

ORIGINAL



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
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Tallahassee, Florida 32399-1400
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RECEIVED FPSC
99 FEB -5 PM 2:11

REPORTING

February 5, 1999

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

Re: Docket No. 950387-SU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Response to Motion to Make Rates Permanent.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

RECEIVED & FILED
[Signature]
FPSC-BUREAU OF RECORDS

Sincerely,

[Signature]
Harold McLean
Associate Public Counsel

K _____
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P _____
F _____
U _____ HM:bsr
R _____ Enclosures
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[Signature]

DOCUMENT NUMBER - DATE
01535 FEB -5 99
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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: February 5, 1999

CITIZENS' RESPONSE TO MOTION TO MAKE
RATES PERMANENT

Come now the Citizens of the State of Florida by and through JACK SHREVE, Public Counsel, (Citizens) to respond to the motion of Florida Cities Water Company (FCWC) to Make Rates Permanent, and say:

1. On January 26, 1999, FCWC filed a motion which in effect would lift any refund requirement from certain revenues collected pursuant to Order PSC-95-1360-FOF-SU, and order which permitted the collection of PAA rates in the event of protest, a protest which was filed by the Citizens and by others;
2. Collection of this revenue subject to refund provides the Commission with jurisdiction over its eventual disposition; without this proviso, the Commission could be subject to a claim of retroactive ratemaking;
3. This case is still pending; Commission jurisdiction over regulated utilities such as FCWC is plenary and should not be lessened by Commission in the absence of showing that such action is necessary to avoid prejudice to a party;

DOCUMENT NUMBER-DATE

01535 FEB-5 99

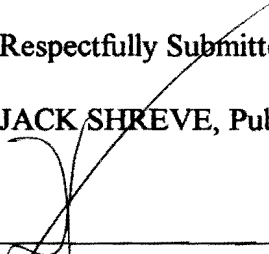
FPSC-RECORDS/REPORTING

4. FCWC alleges no prejudice in the situation which now prevails.

WHEREFORE, the Citizens of the State of Florida oppose the instant motion.

Respectfully Submitted,

JACK SHREVE, Public Counsel



Harold McLean, Associate Public Counsel
111 W. Madison St.
Room 814
Tallahassee, Florida 32399
Attorneys for the Citizens of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 950387-SO**

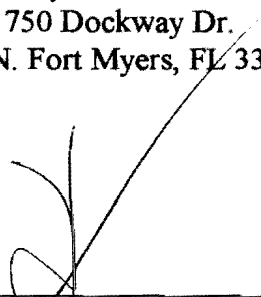
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or by *Hand-delivery to the following party representatives on this 5th day of February, 1999.

Kenneth Gatlin, Esquire
Ruden, McClosky, Smith, et al.
215 S. Monroe St.
Ste. 815
Tallahassee, FL 32301

Ralph R. Jaeger
Division of Legal Services
Fla. Public Service
Commission
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