

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Water and Wastewater Industry)	
Annual Reestablishment of Authorized)	DOCKET NO. 080006-WS
Range of Return on Common Equity for)	
Water and Wastewater Utilities pursuant)	October 3, 2008
to section 367.081(4)(f), F.S.)	
_____)	

CITIZENS' RESPONSE IN OPPOSITION TO THE MOTION OF UTILITIES INC. TO STRIKE PORTION OF JAMES A. ROTHSCHILD'S SURREBUTTAL TESTIMONY AND EXHIBITS;

AND

MOTION TO STRIKE PORTIONS OF THE REBUTTAL TESTIMONY OF PAULINE AHERN AND TO STRIKE EXHIBITS PMA-13, PMA-18, AND PMA-22

The Citizens of Florida, through the Office of Public Counsel, file this response in opposition to the motion of Utilities Inc. to strike a portion of James A. Rothschild's surrebuttal testimony and exhibits. Further, Citizens move the Prehearing Officer to strike portions of Ms. Ahern's testimony described below and to strike exhibits PMA-13, PMA-18, and PMA-22 should the Prehearing Officer grant the motion of Utilities Inc.

1. Utilities Inc. moved to strike exhibit JAR-12, which is an exhibit which evaluates the testimony provided by a witness Dr. Morin in a proceeding in Nova Scotia, and moved to strike the brief testimony related to exhibit JAR-12. The purpose of this exhibit and related testimony is to show that Dr. Morin is not an impartial, unbiased evaluator of matters related to finance and that his analysis in this area has been rejected by another regulatory agency.

2. The reason that exhibit JAR-12 and the related testimony is important and relevant to this proceeding is that Pauline M. Ahern, the witness for Utilities Inc. in this proceeding, cites Dr. Morin and his publications as authoritative materials upon which this Commission should rely in making its decision in this case. Ms. Ahern cites Dr. Morin on pages 20-21, 29-30, and 34-35 of her testimony and provides excerpts from his publications twice in these portions of her testimony. Moreover, Ms. Ahern provides lengthy extracts from Dr. Morin's publications as her exhibits, all with a view of buttressing her testimony. It follows that if Utilities Inc. is allowed to present these materials by Dr. Morin to buttress the testimony of its witness, Citizens' witness should also be allowed to present materials impeaching Dr. Morin.

3. If the Prehearing Officer grants the motion of Utilities Inc. to strike the materials presented by Citizens to impeach Dr. Morin, Citizens move to strike the materials and testimony presented by Utilities Inc. related to Dr. Morin. Specifically, the matters which should be stricken are page 20, lines 2 through 8; page 29, lines 19 through page 30, line 21; and page 34, line 19, through page 35 of the rebuttal testimony of Pauline M. Ahern, along with exhibits PMA-13, PMA-18, and PMA-22.

4. Utilities Inc. opposes Citizens' motion to strike.

WHEREFORE, Citizens respectfully request the Prehearing Officer to deny the motion to strike filed by Utilities, Inc. However, if the Prehearing officer grants the motion, Citizens move to strike the testimony and exhibits described in the body of this motion.

Dated this 3rd day of October, 2008.

Respectfully submitted,



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Attorney for the Citizens
of the State of Florida

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Response and Motion has been furnished by U.S. Mail and electronic mail to the following parties on this 3rd day of October, 2008.

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