

Diamond Williams

090539-GU

From: Paxton, Lucinda (CAO) [LPAXT01@miamidade.gov]
Sent: Friday, March 18, 2011 9:36 AM
To: Filings@psc.state.fl.us
Cc: Marguerite McLean; Diamond Williams; Dorothy Menasco
Subject: RE: Notice of E Filing in Docket 090539-GU
Attachments: MDC MOTION TO COMPEL_001.pdf

Sorry about the omission. Here is the document.

Cindy Paxton

Miami-Dade County Attorney's Office
 Legal Assistant to Henry N. Gillman and Sarah E. Davis
 Stephen P. Clark Center
 111 N.W. 1st Street, Suite 2810
 Miami, FL 33128
 305-375-4319
 305-375-5611 (Fax)

From: Matilda Sanders [mailto:MSanders@PSC.STATE.FL.US] **On Behalf Of** Filings@psc.state.fl.us
Sent: Friday, March 18, 2011 8:52 AM
To: Paxton, Lucinda (CAO)
Cc: Marguerite McLean; Diamond Williams; Dorothy Menasco
Subject: FW: Notice of E Filing in Docket 090539-GU

We received this electronic filing yesterday with only the Cole Letter of motion to compel attached (1 pg).

Missing was - C: Document consists of 39 pages

The Letter was given a document number, with description --- Miami-Dade (Gillman) - Letter dated 3/17/11 of motion to compel discovery and to impose sanctions. [CLK note: Motion was not attached to the electronic version; Miami-Dade was contacted.]

Please refile updated completed electronic filing.

If you need further information call.
 Matilda Sanders,
 Commission Deputy Clerk
 Office of Commission Clerk
 850-413-6770

From: Paxton, Lucinda (CAO) [mailto:LPAXT01@miamidade.gov]
Sent: Thursday, March 17, 2011 3:24 PM
To: Filings@psc.state.fl.us
Cc: Gillman, Henry (CAO)
Subject: Notice of E Filing in Docket 090539-GU

A: Henry N. Gillman
 Assistant County Attorney
 Miami-Dade County Attorney's Office
 Stephen P. Clark Center

3/18/2011

DOCUMENT NUMBER-DATE

01829 MAR 18 =

FPSC-COMMISSION CLERK

111 N.W. 1 Street, Suite 2810
Miami, FL 33128

- B: Docket No. 090539-GU
In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department
- C: Document consists of 39 pages.
- D: The document is Miami-Dade County's Motion to Compel Discovery and To Impose Sanctions.

Cindy Paxton

Miami-Dade County Attorney's Office
Legal Assistant to Henry N. Gillman and Sarah E. Davis
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, FL 33128
305-375-4319
305-375-5611 (Fax)

From: Scan (CAO)
Sent: Thursday, March 17, 2011 3:23 PM
To: Paxton, Lucinda (CAO)
Subject: Attached Image



**COUNTY ATTORNEY
MIAMI-DADE COUNTY, FLORIDA**

111 N.W. FIRST STREET
SUITE 2810
MIAMI, FLORIDA 33128-1993
TEL (305) 375-5151
FAX (305) 375-5634

March 17, 2011

VIA ELECTRONIC FILING

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
Room 110, Easley Building
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

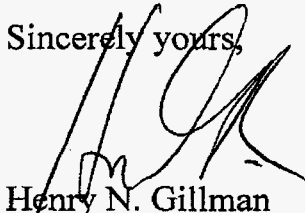
Re: Docket No. 090539-GU

Dear Ms. Cole:

Enclosed for filing on behalf of Miami-Dade County is an electronic version of Miami-Dade County's Motion to Compel Discovery and To Impose Sanctions in the above referenced docket.

Thank you for your assistance in this filing.

Sincerely yours,


Henry N. Gillman
Assistant County Attorney

c: Parties of Record

DOCUMENT NUMBER-DATE

01829 MAR 18 =

FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of Special Gas
Transportation Service agreement with Florida Docket No. 090539-GU
City Gas by Miami-Dade County through
Miami-Dade Water and Sewer Department

**MIAMI-DADE COUNTY'S MOTION TO COMPEL DISCOVERY AND
TO IMPOSE SANCTIONS**

Miami-Dade County ("Miami-Dade" or the "County"), by and through the undersigned counsel, pursuant to (i) Order Establishing Procedure, Docket No. 090539-GU, Order No. PSC-10-0714-PCO-GU issued on December 7, 2010, as revised by First Order Revising Order Establishing Procedure, Order No. 10-0729-PCO-GU, as revised by Second Revised Order Establishing Procedure, Order No. PSC-11-0110-PCO-GU, and Rule 28-106.211, moves for an order compelling Florida City Gas ("FCG") to provide full and complete answers to County Interrogatories Nos. 1, 2, 18, 19, 21, 23, 30, 31, 32, 34, 35, 37, 44, 45, 46, 48, 50, 58, 59, 62, 63, 64, 66, and 67, and to produce documents in response to County Requests for Production of Documents Nos. 1, 2, 5, 7, 8, 9, 13, 20, 21, 23, 25, 26 and 27. Florida City Gas has failed to properly answer the above interrogatories by giving vague and evasive answers which are a failure to answer under Section 1.280 of the Florida Rules of Civil Procedure. The Order Establishing Procedure, as revised, and Rules 28-106.206 and 28-206.211, F.A.C., which provides the presiding officer authority to issue appropriate orders to

OFFICE OF COUNTY ATTORNEY, MIAMI-DADE COUNTY, FLORIDA
TELEPHONE (305) 375-5151

DOCUMENT NUMBER-DATE
01829 MAR 18 =
FPSC-COMMISSION CLERK

effectuate the purposes of discovery and to prevent delay, including the imposition of sanctions in accordance with the Florida Rules of Civil Procedure.

BACKGROUND

This dispute involves the approval of a special transportation agreement between FCG and Miami-Dade. This matter was initially scheduled for a final evidentiary hearing on March 23 and 24, 2011. On February 9, 2011, the Commission rescheduled the final evidentiary hearing for June 1-3, 2011. *See* Order No.PSC-11-0110-PCO-GU.

LEGAL STANDARD

Under Florida law, the conditions to obtaining discovery from another party are not stringent. The Florida Rules of Civil Procedure provide that:

[p]arties may obtain discovery regarding any matter, not privileged that is relevant to the subject matter of the pending action...[I]t is not a ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Fla. R.Civ. P., 1.280(b)(1). "Relevant evidence," in turn is defined as "[e]vidence tending to prove or disprove a material fact. *See* § 90.401, Fla. Stat. Florida's rules should be liberally construed insofar as "Florida favors complete disclosure in discovery matters, limited only by certain considerations such as privilege, work

product and relevancy.” *ACandS, Inc. v. Askew*, 597 So. 2d 895,898 (Fla. 1st DCA 1992).

