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April 14, 1997

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 970328-SU

Dear Ms. Bayo:

Enclosed for filing in the above-references docket are the original and 15 copies of Response to Florida Water's Motion for Protective Order; Citizens' First Motion to Compel.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Deputy Public Counsel

- ACK
- AFA _____
- APP _____
- CAF _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Establish Rates for a)
New Class of Service for Residential)
Wastewater Only (RWO) Service in)
All Jurisdictional Service Areas)
Included in Docket 950495-WS and)
Currently Without Authorized RWO)
Rates by Florida Water Services)
Corporation)

Docket 970328-SU

Filed April 14, 1997

**RESPONSE TO FLORIDA WATER'S MOTION FOR PROTECTIVE ORDER;
CITIZENS' FIRST MOTION TO COMPEL**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response to the motion for protective order filed by Florida Water Services Corporation ("Florida Water" or "Southern States") on April 7, 1997, and move the prehearing officer to issue an order compelling Florida Water to answer Citizens' interrogatory #1 and request for production of documents #1.

1. On March 18, 1997, Florida Water filed a petition seeking approval of numerous "residential wastewater only" tariffs that would raise rates for these customers. The petition claims that the Commission's final order in Southern States' most recent rate case, docket 950495-WS, overlooked expressly approving or disapproving residential wastewater only (RWO) rates for a number of jurisdictional

service areas.¹

2. Florida Water's proposed answer to this claimed oversight is to raise rates for those customers taking wastewater service only from the company under the tariffs proposed in this docket. This would result in Florida Water receiving more revenue than it received from the final order in docket 950495-WS.

3. The Citizens' discovery concerning the amount of money Florida Water received from its rate case is therefore relevant to Florida Water's request to increase the rates paid by customers. The Commission set rates in docket 950495-WS so that Florida Water would have an opportunity to earn a reasonable return on equity. Florida Water's parent company, Minnesota Power & Light, claims in an 8K filing that the company received about \$3 million per year more from Florida Water's last rate case than stated in the Commission's final order.² If, in fact, Florida Water received more money than indicated in the Commission's final order, the Commission shouldn't grant the further rate increases that Florida Water seeks in this case, for doing so would set

¹Florida Water does not explain why it failed to seek reconsideration of the Commission's final order in docket 950495-WS on this matter, particularly in view of its claim that the final order "overlooked" setting these RWO rates.

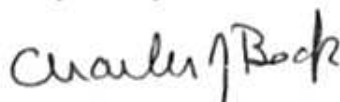
²The same 8K filing by Minnesota Power and Light indicates that the difference between uniform rates and modified stand alone rates in Spring Hill amounts to \$1.6 million per year. MP&L apparently claims that the Commission's final rate increase includes the difference between uniform rates and modified stand alone rates in Spring Hill. However, this would only explain about half of the \$3 million per year discrepancy. See Florida Water's motion for protective order, paragraph 9.

rates at a level allowing the company an opportunity to earn more than a reasonable return on equity

4. Florida Water has now provided the Citizens copies of reports provided to staff in connection with the investigation of wastewater rates in Tropical Isles. Accordingly, we withdraw interrogatory #2 and request for production of documents #2 relating to Tropical Isles.

WHEREFORE, the Citizens request the Prehearing Officer to enter an order requiring Florida Water to answer Citizens' interrogatory #1 and request for production of documents #1.

Respectfully submitted,



Charles J. Beck
Deputy Public Counsel

JACK SHREVE
Public Counsel

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Attorney for the Citizens
of the State of Florida

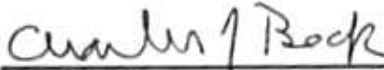
**CERTIFICATE OF SERVICE
DOCKET NO. 970328-SU**

I HEREBY CERTIFY that a correct copy of the foregoing has been furnished by U.S. Mail or *hand delivery to the following party representatives on this 14th day of April, 1997.

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