

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

SEPTEMBER 1, 1998

RE: DOCKET NO. 970365-GU - Complaint of Mother's Kitchen Ltd. against Florida Public Utilities Company regarding refusal or discontinuance of service.

Issue 1: Should FPUC's Motion to Strike be granted?

Recommendation: Yes. Mother's Kitchens exception's were not timely filed. Further, Mother's Kitchen has not demonstrated excusable neglect or circumstances which would warrant the application of the doctrine of equitable tolling.

APPROVED

Issue 2: Should FPUC's Motion to Strike Petitioner's Response be granted?

Recommendation: Yes. Mother's Kitchen's response was not timely. Mother's Kitchen's response contains documents and references not in the record of this proceeding. Further, Mother's Kitchen's response argues additional exceptions to the Recommended Order addressing the substance of the case.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures in the majority column]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

09688 SEP-4 88

FPSC-RECORDS/REPORTING

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Issue 3: How should the Commission rule On Mother's Kitchen's exceptions to the Administrative Law Judge's Recommended Order? (This Issue is moot if Staff's recommendation for Issue 1 is approved).

Recommendation: Mother's Kitchen's exceptions should be denied.

APPROVED

Issue 4: Should the Administrative Law Judge's Recommended Order be adopted as the Commission's final order?

Recommendation: Yes, with a scrivener's error in the Recommended Order concerning the location of the hearing corrected to reflect that the first hearing was held in Sanford, rather than Orlando, Florida.

APPROVED

Issue 5: Should this docket be closed?

Recommendation: The docket should be closed after the time for filing an appeal has run.

APPROVED

Additionally, the Commissioners, on their own motion, voted not to consider the communication received 8/31/98 from Mother's Kitchen concerning staff's Recommendation, based on staff's Recommendation that the communication was outside the record.