ARGUMENT

1. A critical issue in this proceeding is FCG’s incremental cost to provide service to the Alexander Orr Water Treatment Plant (“Orr”) and Hialeah Water Treatment Plant (“Hialeah”) operated by the Miami-Dade Water and Sewer Department (“MDWASD”). For the Commission to determine the (a) incremental cost to provide service and (b) whether to approve the agreed-upon rates in the executed 2008 Transportation Service Agreement (the “2008 Agreement”), it is of paramount importance to know FCG’s original investment in the incremental facilities serving these water treatment plants. Specifically, the Commission must know FCG’s original investment in the two (2) miles of pipe and associated equipment that FCG uses to transport gas from the FCG gate station to the water treatment plants.

2. The issue of whether the 2008 rates meet FCG’s incremental cost of serving MDWASD was first raised by Commission Staff in December 2008 by data request in Docket No. 080672. Thus, for 2 ½ years FCG has known about the importance of providing their original investment in the subject plants and the corresponding incremental costs with supporting documentary information.

3. FCG responded to Commission Staff's data request with various information, including a chart titled "Miami Dade Water Plant – Rate Design Comparison", subsequently introduced as Exhibit __ (CB-1) in FCG's direct testimony, which had the supposed incremental costs for 1999 and 2008.

4. Through discovery, the County has learned that FCG completely misled the Commission Staff and the County with regard to its true incremental costs.

5. One example of FCG's sanctionable tactics is Exhibit __ (CB-6) attached to FCG witness Carolyn Bermudez' rebuttal testimony. Ms. Bermudez only provided two (2) pages of a 1997 internal FCG memorandum. These two (2) pages imply that FCG's original investment in the facilities serving the Orr and Hialeah plants were \$387,250 and \$833,000, respectively. Ms. Bermudez failed to provide the entire document which was recently provided in response to a County discovery request. The document clearly provides that the incremental cost information *was based on the estimated cost of bypass*, and not on FCG's original investment in the facilities serving the County's plants. FCG's premeditated conduct to mislead Commission Staff and the County warrants that FCG receive appropriate sanctions by the Commission.

6. This proceeding has exposed FCG's gross mismanagement with regard to the 2008 Agreement and misrepresentations to the Commission Staff.

7. This case also has revealed FCG's failure to comply with the Commission's recordkeeping requirements, specifically records relating to investment in facilities. See Rule 25-7.014, F.A.C., "Records and Reports in General"; and Rule 25-7014(5), F.A.C. Miami-Dade notes that the Commission previously has noted FCG's problems complying with regulatory requirements concerning continuing property records. See Request for approval of change in depreciation rates by City Gas Co., Docket No. 030222, Order No 03-1147 (issued October 14, 2003). FCG apparently has failed to correct its non-compliance to date and should be held accountable for such non-compliance in this proceeding. The Commission has penalized utilities which have failed to maintain complete and accurate books and records. See Petition for Increase in Rates by Florida Division of Chesapeake Utilities Corporation, Docket No. 090125, Order No. 10-0029 (issued in January 14, 2010); West Florida Natural Gas, Docket No. 850503, Order No. 16549 (issued September 5, 1986). The Commission's authority to reduce a utility's return on equity for utility mismanagement has been upheld by the Florida Supreme Court. See *Gulf Power Co. v. Wilson*, 597 So. 2d 270,272-74 (Fla. 1992).

8. Through formal discovery, the County has inquired as to FCG's cost of service to the plants and FCG's investment costs for the subject pipe and supporting documentation such as continuing property records and other

information relating to its incremental costs; and FCG's compliance with the terms and conditions of its own tariff, including the impact of the failure to perform an incremental cost study.

9. FCG has either (i) evaded answering these questions or (ii) failed to provide complete answers or (iii) objects to the discovery requests asserting various legally insufficient grounds including that the information the County is seeking is irrelevant or will not lead to admissible evidence.¹ See Exhibit "A" attached hereto which contains FCG's Responses to County Request for Interrogatories Nos. 1, 2, 18, 19, 21, 23, 30, 31, 32, 34, 35, 37, 44, 45, 46, 48, 50, 58, 59, 62, 63, 64; and County Request for Production of Documents Nos. 1, 2, 5, 7, 8, 9, 13, 20, 21, 23, 25, 26 and 27.²

10. FCG's objections on basis of relevance are not proper since Rule 1.280 broadly construes relevance material or any information that will lead to relevant material.

11. FCG's objections that the request for continuing property records is "unduly burdensome", expensive and excessively time consuming is without any merit. See FCG Response to Interrogatory No. 20.³

¹ FCG has also asserted that various information requested by the County is argumentative, privileged as work product or confidential and has requested a Commission Order on Confidentiality. Staff has recommended against confidentiality on at least one request. Several requests are pending an order by the Commission.

² The County's Motion should not be construed as a waiver of its rights to compel production of additional information for other discovery requests in the future.

³ Although FCG refers to Attachment 20 to its Response, no such Attachment was provided in the Response.

12. Since December 2008, FCG has known that incremental cost is an important issue in the Commission's consideration of approval of the 2008 Agreement. Yet, FCG did not undertake any efforts to locate its continuing property records and other documents that would corroborate the amounts regarding FCG's original investment in the facilities until several weeks ago.

13. The information sought by the County, which FCG has failed to provide complete answers, is relevant to the issues in this case and are otherwise reasonably calculated to lead to the discovery of admissible evidence.

WHEREFORE, based on the foregoing, it is respectfully prayed that the County's Motion to Compel be granted, and for entry of an order requiring Florida City Gas to immediately produce information and documents responsive to the above enumerated County discovery requests, and that appropriate sanctions be imposed against Florida City Gas, including but not limited to: (i) awarding the County's fees and costs for bringing this Motion; (ii) assessing FCG with penalties for not complying with mandatory recordkeeping requirements; (iii) imposing additional sanctions against FCG for misleading Commission Staff; and (iv) granting such other and further relief as this Commission deems just and proper.

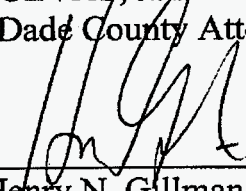
CERTIFICATION

Pursuant to Rule 28-106.204(3), Florida Administrative Code and Rule 1.380(a)(2), Florida Rules of Civil Procedure, undersigned counsel for the County has conferred with counsel for FCG in this matter who has not stated whether FCG objects to the Motion.

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney

By: _____


Henry N. Gillman
Assistant County Attorney
Florida Bar No. 793647
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, FL 33128
Telephone: 305-375-5151
Fax: 305-375-5611
Email: hgill@miamidade.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered by electronic mail and U.S. Mail this 17th day of March, 2011 to:

Anna Williams, Esq.
Martha Brown, Esq.
Office of General Counsel
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
Anwillia@PSC.State.FL.US
MBrown@PSC.State.FL.US
(Florida Public Service Commission)

Floyd R. Self, Esq.
Messer, Caparello & Self, P.A.
2618 Centennial Place
Tallahassee, FL 32308
Fself@lawfla.com
(Florida FCG)

Shannon O. Pierce, Esq.
Ten Peachtree Place, 15th floor
Atlanta, GA 30309
Spierce@aglresources.com
(AGL Resources, Inc.)

