. Yes.