

Eric Fryson

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Sent: Friday, March 09, 2012 3:15 PM
To: Filings@psc.state.fl.us
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Subject: Electronic Filing Docket No. 110264-WS
Attachments: Citizens' Response to Motion to Dismiss or Abate 3-9-12.docx.pdf
Electronic Filing

a. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel
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b. Docket No. 110264-WS

In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

c. Document being filed on behalf of Office of Public Counsel.

d. There are a total of 4 pages.

e. The document attached for electronic filing is **Citizens' Response to Motion to Dismiss or Abate** to Labrador Utilities, Inc.

Thank you for your attention and cooperation to this request.

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3/9/2012

DOCUMENT NUMBER-DATE

01397 MAR-9 2012

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water
and wastewater rates in Pasco County
by Labrador Utilities, Inc.

Docket No. 110264-WS

Filed: March 9, 2012

CITIZENS' RESPONSE TO MOTION TO DISMISS OR ABATE

The Citizens of the State of Florida ("Citizens"), by and through their undersigned attorney with the Office of Public Counsel ("OPC"), file this response to Forest Lake Estates Co-Op, Inc's ("Co-Op") Motion to Dismiss or Abate, and state:

1. On February 9, 2012, the Co-Op issued to Labrador Utilities, Inc. ("Labrador", "Utility" or "Company") a notice of termination of the Utility's lease of the land upon which the water and wastewater facilities are located. The notice was provided to Labrador due to the Company's failure to cure a monetary default, and after proper notice to do so, and in expressed accordance with the terms of the Utility's lease. The notice of termination requires the Utility to immediately quit, surrender, and remise the leased premises to the Co-Op.

2. On March 6, 2012, the Co-Op filed its Motion to Dismiss or Abate Labrador's rate increase request, because termination of the Utility's lease eliminates Labrador's ability to provide service as required by Section 367.1213, F.S., and Commission Rule 25-30.433(10), F.A.C.

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FPSC-COMMISSION CLERK

3. If Labrador voluntarily elects to extend the five month deadline for this PAA proceeding, the Commission could issue an order abating all activities in Docket No. 110264-WS until the lease litigation is resolved. If the abatement is ordered by the Commission, the Utility would be authorized to continue to collect from ratepayers the interim rate increase authorized by the Commission until such time as the lease litigation is resolved. If the litigation is resolved in favor of the Utility, the abatement would end and the docket would resume at the point it was abated. If the litigation is resolved in favor of the Co-Op, this case would be dismissed and the docket closed after the Utility refunded to the customers the interim rate increase with interest.

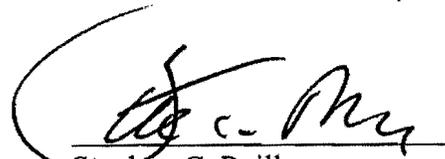
4. If Labrador refuses to extend the five month PAA time limit until the lease litigation is resolved, the Commission should dismiss Labrador's rate increase filing as being fatally flawed, and refund to customers the interim rate increase with interest.

5. On January 18, 2012, the Co-Op filed its Amended Motion for Intervention. No party filed a response in opposition to the Co-Op's amended motion, and the motion should be granted by the Commission. Granting the amended motion will provide standing to the Co-Op to file its Motion to Dismiss or Abate. To date, the Commission has not ruled on the Co-Op's Amended Motion to Intervene. OPC does not believe any potential standing issue should delay or deter the Commission's consideration of the Co-Op's important Motion to Dismiss or Abate. For this reason, and on behalf of the customers of Labrador, OPC hereby expressly agrees with and adopts as its own the Co-Op's Motion to Dismiss or Abate, and does hereby refile the motion in this docket, if necessary.

WHEREFORE, for all the reasons stated in the Motion to Dismiss or Abate as originally filed, OPC moves this Commission to abate this proceeding until the lease litigation is resolved, if the Utility waives the five month deadline provided for PAA proceedings, or to dismiss the case if Labrador elects not to waive the five month deadline.

Respectfully Submitted,

J.R. Kelly
Public Counsel

A handwritten signature in black ink, appearing to read "S. C. Reilly", is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

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Attorneys for the Citizens
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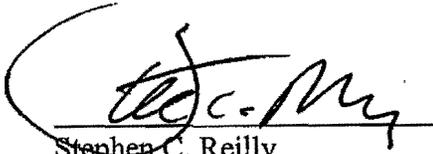
CERTIFICATE OF SERVICE
DOCKET NO. 110264-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Response to Motion to Dismiss or Abate has been furnished by U.S. Mail and electronic mail to the following parties on this 9th day of March, 2012.

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