

Ruth Nettles

From: Trina Collins [TCollins@RSBattorneys.com]
Sent: Wednesday, October 01, 2008 2:16 PM
To: Filings@psc.state.fl.us
Cc: Jean Hartman; Charles Beck; jphoy@uiwater.com; rjdurham@uiwater.com; pcflynn@uiwater.com; jrstover@uiwater.com; jdwilliams@uiwater.com; Martin Friedman; Christian W. Marcelli; Trina Collins
Subject: Filing in Docket No.: 080006-WS; In re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), F.S.
Importance: High
Attachments: PSC Clerk 04 (Motion to Strike Portion of Rothchild's TM).ltr.10-01-2008.pdf

- a. Martin S. Friedman, Esq.
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- b. Docket No.: 080006-WS; In re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), F.S. on behalf of Utilities, Inc.
- c. Utilities, Inc.
- d. 4 Pages.
- e. Letter to Commission Clerk - 1 page; Motion to Strike Portion of James A. Rothchild's Surrebuttal Testimony and Exhibits - 3 pages.

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REPLY TO CENTRAL FLORIDA OFFICE

October 1, 2008

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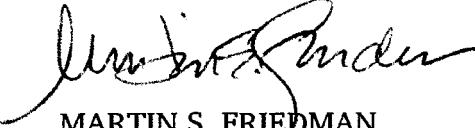
Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

RE: Docket No.: 080006-WS; In re: Water and Wastewater Industry Annual
Reestablishment of Authorized Range of Return on Common Equity for Water and
Wastewater Utilities Pursuant to Section 367.081 (4)(f), F.S.
Our File No.: 30057.161

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket on behalf of Utilities, Inc., is a
Motion to Strike Portion of James A. Rothchild's Surrebuttal Testimony and Exhibits.

Very truly yours,



MARTIN S. FRIEDMAN
For the Firm

MSF/tlc
Enclosures

cc: Jean Hartman, Esq., Office General Counsel (w/encs.) (via e-mail and U.S. Mail)
Charlie Beck, Esq., Office of Public Counsel (w/encs.) (via e-mail and U.S. Mail)
John P. Hoy, Chief Regulatory Officer (w/enclosures) (via e-mail)
Rick Durham, Regional Vice President for Operations (w/enclosures) (via e-mail)
Patrick C. Flynn, Regional Director (w/enclosures) (via e-mail)
John D. Stover, Esquire, General Counsel (w/enclosures) (via e-mail)
John D. Williams, Director of Governmental Affairs (w/enclosures) (via e-mail)

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BEFORE THE PUBLIC SERVICE COMMISSION

In re: Water and Wastewater Industry)
Annual Reestablishment of Authorized)
Range of Return on Common Equity for)
Water and Wastewater Utilities pursuant)
to Section 367.081 (4)(f), F.S.)
_____)

Docket No.: 080006-WS

**MOTION TO STRIKE PORTION OF JAMES A. ROTHCHILD'S
SURREBUTTAL TESTIMONY AND EXHIBITS**

UTILITIES, INC., by and through its undersigned attorneys and pursuant to Rule 28-106.204, F.A.C., moves the Prehearing Officer to strike a portion of the Prefiled Surrebuttal Testimony of James A. Rothchild and Exhibit JAR-12, and in support thereof, states:

1. In Pauline Ahern's Prefiled Rebuttal Testimony, she refers to certain treatises by Roger A. Morin, Ph.D. Apparently, in response to those references, James A. Rothchild in his Surrebuttal Testimony addresses testimony Dr. Morin filed in Nova Scotia Power Incorporated's 2005 rate case in Nova Scotia, Canada, and includes as Exhibit JAR-12 his Rebuttal Testimony to the testimony of Dr. Morin in that power company case.

2. In order to be admissible, evidence must be relevant, that is, the evidence must trend to prove or disprove facts at issue. §90.041, F.S. Such evidence must have probative value, that is the evidence has some value to be evaluated by the trier of fact with regard to an issue at hand.

3. Mr. Rothchild's Surrebuttal Testimony and Exhibit JAR-12 do not rebut Ms. Ahern's testimony, but is in rebuttal to testimony not presented in this case, in this industry or in this Country. Dr. Morin is not a witness in this proceeding and testimony which may have rebutted that of Dr. Morin in another proceeding is irrelevant. Mr. Rothchild did not

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even include in his exhibit the testimony of Dr. Morin that he was rebutting¹.

4. As required by Rule 28-106.204 (3), F.A.C., the undersigned has consulted with Mr. Beck of the Office of Public Counsel, who does have an objection to this Motion.

WHEREFORE, Utilities, Inc., requests that the Prehearing Officer strike Mr. Rothchild's Surrebuttal Testimony beginning on page 35, line 22, and continuing through page 36, line 10, and Exhibit JAR-12.

Respectfully submitted this 1st day of
October, 2008, by:

Rose, Sundstrom & Bentley, LLP
2180 W. State Road 434, Suite 2118
Longwood, FL 32779
PHONE: (407) 830-6331

BY: 
MARTIN S. FRIEDMAN
For the Firm

¹ Not that doing so would have made Mr. Rothchild's testimony and Exhibit JAR-12 any more relevant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail & U. S. Mail this 1st day of October, 2008, to:

Jean Hartman, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Charlie Beck, Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-5458

BY 
MARTIN S. FRIEDMAN