

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate
increase in North Ft. Myers
Division in Lee County by
Florida Cities Water Company -
Lee County Division.

DOCKET NO. 950387-SU

FILED: NOVEMBER 4, 1998

FLORIDA PUBLIC SERVICE COMMISSION STAFF'S RESPONSE TO
FLORIDA CITIES WATER COMPANY'S REQUEST FOR PRODUCTION
OF DOCUMENTS (NOS. 1-8)

Pursuant to Rule 1.350, Florida Rules of Civil Procedure, "Any party may request any other party (1) to produce . . . documents." Pursuant to the holding in South Florida Natural Gas v. FPSC, 534 So. 2d 695 (Fla. 1988), staff is not party. Therefore, staff does not believe that a request for production is appropriate.

However, the utility could have requested the same information through a public records request, and staff notes that, except for Request No. 2, this request is basically identical to the utility's public records request received by this Commission on or about March 25, 1998. Therefore, staff has treated this request as a second public records request to supplement the previous public records request. Except for documents created after the first public records request, staff refers the utility to that response.

For Requests Nos. 1 and 2, attached is Mary Anne Helton's memorandum dated June 16, 1998, analyzing the Opinion of the First District Court of Appeal in Case No. 96-4227 -- Florida Water Services Corporation (and to a lesser degree the Opinion in Case No. 96-3812 -- Florida Cities Water Company). Also, in regards to the Opinions in Case Nos. 96-4227 and 96-3812, staff has filed three recommendations in Docket No. 950495-WS (dated August 20, and October 7 and 21, 1998), and one recommendation in Docket No. 950387-SU (dated March 12, 1998) which are online and available on request.

All other documents, pertaining to Requests Nos. 1, 3, 4, 5, 6, 7, and 8, were provided pursuant to the utility's public records request on or about March 25, 1998. For Request No. 8, the staff

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has already provided all documents pertaining to the proposed rule on margin reserve and imputation of CIAC on the margin reserve except for any privileged material containing impressions of counsel in regards to the appeal of the Division of Administrative Hearings Order invalidating the proposed rule. Also, staff believes all the documents on the proposed rule development for flow data to be used for wastewater treatment plant used and useful calculations have been provided pursuant to the utility's aforementioned public records request. However, that file is available, upon request, for inspection at staff counsel's office.

Dated this 4th day of November, 1998.

Florida Public Service Commission Staff

By Ralph R. Jaeger

Ralph R. Jaeger, Staff Counsel
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the Florida Public Service Commission Staff's Response to Florida Cities Water Company's Request for Production of Documents (Nos. 1-8) has been furnished to **Kathryn G. W. Cowdery, Esquire**, Ruden, McClosky, Smith, Schuster & Russell, P.A., 215 S. Monroe Street, Suite 815, Tallahassee, FL 32301, **Harold McLean**, Office of the Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, FL, 32399-1400, **Cheryl Walla**, 1750 Dockway Drive, North Ft. Myers, FL 33903, and **Jerilyn Victor**, 1740 Dockway Drive, North Ft. Myers, FL 33903 by U.S. Mail, on this 4th day of November, 1998.

Ralph R. Jaeger
RALPH R. JAEGER, ESQUIRE

FLORIDA PUBLIC SERVICE COMMISSION
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