

ORIGINAL

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October 2, 1998

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

RECEIVED-FPSC  
98 OCT -2 PM 1:37  
RECORDS AND REPORTING

Re: Docket Nos. 950495-WS and 980744-WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Water Services Corporation ("Florida Water") are the original and fifteen copies of Florida Water's Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand.

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

ACK \_\_\_\_\_ Thank you for your assistance with this filing.

AFA 1

APP \_\_\_\_\_

CAF \_\_\_\_\_

CMU \_\_\_\_\_

CTR \_\_\_\_\_

EAG KAH/rl

LEG 1 Enclosures

LIN 5

OPC Trib.3

RCH \_\_\_\_\_

SEC 1

WAS \_\_\_\_\_

OTH Beach dt

Sincerely,

  
Kenneth A. Hoffman

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10850 OCT-2 98

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application by Southern States Utilities, Inc. for rate increase and increase in service availability charges for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Polk, Putnam, Seminole, St. Johns, St. Lucie, Volusia and Washington Counties.

Docket No. 950495-WS

In re: Investigation into ratemaking considerations of gain on sale from sale of facilities of Florida Water Services Corporation to Orange County.

Docket No. 980744-WS

Filed: October 2, 1998

**JOINT OFFER OF SETTLEMENT AND PROPOSAL FOR DISPOSITION OF MANDATE ON REMAND**

THIS JOINT OFFER OF SETTLEMENT AND PROPOSAL FOR DISPOSITION OF MANDATE ON REMAND is filed by Florida Water Services Corporation ("Florida Water") on behalf of Florida Water and Intervenor Marco Island Fair Water Rate Defense Committee, in the above-referenced dockets, to resolve outstanding issues on remand in Docket No. 950495-WS and take other actions to resolve and close Docket No. 980744-WS. The facts pertinent to this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand are as follows:

- 1. Florida Water filed an Application for Increased Water and Wastewater Rates, Allowance for Funds Prudently Invested and Service Availability Charges addressing revenue

DOCUMENT NUMBER-DATE

10850 OCT-2 88

FPSC-RECORDS/REPORTING

requirements for 96 water and 43 wastewater service areas with the Florida Public Service Commission ("Commission") in Docket No. 950495-WS on June 28, 1995.

2. By letter dated July 10, 1995, the Commission Staff advised Florida Water of alleged deficiencies in Florida Water's Application and required Florida Water to include water and wastewater service areas situated in Hernando, Hillsborough and Polk Counties ("non-jurisdictional counties") in Florida Water's Application for rate relief.

3. By Order No. PSC-95-1043-FOF-WS, the Commission determined that the exclusion of Hernando, Hillsborough and Polk Counties from Florida Water's Application constituted a deficiency and required Florida Water to include the three non-jurisdictional counties in its Application for rate relief.

4. Florida Water filed an Amended and Restated Application for Increased Water and Wastewater Rates, Allowance for Funds Prudently Invested and Service Availability Charges in the above-captioned docket on August 2, 1995, such date reflecting the official date of filing, adding a total of 11 water and wastewater service areas situated in the three non-jurisdictional counties to the request for rate relief.

5. The Commission subsequently removed the additional 11 water and wastewater service areas located in the three non-jurisdictional counties from Florida Water's Amended Application for rate relief pursuant to Order No. PSC-95-1385-FOF-WS.

6. Following extensive discovery, customer service hearings and a formal evidentiary hearing, the Commission, pursuant to Sections 367.081(6) and 367.084, Florida Statutes, rendered its final order on the revenue requirements and rate structure/service availability charge issues at Special Agenda Conferences held on July 31, 1996 and August 15, 1996, respectively.

7. Tariffs reflecting Florida Water's final rates and charges approved by the Commission became effective on September 20, 1996.

8. The Commission issued Final Order No. PSC-96-1320-FOF-WS on October 30, 1996.

9. In response to Motions for Reconsideration, the Commission issued an Order on Motions for Reconsideration, Order No. PSC-97-0613-FOF-WS on May 29, 1997.

10. Florida Water appealed to the First District Court of Appeal numerous revenue requirement determinations made by the Commission and reflected in the Final Order.

11. In the opinion filed in Southern States Utilities, Inc. v. Florida Public Service Commission, 23 Fla.L.Weekly D1413 (Fla. 1<sup>st</sup> DCA, June 10 1998), Case No. 96-4227, and a subsequent Corrected Opinion mailed August 5, 1998, the First District Court of Appeal reversed those portions of the Final Order:

(a) denying 100% used and useful rate base treatment for reuse facilities;

(b) reducing Florida Water's equity in the amount of a refund ordered by the Commission in Docket No. 920199-WS which had been vacated by the Commission at time of final hearing and was subsequently reissued by the Commission and then reversed by the court in Southern States Utilities, Inc. v. Florida Public Service Commission, 704 So.2d 555 (Fla. 1<sup>st</sup> DCA 1997), and once again rescinded by the Commission in Order No. PSC-98-0143-FOF-WS;

(c) failing to use the average flow in the maximum month in the determination of the used and useful rate base for eight wastewater treatment plants (the Commission confessed error for failing to use the average flow in the maximum month to determine the used and useful rate base for three of the eight wastewater treatment plants); and

(d) applying the lot count method for the determination of used and useful water transmission and distribution and wastewater collection lines serving mixed use (commercial and residential, single family and multiple family) areas.

