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April 7, 1997

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket No. 970328-SU

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Water Services Corporation ("Florida Water") are the following documents:

ACK 1. Original and fifteen copies of Florida Water Corporation's Objections to and Motion for Protective Order from the Office of Public Counsel's First Set of Interrogatories and First Set of Requests for Production of Documents;

AFA _____
APP _____ 2. A disk containing a copy of the document.

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

CTR _____
EAG _____ Thank you for your assistance with this filing.

LEG 1 _____ Sincerely,

LIN 5 _____ 

OPC _____
RCH _____ Kenneth A. Hoffman

SL KAH/rl
cc: All Parties of Record

RECEIVED & FILED

FLORIDA BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

03583 APR-76

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Establish)
Rates for a New Class of Service)
for Residential Wastewater Only) Docket No. 970328-SU
(RWO) Service in All Jurisdiction-)
al Service Areas Included in)
Docket No. 950495-WS and Currently) Filed: April 7, 1997
Without Authorized RWO Rates by)
Florida Water Services Corporation)
)

**FLORIDA WATER SERVICES CORPORATION'S
OBJECTIONS TO AND MOTION FOR PROTECTIVE ORDER
FROM THE OFFICE OF PUBLIC COUNSEL'S
FIRST SET OF INTERROGATORIES AND
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Florida Water Services Corporation, formerly Southern States Utilities, Inc. (hereinafter "Florida Water" or "Utility"), by and through its undersigned counsel, hereby moves the Florida Public Service Commission, pursuant to Rules 25-22.034 and 25-22.037(2), Florida Administrative Code, and Rule 1.280, Florida Rules of Civil Procedure, to enter a protective order relieving Florida Water from responding to the Office of Public Counsel's First Set of Interrogatories and First Set of Requests for Production of Documents on the grounds that said discovery is not reasonably calculated to lead to the discovery of admissible evidence. In support of this motion, Florida Water states as follows:

1. Pursuant to Section 367.091, Florida Statutes, and Chapter 25-9, Florida Administrative Code, Florida Water filed a Petition to Establish Residential Wastewater Only Rates (the "Petition") on March 18, 1997. The Petition requests establishment of a new class of service and rates for residential wastewater only

DOCUMENT NUMBER-DATE

03583 APR-75

FPSC-RECORDS/REPORTING

("RWO") service in all Florida Water service areas currently under the Commission's jurisdiction and currently without RWO rates (except in Polk County).

2. On March 26, 1997, the Office of Public Counsel ("OPC") served its First Set of Interrogatories and First Set of Request for Production of Documents, each set consisting of two numbered discovery requests falling into two subject areas: (1) the level of revenue increase approved in Docket No. 950495-WS and (2) the pending study of Tropical Isles metered wastewater rates. A copy of Interrogatories Nos. 1 and 2 and Document Requests Nos. 1 and 2 are attached hereto as Exhibit A.

3. Neither of the two aforesaid areas of OPC inquiry is within the permissible scope of discovery, since neither area of inquiry is reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

4. Rule 25-21.034, Florida Administrative Code, provides, "Parties may obtain discovery through the means and the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure."

5. Rule 1.280(b) of the Florida Rules of Civil Procedure prescribes the scope of discovery as follows:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

6. In Calderbank v. Cazares, 435 So.2d 377 (Fla. 5th DCA

1983), the court explained the latter part of Rule 1.280(b) as follows:

A reasonably "calculated" causal connection between the information sought and the possible evidence relevant to the issues in the pending action must "appear" from the nature of both or it must be demonstrated by the person seeking the discovery. If a logical connection is not readily apparent, the questioner should make it apparent by pointing out to the court his reasoning ... demonstrating how he calculates the sought information will "reasonably" lead to admissible evidence. The mere fact that an inquiry that appears to be relevant "might" lead to evidence that is relevant and admissible to the issues in the pending suit is not sufficient.

453 So.2d at 379. See also Krypton Broadcasting v. MGM-Pathe Communications Co., 629 So.2d 852 (Fla. 1st DCA 1994).

7. As stated above, this proceeding was initiated by Florida Water to establish RWO rates for those jurisdictional service areas currently without RWO rates. OPC's discovery on the subject of the pending study of Tropical Isles metered wastewater rates clearly fails to meet the criteria of Rule 1.280(b) and Calderbank simply by virtue of the fact that the Commission has already established RWO rates for Tropical Isles,¹ leaving Tropical Isles unaffected by this filing.² The future prospects for metered wastewater rates

¹Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, pp. 238-239. Unlike the RWO rates requested in the instant matter, the Tropical Isles RWO rates were established as flat rates, calculated without consideration of historic, average consumption data.