Mr. Melvin Williams
933 East 25th Street
Hialeah, FL 33013
Mwilliam@aglresources.com
(Florida FCG)

By: _____

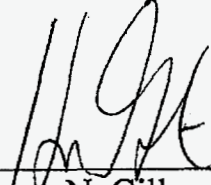

Henry N. Gillman
Assistant County Attorney

EXHIBIT A

**FLORIDA CITY GAS' RESPONSES TO MIAMI-DADE COUNTY'S
INTERROGATORY NUMBERS 18, 19, 21, 23, 30, 31, 32, 34, 35, 37, 44, 45, 46,
48, 50, 58, 59, 62, 63, 64, 66, 67**

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of Special Gas)
Transportation Service Agreement with Florida) Docket No. 090539-GU
City Gas by Miami-Dade County through)
Miami-Dade Water and Sewer Department)

**FLORIDA CITY GAS' OBJECTIONS AND RESPONSES TO
MIAMI-DADE COUNTY'S
FIRST SET OF INTERROGATORIES (NOS. 1-26)**

Florida City Gas ("FCG"), by its attorneys, hereby respectfully objects and responds to the Miami-Dade County's ("Miami-Dade") First Set of Interrogatories (Nos. 1-26) as follows:

FCG makes the following General Objections to Miami-Dade's First Set of Interrogatories, including the applicable definitions and general instructions therein ("Miami-Dade discovery"), which as appropriate are incorporated into each relevant response.

1. FCG objects to the Miami-Dade discovery to the extent that such discovery seeks to impose an obligation on FCG to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. FCG further objects to any and all Miami-Dade discovery that seeks to obtain information from FCG for FCG subsidiaries, affiliates, or other related FCG entities that are not parties before this Commission.

2. FCG has interpreted the Miami-Dade discovery to apply to FCG's regulated operations in Florida and will limit its responses accordingly. To the extent that any Miami-Dade discovery is intended to apply to matters that take place outside the State of Florida and which are not related to FCG's regulated Florida operations, FCG objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

18. Are the pipelines from the FCG station to the Alexander On Plant fully depreciated? Hialeah Plant? South District Plant? If not, how much has been depreciated?

FCG'S RESPONSE: FCG incorporates objections 5, 6, 10, 11, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: FCG does not depreciate individual assets, but rather assets are depreciated as a class based upon additions and removals from service. Since individual assets are not individually depreciated, it is not possible to state whether the pipelines to the three Miami-Dade plants have been fully depreciated or not. However, as a class, FCG can state that no pipes have been fully depreciated.

Responsible Person: Objections by Counsel. Substantive Response by Carolyn Bermudez, Director, Strategic Business and Financial Planning, 955 East 25 Street, Hialeah, Florida, 33013.

19. Who paid for the installation of the pipeline from the FCG station to the Alexander Orr Plant? Hialeah Plant ? South District Plant?

FCG'S RESPONSE: FCG incorporates objections 5, 8, 11, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: Under Section 1 of Article X, Facilities, of the 1998 Natural Gas Transportation Service Agreement, it states: "All facilities required to provide service under this Agreement shall be designed, constructed, installed, operated, maintained, and owned by Company." In addition, Section 2 of Article X, of the 1998 Agreement states, "Customer [Miami-Dade] agrees to pay Company [FCG] a one time 'Aid to Construction' charge of \$300,000 for Company to design, construct, own, maintain, and operate natural gas service to Miami-

Dade South District Wastewater Treatment Plant, 8950 S.W. 232 Street, Miami, FL, 33170, sufficient in size to meet Customer-specified demand of 400,000 therms maximum annual quantity (MACQ). Company agrees to run gas line(s) to point(s) of use within this plant as determined by the Customer, which shall constitute Point(s) of Delivery. Customer shall reimburse Company, prior to the commencement of service, in the amount of \$825.00 per meter for any telemetry equipment required to be installed at this plant.”

The 2008 Natural Gas Transportation Service Agreement states in Section 1 of Article X, Facilities, as follows: “All facilities required to provide service under this Agreement shall be designed, constructed, installed, operated, maintained, and owned by Company.”

FCG has no basis for disputing these representations or that the obligations stated therein were met.

Responsible Person: Objections by Counsel. Substantive Response by Carolyn Bermudez, Director, Strategic Business and Financial Planning, 955 East 25 Street, Hialeah, Florida, 33013.

20. What was FCG's annual revenues, expenses and profits between 2004 and 2009?

FCG'S RESPONSE: FCG incorporates objections 5, 7, 8, 11, and 13.

Responsible Person: Objections by Counsel.

21. What capital investments, if any, has FCG made to serve the Alexander On Plant? Hialeah Plant? South District Plant?

FCG'S RESPONSE: FCG incorporates objections 5, 7, 8, 9, 10, 11, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: See the responses to Interrogatory Nos. 18 and 19.

Responsible Person: Objections by Counsel. Substantive Response by Carolyn Bermudez, Director, Strategic Business and Financial Planning, 955 East 25 Street, Hialeah, Florida, 33013.

22. Does FCG have any gas transportation contracts with other municipalities or utilities? If yes, state the name of the customer(s), whether the contract has below tariff rates and was submitted to the PSC for approval, and explain how FCG determined the incremental cost to serve the customer.

FCG'S RESPONSE: FCG incorporates objections 1, 5, 7, 8, 9, 11, 12, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: Yes, FCG has municipality and other utilities as customers. All such customers take service from FCG either directly from the tariff or pursuant to some kind of contract that incorporates tariff service(s) and tariff rate(s). In other words, none of these customers receive a below tariff rate, and because such customers are tariff customers, nothing has been submitted to the PSC regarding their specific service arrangements.

Responsible Person: Objections by Counsel. Substantive Response by Melvin Williams, Vice President and General Manager, 955 East 25 Street, Hialeah, Florida, 33013.

23. Identify the person who prepared the 1999 Rate Design and explain the methodology for the rate design.

FCG'S RESPONSE: FCG incorporates objections 5, 8, 11, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: This was prior to the acquisition of FCG by AGL Resources. FCG would direct Miami-Dade to the rate case filing in the records of the PSC.

Responsible Person: Objections by Counsel. Substantive Response by Melvin Williams, Vice President and General Manager, 955 East 25 Street, Hialeah, Florida, 33013.

24. List the transportation customers, if any, that received below-tariff rates during the past 5 years and state whether the special contracts with the customers were approved by the PSC?

FCG'S RESPONSE: FCG incorporates objections 5, 7, 8, 9, 11, and 12. Notwithstanding the foregoing objections, and without waiving said objections FCG states: Miami-Dade is the only such customer.

