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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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COMMISSION
CLERK

June 4, 2002

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 991890-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Petition on Proposed Agency Action for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Petition on Proposed Agency Action in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen M. Presnell
Associate Public Counsel

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)
ratemaking consideration of gain)
on sale from sales of facilities)
of Utilities, Inc. of Florida to)
the City of Maitland in Orange)
County and the City of Altamonte)
Springs in Seminole County.)
_____)

Docket No. 991890-WS

Filed: June 4, 2002

PETITION ON PROPOSED AGENCY ACTION

The Citizens of the State of Florida ("Citizens") through the Office of Public Counsel, pursuant to section 120.57, Florida Statutes (2001), and Rules 25-22.029 and 28-106.201, Florida Administrative Code, file these objections to portions of the Florida Public Service Commission's ("Commission") Order No. PSC-02-0657-PAA-WU ("Order"), issued May 14, 2002, and state:

1. The name and address of the agency affected by this petition is Florida Public Service Commission, Capital Circle Office Center, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. The Office of Public Counsel ("Public Counsel" or "OPC") represents the Citizens in matters before the Commission. The name, address and telephone numbers of petitioner are as follows: Jack Shreve, Public Counsel, Robert Vandiver, Associate Public Counsel, and Stephen M. Presnell, Associate Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, FL 32399-1400, Telephone: (850) 488-9330. Citizens received a copy of the Order from the Commission on or about May 14, 2002.

3. The Public Counsel is appointed to appear on behalf of the State or its Citizens in matters under the jurisdiction of the Public Service Commission pursuant to Section 350.0611, Florida Statutes (2001). This section provides that it shall be the duty of the Public Counsel to provide legal

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representation for the people of this state in proceedings before the Commission. It specifically provides the Public Counsel the power to recommend to the Commission, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the Commission.

4. In this petition, the Public Counsel represents customers of Utilities, Inc. of Florida (“UIF”) who are substantially and adversely affected by the failure of the Commission to provide the customers the benefit of the realized gains from the Maitland and Altamonte sales (see Order pages 2 and 3).

5. The Citizens’ disputed issues of material fact regarding the realized gains from the Maitland and Altamonte sales are set forth below.

- (a) The selling costs (Order, page 3) are not reasonable.
- (b) The pre-tax gains (Order, page 3) are not reasonable.
- (c) The taxes (Order, page 3) are not reasonable.
- (d) The net gain (Order, page 3) calculations are not reasonable.
- (e) The Commission’s analysis and conclusions of the issues in this docket in comparison to “Other State Commission Practice of Gain on Sales” (Order, pages 8, 9) are flawed.
- (f) The Commission’s analysis and conclusions that the customers of UIF should not receive the realized gains from the Maitland and Altamonte sales are flawed. Regardless of the professed difficulties of identifying specific contributions by the customers, it is clear that UIF had no investment in the Altamonte plant -- booked as CIAC (Order, page 3), and only a book basis of plant of \$31,267 in the Maitland plant (Order, page 3).

6. The ultimate fact is that the customers of UIF should receive the realized gains from the Maitland and Altamonte sales.

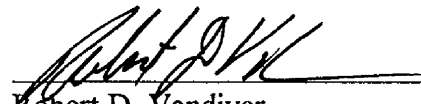
7. The Citizens ask the Commission to take the following actions with respect to its proposed action.

- (a) Conduct a proper analysis of the realized gains from the Maitland and Altamonte sales.
- (b) Order that the customers of UIF receive the realized gains from the Maitland and Altamonte sales.

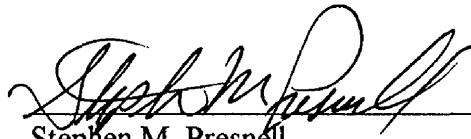
WHEREFORE, the Citizens hereby protest and object to those portions of Commission Order No. PSC-02-0657-PAA-WU, as specified above, and petition the Commission to conduct a formal evidentiary hearing, under the provisions of Section 120.57(1), Florida Statutes (2001), and request the Commission to grant the customers of Utilities, Inc. of Florida recovery of the realized gains from the Maitland and Altamonte sales and for such other relief as may be just and equitable.

Respectfully submitted,

JACK SHREVE
Public Counsel



Robert D. Vandiver
Associate Public Counsel



Stephen M. Presnell
Associate Public Counsel

Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

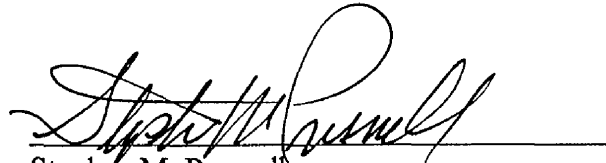
I HEREBY certify that a copy of the foregoing PETITION ON PROPOSED AGENCY ACTION has been furnished by U.S. Mail or *hand-delivery to the following parties this 4th day of June, 2002:

Jennifer Brubaker, Esquire*
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Carl J. Wenz
2335 Sanders Road
Northbrook, IL 60062

Martin S. Friedman, Esquire
Rose Law Firm
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Utilities, Inc. of Florida
200 Weathersfield Avenue
Altamonte Springs, FL 32714-4099


Stephen M. Presnell
Associate Public Counsel