²On March 24, 1997, OPC filed a petition in Docket No. 950495-WS regarding the pending Tropical Isles study. Commission staff informed Florida Water's counsel that matters pertinent to that petition will be considered in a new docket, Docket No.

in Tropical Isles are completely irrelevant to the instant request to establish RWO rates for service areas other than Tropical Isles. Therefore, OPC discovery on the subject of the pending Tropical Isles study is wholly improper and outside the permissible scope of discovery in this docket.

8. The calculation and publication by Florida Water and/or its parent of the level of revenue increase the Commission approved in Docket No. 950495-WS has even less to do with this proceeding than the pending Tropical Isles study. The level of revenue increase considered in Docket No. 950495-WS was not even identified as a fall-out issue in Docket No. 950495-WS. See Order No. PSC-96-0549-PHO-WS, issued April 23, 1996.³ The Commission should swiftly reject OPC's inappropriate attempt to make the level of Florida Water's revenue increase in Docket No. 950495-WS an issue in this proceeding. Even if establishing RWO rates in this docket yielded any measurable revenue whatsoever, the amount of revenue generated has absolutely no bearing at all on how Florida Water or

970409-WS. Contrary to the unfounded assertions in the aforesaid OPC petition, on February 26, 1997, Florida Water did timely transmit a report directly to the staff, as required under the final order issued in Docket No. 950495-WS. A supplemental report (with correspondence between Florida Water and the Ft. Pierce Utility Authority attached) will be sent to staff the week of April 7. Florida Water will provide a copy of the supplemental report and the original report to OPC.

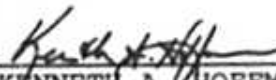
³Florida Water notes that in Docket No. 950495-WS, OPC took no position on Issue No. 114, the level of operating income in total and by plant before any rate increase, and did not address the issue in its posthearing brief. The issue of the revenue requirement, rather than the level of revenue increase or decrease, is the salient issue in a file-and-suspend rate case, and that is where the interests of the Commission and the parties are understandably focused.

its parent calculated the amount of a revenue increase in a completely separate docket. No amount of OPC sophistry can change this.

9. Florida Water suggests that if OPC is so curious about the level of increase approved in Docket No. 950495-WS and how same may be calculated, the Commission should direct OPC to review Schedules Nos. 2, 4-A, and 4-B attached to Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, and to consult with the Commission's own staff.⁴

WHEREFORE, for the reasons stated herein, Florida Water Services Corporation requests that the Prehearing Officer enter a protective order relieving Florida Water Services Corporation of responsibility from answering the interrogatories and document requests set forth in OPC's First Set of Interrogatories and First Set of Requests for Production of Documents.

Respectfully submitted,


KENNETH A. HOFFMAN, ESQ.
WILLIAM B. WILLINGHAM, ESQ.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, FL 32302-0551
(904) 681-6788

⁴Florida Water witness Scott Vierima already testified on the subject of calculating the level of revenue increases in Docket No. 950495-WS and it would be pointless for Florida Water to elucidate further on the subject, particularly considering information already available to OPC. Refer to the hearing transcript for Docket No. 950495-WS beginning on page 278.

and

BRIAN P. ARMSTRONG, ESQ.
MATTHEW FEIL, ESQ.
Florida Water Services Corporation
100 Color Place
Apopka, Florida 32703
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by
U.S. Mail to the following this 7th day of April, 1997:

Lila Jaber, Esq.
Division of Legal Services
Room 370, Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Charles Beck, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400


KENNETH A. HOFFMAN, ESQ.

Tropical.object

Rec'd 8/97

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)

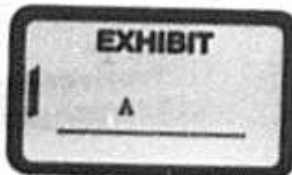
Docket 970328-SU

Filed March 26, 1997

**CITIZENS' FIRST SET OF INTERROGATORIES
TO FLORIDA WATER SERVICES CORPORATION**

Florida's Citizens ("Citizens"), by and through Jack Shreve, Public Counsel, propound the following interrogatories to Florida Water Services Corporation to be answered under oath in full accordance with Rules 25-22.34 and 25-22.35 of the Florida Administrative Code and Rule 1.340 of the Florida Rules of Civil Procedure. All answers must be served upon the attorneys for the Citizens by Wednesday, April 30, 1997.

Each interrogatory should be answered based upon the knowledge and information or belief of Florida Water Services Corporation. If the complete answer to an interrogatory is not known, so state and answer as fully as possible the part of the interrogatory to which an answer is known. For each answer, or part thereof, please identify the individual or individuals who provided the information or helped in providing the information contained in the responses.



As used herein "you" and "your" means Florida Water Services Corporation together with its officers, employees, consultants, agents representatives, attorneys, and any other person or entity acting on behalf of Florida Water Services Corporation.

