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**STATE OF FLORIDA**  
**OFFICE OF THE PUBLIC COUNSEL**

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December 4, 2000

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

Re: Docket No. 991437-WU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Response to Wedgefield's Motion to Abate. Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck  
Deputy Public Counsel

CJB:bsr  
Enclosures

APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_  
COM 3 \_\_\_\_\_  
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15454 DEC-4 8

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application for increase )  
in water rates in Orange County )  
by Wedgefield Utilities, Inc. )

Docket no. 991437-WU

Filed December 4, 2000

**CITIZENS' RESPONSE TO WEDGEFIELD'S MOTION TO ABATE**

The Citizens of Florida (Citizens), by and through Jack Shreve, Public Counsel, file this response to the motion filed by Wedgefield Utilities, Inc. (Wedgefield) on November 30, 2000, entitled "Wedgefield Utilities, Inc.'s, motion to abate and to stay proceedings pending appellate review" (motion).

1. Wedgefield's motion states its intention to appeal a not yet issued non-final order of the Florida Public Service Commission (Commission) which will deny various motions of Wedgefield seeking to strike an issue in this case.

2. Citizens believe Wedgefield's decision to file an appeal is indefensible, particularly since the order does not qualify for appeal under Fla. R. App. P. 9.130 (Proceedings to Review Non-Final Orders), and Wedgefield will be unable to meet the test for a writ of certiorari under Fla. R. App. P. 9.030(b)(2)(A). Assuming, *arguendo*, that Wedgefield's motions are meritorious, denial of the motions still does not qualify for a writ of certiorari. *Martin-Johnson, Inc. v. Savage*, 509 So.2d 1097, 1100 (Fla. 1987) (litigation of a non-issue will always be inconvenient and entail considerable expense of

time and money for all parties in the case. The authorities are clear that this type of harm is not sufficient to permit certiorari review); *Jay v. Royal Saxon, Inc.*, 720 So.2d 214 (Fla. 1998).

3. Nonetheless, since Wedgefield will be taking the appeal, Citizens do not object to abating this proceeding as described in Wedgefield's motion pending a decision by the First District Court of Appeal.

Respectfully submitted,

JACK SHREVE  
Public Counsel  
Fla. Bar No. 73622

  
Charles J. Beck  
Deputy Public Counsel  
Fla. Bar No. 217281

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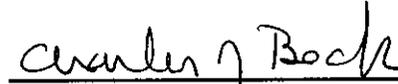
(850) 488-9330

Attorney for Florida's Citizens

**DOCKET NO. 991437-WU  
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail or hand-delivery to the following parties on this 4th day of December, 2000.

  
\_\_\_\_\_  
Charles J. Beck

Patricia Cristensen  
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Fla. Public Service Commission  
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Ben Girtman  
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