Responsible Person: Objections by Counsel. Substantive Response by Melvin Williams, Vice President and General Manager, 955 East 25 Street, Hialeah, Florida, 33013.

25. Please list the customers that are currently billed the Competitive Rate Adjustment.

FCG'S RESPONSE: FCG incorporates objections 5, 7, and 12. Notwithstanding the foregoing objections, and without waiving said objections FCG states: None.

how many years was the 1998 Agreement in place before the CRA mechanism was authorized by the Commission?

Response: FCG objects to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. In addition, the stated period of time requested is longer than is relevant for purposes of the issues in this docket, and as such this request is overly broad and unduly burdensome. Notwithstanding but subject to these objections, FCG states as follows: Yes. As far as we can ascertain, the CRA was approved to become a part of the Company's tariff effective July 27, 1991. The Company has been unable to locate CRA filings from the early years in which it was first effective so it is not possible to address how the CRA was calculated or charged other than what the original tariff sheet says. See ROG Attachment No. 29.

This response prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

30. Please identify any Commission order or precedent whereby the Commission rejected a special contract on the basis that a utility failed to act diligently in negotiating the contract's terms?

Response: FCG objects to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. Whether the Florida PSC has approved or not approved contracts in the past is not relevant as to whether the PSC should approve this contract. FCG further objects that this interrogatory asks for attorney work product information which is privileged. Legal precedents, analysis, and argument are appropriate for the post-hearing briefs of the parties.

This response prepared by or under the supervision of undersigned counsel.

31. Please identify any Commission order or precedent whereby the Commission rejected a special contract on the basis that the utility had failed to conduct an incremental cost study as required by the tariff rate schedule referenced in the special contract.

Response: FCG objects to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. Whether the Florida PSC has approved or not approved contracts in the past is not relevant as to whether the PSC should approve this contract. FCG further objects that this interrogatory asks for attorney work product information which is privileged. Legal precedents, analysis, and argument are appropriate for the post-hearing briefs of the parties.

This response prepared by or under the supervision of undersigned counsel.

32. In the opinion of each of FCG's two witnesses, did FCG violate the terms of its KDS Rate Schedule by not performing an incremental cost study prior to signing the 2008 Agreement? Please state the basis for your opinion.

Response: FCG objects to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory calls for legal analysis and arguments that are improper for fact based interrogatory requests. Moreover, the PSC's rules also require that any such contracts be submitted to the Commission for approval "prior to its execution," so technically the 2008 TSA was not executed since it was not first approved by the Commission. FCG further objects that this interrogatory asks for attorney work product information which is privileged. Legal precedents, analysis, and argument are appropriate for the post-hearing briefs of the parties.

This response prepared by or under the supervision of undersigned counsel.

33. Please provide the definition which each of the FCG witnesses apply to the term "incremental cost study"?

Response: FCG objects to this interrogatory to the extent it calls for each FCG witness to have a definition of the term "incremental cost study." Notwithstanding but subject to this objection, FCG states as follows: See the Rebuttal Testimony of Mr. Dave Heintz, at Page 5, line 5, through Page 6, line 12, and the Rebuttal Testimony of Ms. Carolyn Bermudez, Page 3, lines 2-22.

This response prepared by or under the supervision of counsel with respect to the objection and Mr. David A. Heintz, Vice President at Concentric Energy Advisors, and Ms. Carolyn Bermudez, Region Manager for Florida City Gas, with respect to their respective testimonies.

34. Has Ms. Bermudez ever conducted an incremental cost study?

Response: See the response to Interrogatory No. 33.

This response prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

35. If the response to interrogatory 8 is yes, please identify the incremental cost study or studies conducted and the FPSC proceeding, if any, that they were prepared for?

Response: FCG is assuming this reference is to Interrogatory No. 34. On that basis, see the response to Interrogatory No. 33.

This response prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

36. Please explain why FCG witness Bermudez substituted the KDS Rate Schedule in the 2008 Agreement for the large volume interruptible rate schedule which was referenced in the 1998 Agreement?

Response: See Ms. Bermudez Direct testimony at Page 5, line, through Page 6, line 3. In addition, MDWASD specifically warranted that it qualified for the KDS tariff: "Customer represents that it meets all qualifications for Contract Demand Service." Article IV, paragraph 1, 2008 TSA. Further, in Article IV, paragraph 2, MDWASD warranted, "Customer agrees to comply with all terms and conditions of this Agreement and the Company's Tariff, as approved by the Florida Public Service Commission, which terms and conditions are incorporated fully herein by reference and the applicable Rate Schedule as the same may be amended or modified from time to time." See also Article II, paragraph 1 of the 2008 TSA: "Based upon governing applicability provisions, the Parties hereby confirm that Customer qualifies for the Contract Demand Service Rate Schedule." Moreover, Article II, paragraph 2 states that "Except to the extent expressly modified by the terms of this Agreement, all service rendered by Company under this Agreement shall be provided pursuant to the terms and conditions of Company's Tariff, which is incorporated fully herein by reference, as filed with and approved by the Florida Public Service Commission from time to time."

This response prepared by or under the supervision of undersigned counsel and Carolyn Bermudez, Region Manager for Florida City Gas.

37. If service rendered to Miami-Dade under the 1998 Agreement was included in FCG's 2000 and 2003 rate cases as part of the GS 1250K Rate Schedule, why did Ms. Bermudez and FCG replace the large volume interruptible rate schedule with the KDS Rate Schedule in the 2008 Agreement instead of the GS 1250K Rate Schedule?

Response: FCG objects to this question in that the premise for this question is based upon an incorrect statement of the facts. Notwithstanding this objection, FCG states: While service to MDWASD may otherwise fall within the GS-1250k class as that class is defined today, the reasoning for the reference to the KDS tariff is discussed by Ms. Bermudez in her Direct testimony at Page 5, line, through Page 6, line 3. *See also* FCG's response to Staff's Second Request for Production of Documents, No. 7.

This response prepared by or under the supervision of counsel, with respect to the objection, and Carolyn Bermudez, Region Manager for Florida City Gas, with respect to the substantive answer.

38. Please identify the "key personnel" or departments that were not involved in the review and/or negotiation of the 2008 Agreement on FCG's behalf that should have been involved according to FCG's witnesses?

Response: Because of changing personnel, the timing of when different individuals and departments within AGL Resources and FCG did come to be involved, and the reassignment of departmental responsibilities since the negotiation process was first initiated, it is not possible today to identify specific individuals and departments in the past that at specific points in time should have been involved. However, the process and procedures detailed in FCG's response to Staff's Second Request for Production of Documents, No. 6 identifies the departments and procedures that today would be engaged to ensure that the correct personnel and departments are engaged when they need to be.

This response prepared by or under the supervision of Melvin Williams, Vice President and General Manager of Florida City Gas and Atlanta Gas Light Company.

