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January 26, 2001

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
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RECORDS AND REPORTING

010113-VIS

Re: In Re: Petition of Florida Water Services
Corporation for Declaratory Statement

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket are the original and fifteen copies of the Petition of Florida Water Services Corporation for Declaratory Statement.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Kenneth A. Hoffman, for
J. Stephen Menton

JSM/knb
Enclosures

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JSM
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

2001-01-26 JAN 26 01

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Florida Water Services)
Corporation for Declaratory Statement)
_____)

Docket No.
Filed: 010113-WS

PETITION FOR DECLARATORY STATEMENT

Florida Water Services Corporation (“Florida Water”) files this Petition for Declaratory Statement pursuant to Section 120.565, Florida Statutes, (2000), and states:

1. Florida Water is an investor owned water and wastewater company that provides services in several counties in Florida including Flagler County. The systems currently owned and operated by Florida Water in Flagler County (the “Flagler County Systems”) are providing service exclusively within that county.

2. Flagler County is a “non-jurisdictional” county pursuant to Section 367.171(3), Florida Statutes (2000). Thus, the water and wastewater systems owned by Florida Water in Flagler County are not subject to Commission jurisdiction.

3. St. Johns County operates its own utility (the “St. Johns County Utilities”) which is exempt from Commission jurisdiction pursuant to Section 367.022, Florida Statutes (2000).

4. St. Johns County Utilities has requested the Florida Water Flagler County Systems to provide emergency backup water service for approximately 15 residences located on the beachside area in southeast St. Johns County. This backup service would be provided through construction of a six-inch waterline from Florida Water’s northern most point of delivery in Flagler County.

5. Florida Water has filed this Petition for Declaratory Statement seeking confirmation that the proposed emergency interconnect that will be provided from the Florida Water Flagler County Systems in Flagler County to the St. Johns County Utilities does not constitute service which transverses county boundaries thereby requiring the Commission to regulate Florida Water’s Flagler

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County Systems. Florida Water and St. Johns County concur that the proposed emergency interconnect should not serve to invoke Commission jurisdiction pursuant to Section 367.171(7), Florida Statutes (2000). In addition, the Flagler County Interim Regulatory Authority Staff has indicated that it concurs in the request.

6. There are several unique aspects to the proposed arrangement that compel the conclusion that Commission jurisdiction is not invoked. The Florida Water Flagler County Systems currently provide service exclusively to customers in Flagler County and will not under the proposed arrangement directly serve any customers in St. Johns County.

7. Under the proposed arrangement, St. Johns County Utilities would construct and own the portion of the interconnection line in St. Johns County that will provide backup service to the subdivision from Florida Water's northern most point of delivery in Flagler County. After the emergency interconnection line is completed, St. Johns County Utilities will continue to provide all billing and collection activities in St. Johns County and will remain responsible for service to customers in St. Johns County. Service in St. Johns County will continue pursuant to the St. Johns County Utilities policies and rules. The Florida Water Flagler County Systems will own the lines up to the meter that will be installed at the Flagler County/St. Johns County boundary. Upon completion of the emergency interconnect, the Florida Water Flagler County Systems will continue to provide collection and billing activities only for customers in Flagler County. Thus, Florida Water will not be providing direct retail service to any active customer connections in St. Johns County.

8. Except for the arrangement with the St. Johns County Utilities, no customer connection charges, customer installation fees, developer agreements, or other contractual

arrangements will exist between Florida Water and any customers in St. Johns County. Florida Water will not own any lines or pertinent facilities in St. Johns County.

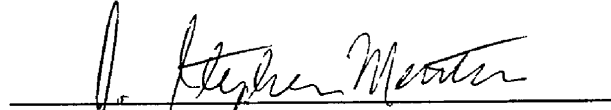
9. Under the facts presented, Florida Water will not be providing service in St. Johns County that transverses county boundaries as contemplated by Section 367.171(7), Florida Statutes. Consequently, Commission jurisdiction will not be invoked under these circumstances. This interpretation is consistent with legislative intent behind Section 367.171(7), Florida Statutes (2000). When the Legislature enacted this provision in 1989, it “intended to eliminate the regulatory problems that exist when utilities systems provide service across political boundaries and are subject to economic regulation by two or more regulatory agencies...” In Re: Petition of General Development Utilities, Inc. for Declaratory Statement Concerning Regulatory Jurisdiction over its Water and Sewer System in DeSoto, Charlotte and Sarasota Counties, Order 22459, 90 F.P.S.C. 1:396 (1990). In this case, Florida Water only serves customers in Flagler County and its customers will continue to pay rates and charges regulated by only one regulatory authority.

10. The requested declaration is consistent with the Commission’s interpretation in Order PSC-99-2034-DS-WS, issued October 18, 1999, In Re: Petition of St. Johns Service Company for Declaratory Statement on Applicability in Effect of 367.171(7), F.S., 99 F.P.S.C. 10:157 (1999). In that Declaratory Statement, the Commission interpreted the court decision in Town of Jupiter v. Village of Tequesta, 713 So.2d 429 (Fla. 4th DCA 1998) as supporting the notion that the lack of any direct relationship with actual customers in a county indicates that the utility is not actually providing service in that county.

WHEREFORE, it is respectfully requested that the Commission issue a Declaratory Statement finding that Section 367.171(7), Florida Statutes, does not result in Commission jurisdiction under the facts presented since the Florida Water Flagler County Systems will only be

providing emergency backup service and will not have a direct relationship with customers in the Flagler County.

Respectfully submitted this 26 day of January, 2001.

A handwritten signature in cursive script, appearing to read "J. Stephen Menton", is written over a horizontal line.

Kenneth A. Hoffman, Esq.

J. Stephen Menton, Esq.

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