INTERROGATORIES

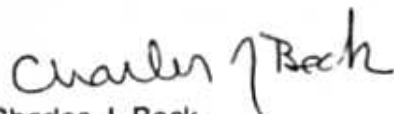
1. A form 8-K filed by Minnesota Power & Light Company on or about March 19, 1997, at the Securities and Exchange Commission states the following:

"Water and Wastewater Rates. 1995 Rate Case. Florida Water requested an \$18.1 million rate increase in June 1995. On Oct. 30, 1996, the FPSC issued its final order in the Florida Water rate case. The final order established water and wastewater rates for all customers of Florida Water regulated by the FPSC. The new rates, which became effective on Sept. 20, 1996, resulted in an annualized increase in revenue of approximately \$11.1 million. This increase included, and was not in addition to, the \$7.9 million increase in annualized revenue granted as interim rates effective on Jan. 23, 1996. "

Page 206 of the Commission's final order states that the annual increase granted by the Commission was \$5,450,500 for water and \$2,690,313 for wastewater (\$8,140,813 for water and wastewater combined). If the return on equity adjustment is included, the stated increase is \$4,896,625 for water and \$2,542,162 for wastewater (\$7,438,787 combined).

Please provide a detailed reconciliation of the \$11.1 million figure included in the 8-K filing and the figures of \$8,140,813 and \$7,438,787 calculable from the Commission's final order.

2. Please describe in detail the investigation conducted by Florida Water Services Corporation to comply with order PSC-96-1320-FOF-WS, at page 239, concerning Tropical Isles. In your description of your investigation, please indicate all persons you talked to at Ft. Pierce and the date of each such communication.



Charles J. Beck
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

(904) 488-9330

Attorneys for the Citizens
of the State of Florida

AFFIDAVIT

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared

_____, who deposed and stated that he/she

provided the answers to interrogatories _____

served on _____ by _____ on

_____ and that the responses are true and

correct to the best of his/her information and belief.

DATED at _____, _____, this day
of _____, 199__.

Sworn to and subscribed before me this _____ day of
_____, 199__.

NOTARY PUBLIC

State of _____ at Large

My Commission Expires: _____

rec'd
3/28/97

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 March 26, 1997

**CITIZENS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
TO FLORIDA WATER SERVICES CORPORATION**

Pursuant to section 350.0611(1), Florida Statutes (1995), Rules 25-22.34 and 25.22.35, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, Florida's Citizens ("Citizens"), by and through Jack Shreve, Public Counsel, request Florida Water Services Corporation to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on or before Wednesday, April 30, 1997, or at such other time and place as may be mutually agreed upon by counsel in writing.

INSTRUCTIONS

1. If any document is withheld under any claim of privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender, recipients, recipients of copies, subject matter of the document.

and the basis upon which such privilege is claimed.

2. Unless otherwise indicated in the discovery request, documents created on or after January 1, 1996 are requested.

DEFINITIONS

1. "Document" or "documents" means any written or recorded matter including, but not limited to, memoranda, notes, minutes, records, electronic mail ("e-mail"), correspondence, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, appointment calendars, records and recordings of oral conversations, work papers, and notes, any of which are in your possession, custody, or control.

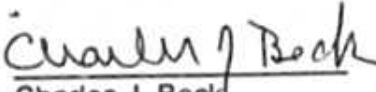
2. As used herein "you" and "your" means Florida Water Services Corporation together with its officers, employees, consultants, agents, representatives, affiliates, attorneys (unless privileged), and any other person or entity acting on behalf of Florida Water Services Corporation.

3. Words in the past tense include the present, and words in the present tense include the past. Use of the singular includes the plural; all terms are intended to be gender inclusive.

DOCUMENTS REQUESTED

1. Please provide each document in your possession, custody or control evaluating, calculating, or indicating the revenue impact of the Commission's final order in docket 950495-WS (order P.C.-96-1320-FOF-WS). The request is intended to include, but not be limited to, all documents supporting the statement included in the Minnesota Power & Light 8-K filing at the Securities and Exchange Commission that the effect of the Commission's final order in docket 950495-WS was an annualized increase of approximately \$11.1 million.

2. Please provide each document in your possession, custody or control related to the investigation you were ordered to conduct concerning Ft. Pierce (see order P.C.-96-1320-FOF-WS at page 239).


Charles J. Beck

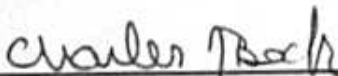
**CERTIFICATE OF SERVICE
DOCKET NO. 970328-SU**

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 26th day of March, 1997.

Ken Hoffman, Esq.
Rutledge, Ecenia, Underwood
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551

*Lila Jaber, Esq.
Division of Legal Services
Fla. Public Service Commission
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Tallahassee, FL 32399-0862

Matthew Feil, Esq.
Florida Water Services Corp.
General Offices
1000 Color Place
Apopka, FL 32703



Charles J. Beck
Deputy Public Counsel