39. Does FCG agree that admissions of FCG mistakes, insufficient management review, failure to consider the ten-year term of the 2008 Agreement and failure to conduct an incremental cost study as required by FCG's tariff, taken together, demonstrate mismanagement by FCG with respect to the negotiation of the 2008 Agreement? If the answer is no, please explain how these actions or omissions constitute proper utility management.

Response: FCG objects to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. FCG further objects as this interrogatory calls for legal analysis and arguments that are improper for fact based interrogatory requests. FCG also objects to this interrogatory in that it makes assumptions and presents as facts matters that are outside the scope of the testimony.

INTERROGATORIES

44. At page 10, line 12-14, of FCG witness William's testimony, witness Williams states that Miami-Dade had not provided any documents proving the cost of bypass identified. Please explain why FCG has not provided the Commission or Miami-Dade with a copy of any document relating to FCG's cost of constructing the two miles of incremental pipe serving Miami-Dade other than the single email correspondence included in the Rebuttal testimony of witness Bermudez 's Exhibit __ (CB-6)?

Response: FCG objects to this question on the grounds that it is argumentative and not likely to lead to the discovery of admissible evidence. FCG has responded to discovery based upon the information requested and available and in some circumstances FCG has continued to search for potentially responsive materials.

This response was prepared by or under the supervision of undersigned counsel.

45. Does FCG maintain continuing property records? If yes, how are the property records maintained and for how long?

Response: As a general matter, FCG maintains records and is in compliance with the requirements of the various agencies with applicable jurisdiction, such as the Florida PSC and the Federal Department of Transportation. Specifically with respect to continuing property records, these are permanent records for the company.

This response was prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

46. Why has FCG not provided Miami-Dade and the Commission with continuing property records which would establish FCG's investment in the incremental pipe serving Miami-Dade?

Response: FCG objects to this question on the grounds that it is argumentative and not likely to lead to the discovery of admissible evidence. FCG has responded to discovery based upon the information requested and available and in some circumstances FCG has continued to search for potentially responsive materials.

This response was prepared by or under the supervision of undersigned counsel.

47. What documents does FCG maintain copies of to corroborate its investment in utility facilities such as the incremental two miles of pipe serving Miami-Dade?

Response: This request deals with two different types of records. There are the original work order and job tickets reflecting the detailed work and cost information associated with each construction project. The final cost information on the work order and job tickets is then entered into the accounting records of the company, which reflect the total investment by accounting class for each category of expenditures.

This response was prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

48. Attention is called to FCG's last rate case (Docket No. 030569) and the related PSC Order No. 04-0128 dated February 9, 2004. FCG apparently provided the Commission with documents establishing FCG's investment in new pipe constructed to serve Phase I of a pipeline to serve the Clewiston area. Why has FCG failed to provide similar documents to the Commission and Miami-Dade in this proceeding related to the two miles of incremental pipe serving the County's facilities?

Response: FCG objects to this question on the grounds that it is argumentative and not likely to lead to the discovery of admissible evidence. FCG has responded to discovery based upon the information requested and available and in some circumstances FCG has continued to search for potentially responsive materials.

This response was prepared by or under the supervision of undersigned counsel.

49. On what date did FCG secure the services of witness Heintz to conduct his incremental cost of service study?

Response: See FCG's response to MDWASD's Second Request for Production of Documents, No. 19, and the documents produced in response to that request. Those documents reflect that Mr. Heintz was engaged on or about January 11, 2011.

This response was prepared by or under the supervision of Melvin Williams, Vice President and General Manager of Florida City Gas and Atlanta Gas Light Company.

50. Why did FCG wait until pre-filed direct testimony had been filed to secure the services of FCG witness Heintz to conduct an incremental cost of service study?

Response: FCG objects to this question on the grounds that it is argumentative and not reasonably calculated to lead to the discovery of admissible evidence. FCG further objects to the extent this request is seeking attorney-client privileged communications. FCG also objects to this interrogatory because why FCG choose at a particular point in time to engage Mr. Heintz is not relevant to any issue in this proceeding. Notwithstanding but subject to these objections, FCG states as follows: In his rebuttal testimony Mr. Heintz explains why he was engaged.

Objections provided by counsel. Substantive response was prepared by or under the supervision of Melvin Williams, Vice President and General Manager of Florida City Gas and Atlanta Gas Light Company.

51. Did FCG cost of service witness Heintz receive any documents from FCG in the form of invoices, contracts, materials requisitions, purchase orders or any similar documents establishing FCG's investment in the two miles of incremental pipe serving Miami-Dade?

Response: No.

This response was prepared by or under the supervision of Mr. David A. Heintz, Vice President at Concentric Energy Advisors.

52. Please identify any regulatory proceeding in which Mr. Heintz has submitted testimony in which the regulator established rate base or otherwise established the utility's plant in service based for purposes of rate setting upon the evidence presented by FCG in this proceeding – a copy of a single email correspondence stating alleged investments.

Response: FCG objects to this question on the grounds that it is argumentative and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding but subject to these objections, FCG states as follows: Mr. Heintz does not recall any proceeding where a rate base or rates were established based upon information in an email, but FCG is not proposing that rates be established based upon the numbers in the email correspondence. As Mr. Heintz has related in his rebuttal testimony and in other interrogatory responses, FCG analyzed its cost to serve MDWASD based upon a class of service analysis that is entirely appropriate for the present situation, especially where MDWASD has not provided evidence of a viable or verifiable bypass alternative. See Mr. Heintz Rebuttal Testimony, at pages 4-6 for a further discussion.

57. Please identify any Florida Public Service Commission order which granted a utility higher rates upon finding that the utility had acted (a) imprudently; or (b) unreasonably; or (c) not in conformity with good utility management practice; or (d) not in conformance with the utility's own tariff or (e) any combination of the above.

Response: FCG objects to the form of this question as the issue in this case is not a utility request to be granted higher rates. FCG objects to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. FCG further objects that this interrogatory asks for attorney work product information which is privileged. Legal precedents, analysis, and argument are appropriate for the post-hearing briefs of the parties.

This response was prepared by or under the supervision of undersigned counsel.

58. If FCG does not possess or cannot produce continuing property records to identify the amount of its investment in the incremental lines and facilities serving Miami-Dade, should the Commission penalize FCG in the manner that the Commission has penalized other utilities for poor record keeping such as in Docket Nos. 090125 and 850503, for example?

Response: FCG objects to this question on the grounds that it is argumentative and not reasonably calculated to lead to the discovery of admissible evidence. Whether the Florida PSC has penalized other utilities in the past is not relevant to the issues in this docket which is whether the PSC should grant MDWASD the relief it is seeking – the approval of the 2008 TSA, (a burden MDWASD bears.) FCG further objects that this interrogatory asks for attorney work product information which is privileged. Legal precedents, analysis, and argument are appropriate for the post-hearing briefs of the parties.

This response was prepared by or under the supervision of undersigned counsel.

