

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation of the                    )  
Quality of Service Provided                )  
by Florida Water Services,                 )  
Inc. to the Deltona Service                )  
Territory.                                        )  
\_\_\_\_\_)

Docket No. 010153-WU  
Filed: August 3, 2001

**CITIZENS' RESPONSE TO MOTION TO STRIKE**

The Citizens of the State of Florida, ("Citizens"), by and through their undersigned attorney, file this response to Florida Water Services, Inc.'s ("Florida Water") Motion to Strike the Citizens' response to Rosemarie Hester's request to intervene in this docket, and state:

1. Incorporated into Florida Water's response to Hester's "Motion to Intervene" are a number of allegations relating to the Citizens' response to Hester's request to intervene. Florida Water alleges that the Citizens' response was an improper "tactic" to provide additional grounds in support of Hester's request to intervene. Florida Water alleges that the Citizens' response, supporting Hester's request, violated Rule 28-106.204(1), Florida Administrative Code, which authorizes only responses **in opposition** to motions. Florida Water also expressly argues that the Citizens' response to Hester's request "should be ignored by the Prehearing Officer." The Citizens consider this prayer for relief to be tantamount to a Motion to Strike the Citizens' response, hence this response to the Florida Water's Motion to Strike.

2. In its response Florida Water argues that Hester's Motion to Intervene is improper and should be denied because it should have been filed as a Petition for Leave to Intervene, as required by Commission Rule 25-22.039, Florida Administrative Code, meeting all of the requirements of Rule 28-106.201(2), Florida Administrative Code. Florida Water can't have it both

DOCUMENT NUMBER - DATE

09479 AUG-30

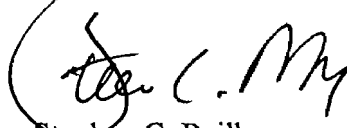
FPSC-COMMISSION CLERK

ways. If a request to intervene must be filed or considered as a Petition for Leave to Intervene then all parties, whether in favor or opposed to the petition, are permitted to answer the petition in accordance with Rule 28-106.203, Florida Administrative Code. If Florida Water's arguments in the first three pages of its response have merit, then Rule 25-106.204(1), Florida Administrative Code, does not apply and has not been violated by the Citizens. All parties to a proceeding should be permitted to respond to any request to intervene, whether they support or oppose the intervention.

WHEREFORE, the Prehearing Officer should reject Florida Water's request that he ignore the Citizens' response to Hester's request to intervene in this docket.

Respectfully submitted,

Jack Shreve  
Public Counsel

A handwritten signature in black ink, appearing to read "Stephen C. Reilly", is written over a circular stamp or mark.

Stephen C. Reilly  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

Attorney for the Citizens  
of the State of Florida

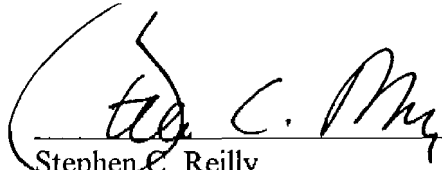
**CERTIFICATE OF SERVICE  
DOCKET NO. 010153-WU**

I HEREBY CERTIFY that a true and correct copy of the Citizens' Response to Motion to Strike has been furnished by U.S. Mail or hand delivery (\*) to the following parties this 3rd day of August, 2001.

Jennifer Brubaker, Esquire\*  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, FL 32399-0850

Kenneth A. Hoffman, Esquire  
Martin P. McDonnell, Esquire  
Rutledge, Ecenia, Purnell &  
Hoffman, P.A.  
Post Office Box 551  
Tallahassee, FL 32302

Dennis K. Bayer, Esquire  
Attorney at Law  
306 South Oceanshore Boulevard  
Flagler Beach, Florida 32136

  
\_\_\_\_\_  
Stephen C. Reilly  
Associate Public Counsel