59. If FCG does not possess or cannot produce copies of records such as contracts, receipts, purchase orders, etc., to corroborate FCG's alleged investments in the two miles of incremental pipe serving Miami-Dade, should the Commission penalize FCG in the manner that the Commission has penalized other utilities of poor record keeping such as in Docket Nos. 090125 and 850503, for example?

Response: FCG objects to this question on the grounds that it is argumentative and not reasonably calculated to lead to the discovery of admissible evidence. There is no issue and no evidence as to whether FCG has failed to comply with the Commission's rules regarding recordkeeping. FCG further objects that this interrogatory asks for attorney work product information which is privileged. Legal precedents, analysis, and argument are appropriate for the post-hearing briefs of the parties.

This response was prepared by or under the supervision of undersigned counsel.

60. At page 4, lines 3-5, of the rebuttal testimony of witness Heintz, he suggests that the cost allocations performed by FCG witness Bermudez may be acceptable incremental cost of service studies in the context in which they were provided. Please explain the difference between the incremental cost of service study performed by witness Heintz and the allocation process performed by witness Bermudez.

Response: See Heintz Rebuttal Testimony at pages 4-6 and 10-12 and FCG's Response to Staff's Third Set of Interrogatories, No. 50

This response was prepared by or under the supervision of Mr. David A. Heintz, Vice President at Concentric Energy Advisors.

61. In witness Heintz' expert opinion as a cost of service witness, is the analysis performed by FCG witness demonstrative of FCG's incremental cost to serve Miami-Dade's plants or not?

Response: See FCG's Response to Staff's Third Set of Interrogatories, No. 59.

This response was prepared by or under the supervision of Mr. David A. Heintz, Vice President at Concentric Energy Advisors.

62. Does FCG suggest that the alleged investment figures identified in Exhibit (CB-6) represent FCG's actual investment in the two miles of incremental pipe serving Miami-Dade's plants or are these alleged amounts the result of an allocation of FCG's system wide plant in service?

Response: At this point in time, FCG has not corroborated the numbers in Exhibit CB-6 and it also is not known whether these amounts are the result of an allocation.

This response was prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

63. Does witness Bermudez use the alleged investments identified in Exhibit (CB-6) in her allocations analyses which she describes as incremental cost of service analyses?

Response: As she describes in more detail in her testimony, she used these numbers in her Exhibits CB-1 and CB-2 for illustrative purposes only and not to assert a 1997-1999 time period incremental cost. See FCG's Response to Staff's Second Set of Interrogatories, Nos. 18 and 29.

This response was prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

64. The document identified as Exhibit (CB-6) is two pages but both pages reflect "page 3 of 6". What information is on the other pages and why are they not attached to the Exhibit?

Response: See Attachment No. 64 which includes the entire document. Ms. Bermudez only used two of the pages from that document and so that is what was previously provided.

This response was prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

65. Referring to witness Williams Exhibit __ (MW-5), Mr. Williams states on page 2, "Attached is a proposal we have developed under the advice we received from the Commission staff." Please identify the rates which Mr. Williams proposed in the attachment and explain why the attachment was not included in Mr. Williams' exhibit and why the exhibit is undated.

Response: See FCG's Response to MDWASD's Third Request for Production of Documents, No. 24 for a complete copy of the letter and the attachment. The rates contained in that attachment are the same as those in the original analysis performed by Ms. Bermudez and attached to her testimony as Exhibit __ (CB-1). Not dating the letter and originally not including the proposal to Mr. Williams' Exhibit __ (MW-5), was an oversight.

This response was prepared by or under the supervision Melvin Williams, Vice President and General Manager of Florida City Gas and Atlanta Gas Light Company.

66. Please identify the 12 customers that FCG represents as receiving service under the GS-1250K tariff during FCG's last rate case listed on page 95 of PSC Order No. 04-0128 in Docket No. 030569-GU.

Response: FCG objects to this interrogatory on the grounds that it is irrelevant to the issues in this proceeding and not likely to lead to the discovery of admissible evidence – the number of GS-1250k customers or their identities is not relevant to any issue in this proceeding. Notwithstanding and subject to this objection, FCG states as follows: See FCG's Response to Staff's Second Set of Interrogatories, No. 28(a).

Objections provided by undersigned counsel. Substantive response was prepared by or under the supervision of Carolyn Bermudez, Region Manager for Florida City Gas.

67. For each customer identified in Interrogatory No. 66 that is a transportation-only customer, please provide the number of therms annually transported and whether the pipeline is solely dedicated to the customer and whether the customer receives gas on a 24/7/365 basis.

Response: FCG objects to this interrogatory on the grounds that it is irrelevant to the issues in this proceeding and not likely to lead to the discovery of admissible evidence – the number of therms transported for the company's GS-1250k customers and whether the pipeline serving them is solely dedicated to that customer is not relevant to any issue in this proceeding. Notwithstanding but subject to this objection, FCG states as follows: See the FCG Response to Staff's Second Set of Interrogatories, Nos. 33 and 34.

EXHIBIT B

FLORIDA CITY GAS' RESPONSES TO MIAMI-DADE COUNTY'S
REQUEST FOR PRODUCTION NUMBERS 1, 2, 5, 7, 8, 9, 13, 20, 21, 23, 25,
26, 27

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of Special Gas
Transportation Service Agreement with Florida
City Gas by Miami-Dade County through
Miami-Dade Water and Sewer Department

Docket No. 090539-GU

**FLORIDA CITY GAS' OBJECTIONS AND RESPONSES
TO MIAMI-DADE COUNTY'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-6)**

Florida City Gas ("FCG"), by its attorneys, hereby respectfully objects and responds to the Miami-Dade County's ("Miami-Dade") First Request for Production of Documents (Nos. 1-6) as follows:

FCG makes the following General Objections to Miami-Dade's First Request for Production of Documents, including the applicable definitions and general instructions therein ("Miami-Dade discovery"), which as appropriate are incorporated into each relevant response.

1. FCG objects to the Miami-Dade discovery to the extent that such discovery seeks to impose an obligation on FCG to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. FCG further objects to any and all Miami-Dade discovery that seeks to obtain information from FCG for FCG subsidiaries, affiliates, or other related FCG entities that are not parties before this Commission.

2. FCG has interpreted the Miami-Dade discovery to apply to FCG's regulated operations in Florida and will limit its responses accordingly. To the extent that any Miami-Dade discovery is intended to apply to matters that take place outside the State of Florida and which are not related to FCG's regulated Florida operations, FCG objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

DOCUMENTS REQUESTED OBJECTIONS AND RESPONSES

1. Provide all documents relating to maintenance of FCG's pipelines serving the Alexander Orr Plant, Hialeah Plant and South District Plant.

FCG'S RESPONSE: FCG incorporates objections 4, 5, 8, 9, 11, and 13.

2. Provide all documents including correspondence, emails between FCG and AGL [Resources] staff, officers and directors, inside counsel and outside counsel relating to the 1998 Agreement, 2008 Agreement, and the Petition to FPSC dated November 2008.

FCG'S RESPONSE: FCG incorporates objections 1, 3, 4, 5, 7, 8, 9, 11, and

13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: FCG will produce all pleadings, e-mails, correspondence, and data request responses between FCG and the PSC and PSC Staff in connection with Docket No. 080672-GU.

3. Provide all financial records of FCG from 2005 to present.

FCG'S RESPONSE: FCG incorporates objections 1, 4, 5, 7, 8, 9, 11, 12, and

13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: FCG will produce its Florida PSC Surveillance Reports for the June 2009 quarter through the June 2010 quarter.

4. Provide all financial records of AGL [Resources] with regard to expenses billed or allocated to FCG.

FCG'S RESPONSE: FCG incorporates objections 1, 2, 4, 5, 7, 8, 9, 11, 12,

and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: See the documents produced in response to POD No. 3.

5. Provide all of FCG and AGL [Resources] notes and memos regarding the 2008 Agreement.

FCG'S RESPONSE: FCG incorporates objections 1, 3, 4, 5, 7, 8, 9, 11, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: See the documents produced in response to POD No. 2.

6. Provide all Surveillance Reports for FCG's cost of serving the Alexander Orr Plant, Hialeah Plant and South District Plant from 1998 to the present.

FCG'S RESPONSE: FCG incorporates objections 5, 6, 7, 8, 9, 11, and 13. Notwithstanding the foregoing objections, and without waiving said objections FCG states: There are no Surveillance Reports for FCG's cost of serving the three Miami-Dade plants See the response to Interrogatory Nos. 11, 12, and 13.

REQUESTS

7. Please provide copies of every CRA quarterly and annual report filed by FCG with the Public Service Commission since the CRA mechanism was authorized.

Response: FCG objects to this request as it is overbroad, burdensome, and will not lead to the discovery of admissible evidence. Notwithstanding but subject to these objections, FCG states: FCG will provide the FCG CRA filings for the period since the company's 2003 rate case, so for 2004 forward.

8. Please provide copies of any documents in the possession of FCG or AGL which identify or discuss the "1999" incremental costs disclosed in Exhibit (CB-1) of FCG witness Bermudez.

Response: See the FCG Response to Staff POD No. 2.

9. Please provide copies of any FPSC order or precedent identified by FCG in response to Miami-Dade interrogatories 2, 4 or 5.

Response: FCG believes that the correct cross-reference for this POD is to Interrogatories Nos. 28, 30, and 31. Assuming this is requesting documents associated with those interrogatories, see the specific objections and responses to Interrogatories Nos. 28, 30, and 31.

10. Please provide a copy of any incremental cost of service study prepared by or under the direction and supervision of FCG witness Bermudez.

Response: See the FCG Response to MDWASD's Second Set of Interrogatories Nos. 33, 40, and 41.

11. Please provide a copy of any documents from FCG's 2000 and 2003 rate cases which indicate that FCG's service to Miami-Dade was included in the GS 1250K service classification.

Response: See the FCG Response to MDWASD's Second Set of Interrogatories No. 37. See also the FCG Response to Staff's Second Request for Production of Documents No. 7.

12. Please provide a copy of any document identifying or discussing FCG's rationale or justification for including services to Miami-Dade in the CRA recovery mechanism.

Response: See the FCG Response to MDWASD's Second Set of Interrogatories Nos. 42 and 43.

13. Please provide a copy of every FCG surveillance report filed with FPSC since 1998.

Response: FCG objects to this request as it is overbroad, burdensome, and will not lead to the discovery of admissible evidence. Notwithstanding but subject to these objections, FCG states: FCG will provide the FCG surveillance reports for the period since the company's 2003 rate case, so for 2004 forward.

14. Provide all documents, including but not limited to memos, correspondence, emails, spreadsheets, reports, analyses, summaries, sources, backup papers, drafts, notes, proposals, economic analyses, calculations, investment assumptions, cost of service calculations, and any other information used, relied upon, provided to, or created by Mr. Melvin Williams in the preparation of his prefiled direct and rebuttal testimony. To the extent any of these documents include spreadsheets in Microsoft Excel or other software spreadsheet programs, please provide such documents in electronic format with all formulas intact.

Response: FCG objects to this request as it is overbroad, burdensome, and not likely to lead to the discovery of admissible evidence. FCG further objects with respect to any such potentially responsive documents that contain attorney-client privileged communications. Notwithstanding but subject to these objections, FCG states: Aside from the documents provided with his testimony and in connection with discovery responses to date, there are no other such responsive documents.

15. Provide all documents, including contracts, letters, emails faxes, and any other communications, to or from any person employed by or working for FCG or AGL (including but not limited to in-house and outside counsel for FCG and AGL) and Melvin Williams

REQUESTS

20. If FCG's answer to Interrogatory No. 45 is yes, please provide any and all continuing property records relating to the incremental pipe serving Miami-Dade's facilities.

Response: FCG objects to this request as overly broad, unduly burdensome, expensive, oppressive, and excessively time consuming as written. The original work order and job tickets associated with the plant serving the MDWASD facilities covers the last 15 years and such records are intermingled with all of the other original work order and job tickets for the company. Such paper records are regularly inventoried and stored off site. In order to ensure presentation of all such records associated with service to MDWASD would require a review of every such document for nearly 15 years. Similarly, while the Company's accounting records are today automated and stored in electronic format, the original paper records are likewise voluminous and in off-site storage. Production of these original records is excessive and unnecessary. Notwithstanding but subject to this objection, FCG states: FCG has undertaken an effort to try to retrieve those continuing property records that relate to FCG's service to MDWASD. FCG does not represent that the documents it has located to date are complete. FCG will provide MDWASD with a copy of those records retrieved and identified to date. See Attachment No. 20 to this production request.

21. Please provide any and all documents such as invoices, contracts, requisitions, purchase orders, or any similar documents that establish or corroborate FCG's investment in the incremental two miles of pipe serving Miami-Dade.

Response: See the objection and response to POD No. 21 above.

22. Please provide all documents received by witness Heintz establishing FCG's investment in the two miles of incremental pipe serving Miami-Dade.

Response: Other than the information contained in Ms. Bermudez's Exhibit __ (CB-6), already in MDWASD's possession, there are no other responsive documents.

23. If FCG's answer to Interrogatory No. 54 is "no", please provide any and all documents that FCG is relying on to establish its investment in the two miles of incremental pipe serving Miami-Dade.

Response: See FCG's Response to MDWASD's Third Set of Interrogatories, No. 54.

24. Please provide the document that was not attached to Williams Exhibit_ (MW-5).

Response: See Attachment No. 24 to this production request.

25. Please provide copies of any FPSC Orders or precedent identified by FCG in response to Miami-Dade Interrogatory No. 55.

Response: There are no responsive documents. See the interrogatory response.

26. Please provide copies of any FPSC Orders or precedent identified by FCG in response to Miami-Dade Interrogatory No. 57.

Response: There are no responsive documents. See the interrogatory response.

27. On page 11 of witness Bermudez' direct testimony, Bermudez states that "you cannot look at our rate case, our surveillance reports and other filings with the PSC, or the books and records of the company to obtain a specific cost of service for MDWASD collectively or specifically for their three plants that we serve." Please provide any and all documents, including, but not limited to, continuing property records, invoices, contracts, and purchase orders that establish or corroborate FCG's investment in the two miles of incremental pipe to serve MDWASD.

Response: See FCG's Response to MDWASD's Third Request for Production, No. 20.



Florida City Gas

933 East 25th Street
Hialeah, FL 33013

www.floridacitygas.com

Dear Greg and David:

Florida City Gas appreciates our commercial relationship with Miami Dade Sewer and Water Department (MDSWD). I want to personally assure each of you that we are committed to extending our service to you into the future in an economical manner, and under an agreement that can be approved by the Florida Public Service Commission. I want to and work with you to resolve this matter promptly.

Since our meeting in February, the Company has been involved in an exchange of letters with your consultant, Mr. Jack Langer. Instead of continuing this unproductive exchange, I would like to meet with each of you directly in order to move forward with extending our commercial relationship.

In advance of our meeting, please allow me to address Mr. Langer's most recent letter of April 8, 2009. Our response to each issue he presented is as follows:

Point 1: The original contract between the Company and MDSWD was provided under the Contract Demand Service (KDS) section of our tariff. The Company does have a flexible gas service (FGS) tariff. However, our original agreement did not provide for service to MDSWD under that tariff, and at no point during our 10-year service has the Authority been served under the FGS tariff.

Point 2: If MDSWD desires to explore service under the FGS tariff going forward, such service would be provided under the current FCG tariff that became effective on December 7, 2004. The FGS tariff has a number of provisions that would apply to service being initiated for MDSWD.

- a. A customer must have a viable economic energy alternative to service from the Company, and it must provide verifiable documentation that the energy alternative is both available and economically viable. Mr. Langer has not identified that alternative to-date.
- b. When a viable economic alternative exists, the Company must demonstrate to the satisfaction of the Public Service Commission that gas service to its customer at a lower rate based on the alternative source will not cause any additional cost to the Company's other rate classes.
- c. Third, the rate charged to a customer under the FGS tariff "shall not be set lower than the incremental cost the company incurs to serve the customer"; and

- d. Fourth, service under the FGS tariff is not financially supported by the Company's CRA rider, as is service under the KDS tariff under which MDSWD is presently served. The CRA rider provides a subsidy equal to approximately eighty-seven (87%) of the revenues collected by the Company for service to MDSWD.
- e. With the requirement that a FGS tariff customer pay no less than the incremental cost of service, and the fact that CRA support is not available, service to MDSWD under the FGS tariff would require a substantial additional charge over and above our incremental cost of service to make sure the Company's other rate classes will not unduly bear the cost of providing continuing service to MDSWD.

Point 3: The contract with MDSWD executed in 1998 has expired, despite Mr. Langer's statements. The ongoing service from the Company is available only on a month to month basis pursuant to the First Amendment to that contract. This extension was necessary only to seek the approval of the Commission to enter into a new agreement. Absent action by the Commission on a revised agreement, due to the objections we highlighted for MDSWD in our January letter (attached) the month to month service will have to expire soon.

Point 4: We are current providing service under the First Amendment agreement that became effective July 1, 1998, and we are fulfilling that agreement.

Point 5: Under the terms of the First Amendment and New 2008 Agreement, Commission approval is a prerequisite to the any new contract becoming effective. There are no provisions in the FCG tariff that allows service to a customer under a special contract without Commission approval.

Point 6: FCG has done all things prudent and necessary to present and support passage of the New 2008 Agreement to the Commission. Approval of the New 2008 Agreement by the Commission will not be forthcoming. The Commission staff has advised the Company that it will make a "unfavorable recommendation" of the new contract as MDSWD does not qualify for service as a KDS customer, and because the proposed rates do not recover, at a minimum, the Company's incremental cost of service. This advice from the Commission staff led to the points we discussed at our meeting with MDSWD in February to begin renegotiations on an agreement that could gain Commission support. The Company believes it to be counterproductive to proceed in a case where a negative outcome is known.

Overall, we agree that MDSWD and the Company negotiated in good faith to arrive at a successor contract last year. The Commission staff supports our efforts to reach an accord with MDWSD in renegotiating the New 2008 Agreement to produce a contract that can meet the Commission's requirements. However, the extension under the First Amendment cannot be extended indefinitely.

Attached is a proposal we have developed under the advice we received from the Commission staff. We believe this new proposal can provide an economical service for MDWSD and can be approved by the Commission. In his letter, Mr. Langer indicates a desire to negotiate a new

agreement that is based on our FGS tariff. We can discuss that approach along with other approaches that will be more economical for MDWSD, once we have verification of the alternative supply.

Our ability to continue service under the current month-to-month arrangement is very limited, and we believe time is of the essence. This is certainly not the manner in which either party envisioned continued service to MDWSD, but I am confident we can arrive at a mutually beneficial resolution of this important matter. Thank you and I look forward to meeting with you soon.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Mel Williams".

Melvin Williams

	Per 1999 Rate Design	Per Dec 08 Surveillance Report
		2008 Actual
Miami Dade Water and Sewer Water Plant - Alexander Orr Cost of Service and Rate Design		
Description	Total	Total
O&M Expenses	\$3,500	\$92,045
Depreciation	\$11,230	\$45,054
Taxes Other Than Income	\$10,302	\$12,350
State Tax @ 5.5%	\$2,843	\$2,442
Federal Tax @ 34.00%	\$15,874	\$13,840
Sub-total	\$43,649	\$165,732
Required Return on Investment ** (Rate base x ROR)	\$30,399	\$28,502
Total Incremental Cost of Service	\$74,048	\$194,233
Estimated Annual Volume (therms)	4,243,010	3,390,930
Incremental Cost Rate	\$0.01745	\$0.05728
Calculated Rate		\$0.06301
Miami Dade Water and Sewer Water Plant - Hialeah Water Plant and Black Point Cost of Service and Rate Design		
Description	Total	Total
O&M Expenses	\$6,500	\$92,045
Depreciation	\$24,164	\$45,054
Taxes Other Than Income	\$10,649	\$12,350
State Tax @ 5.5%	\$6,331	\$2,442
Federal Tax @ 34.00%	\$33,726	\$13,840
Sub-total	\$81,370	\$165,732
Required Return on Investment *** (Rate base x ROR)	\$65,409	\$61,326
Total Incremental Cost of Service	\$146,779	\$227,058
Estimated Annual Volume (therms)	3,159,440	2,102,182
Incremental Cost Rate	\$0.04646	\$0.10801
Calculated Rate		\$0.11881