12. The First District Court of Appeal's decision in Case No. 96-4227 authorized the Commission on remand to reopen the record to take evidence, if such evidence exists, purporting to support the use of: (1) the lot count method for determining the amount of used and useful water transmission and distribution and wastewater collection lines serving mixed use areas; and (2) average annual daily flows for determining the amount of used and useful wastewater treatment and disposal facilities for the five wastewater treatment plants remaining at issue.

13. On August 21, 1998, the First District Court of Appeal issued the Mandate in Case No. 96-4227, returning jurisdiction over the above-captioned rate case to the Commission.

14. On September 1, 1998, the Commission deferred a decision on whether to reopen the record for further proceedings and requested the parties to pursue settlement negotiations.

15. Under GTE Florida, Inc. v. Clark, 668 So.2d 971 (Fla. 1996), Florida Water is entitled to collect surcharges from customers of Florida Water in an amount compensating Florida Water for the revenue requirements unlawfully excluded from rate recovery by the Commission's Final Order as reflected in the First DCA's decision in Case No. 96-4227.

16. This Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand is intended to settle and resolve issues concerning revenue requirements, rates and surcharges arising out of the First District Court of Appeal's decision in Case No. 96-4227, and pending litigation in other dockets.

17. Adoption of this Joint Offer of Settlement and Proposal for Disposition of Mandate

on Remand would halt the continuing accumulation of surcharges and avoid the incurrence of additional rate case expense on remand from the decision in Case No. 96-4227 and any subsequent appeal of a Commission decision on remand.

The terms of this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand are as follows:

A. No later than thirty days after the Commission vote approving this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand, Florida Water shall implement an increase in water and wastewater rates reflecting an increase in annual revenue requirements of \$2,800,000. The \$2,800,000 or 4.8% consists of an increase in annual revenue requirements and a return on surcharge revenues.

B. Florida Water will create a regulatory asset of \$4,400,000 relating to unrecovered surcharge revenues.

C. Florida Water will begin amortization of the regulatory asset on the earlier of the effective date of final rates in its next rate case or October 13, 2001 and, on such date, the regulatory asset shall be included in rate base and water and wastewater rates shall be automatically and correspondingly increased by \$600,000 in annual revenue requirements which equates to a 1% increase in water and wastewater rates.

D. The increases in water and wastewater rates described above shall be implemented pursuant to either percentage increases or equal rate increases (by meter size) to existing rates, whichever method is approved by the Commission. As reflected in Appendix A hereto, the percentage increases amount to a: (a) 4.8% increase in existing rates no later than November 13, 1998; and (b) 1.0% increase in then existing rates beginning October 13, 2001. Appendix A also

reflects the option of implementing the increases in annual revenue requirements pursuant to equal rate increases, by meter size, to be effective no later than November 13, 1998 and beginning October 13, 2001, respectively.

E. Florida Water will not seek recovery of the rate case expense incurred by Florida Water in Docket No. 950495-WS after the issuance of the August 21, 1998 mandate by the First District Court of Appeal in Case No. 96-4227.

F. Florida Water will not file a motion seeking recovery of attorneys' fees in connection with any further proceedings following the issuance of the August 21, 1998 mandate by the First District Court of Appeal in Case No. 96-4227.

G. Florida Water's shareholders shall retain in full the gain on sale of Florida Water's Orange County land and facilities. The Commission will close Docket No. 980744-WS concerning the gain on sale of the Orange County land and facilities, and any and all issues concerning Florida Water's gain on sale of its Orange County land and facilities shall not be revisited or reconsidered by the Commission.

H. The resolution of the revenue requirements, rates, and surcharge issues reflected in this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand shall not be construed to reflect Commission precedent or policy and shall not be revisited or reconsidered by the Commission.

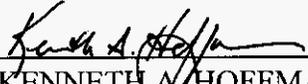
I. The Commission shall initiate rulemaking for the purposes of establishing comprehensive used and useful rules ensuring water and wastewater utilities the opportunity to recover prudently incurred investment in water supply, treatment, transmission and distribution facilities and wastewater treatment, disposal and collection facilities.

J. This Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand is not severable, divisible or subject to modification and shall be deemed withdrawn in the event the Commission does not vote to approve this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand in its entirety.

The undersigned counsel for Florida Water has contacted counsel for Intervenor Marco Island Fair Water Rate Defense Committee and hereby represents that he is authorized to sign and file this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand on behalf of the Marco Island Fair Water Rate Defense Committee.

WHEREFORE, Florida Water Services Corporation and Intervenor Marco Island Fair Water Rate Defense Committee respectfully request that the Commission enter a final order approving this Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand.

Respectfully submitted,

  
KENNETH A. HOFFMAN, ESQ.  
Rutledge, Echeia, Underwood, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, FL 32302  
(850) 681-6788

and

BRIAN P. ARMSTRONG, VICE PRESIDENT AND  
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P. O. Box 609520  
Orlando, Florida 32860-9520  
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following on this 2nd day of October 1998:

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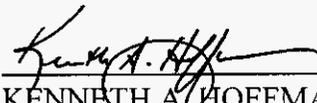
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**SUMMARY OF PROPOSED SETTLEMENT RATE INCREASES DUE TO REMANDED NON-USED AND USEFUL ISSUES -  
 ASSUMES CENTS PER ERC AND FACTORED GALLONS  
 SUMMARY OF PER METER SIZE RATE IMPACTS - PRESENT AND FOR THREE YEAR REGULATORY ASSET  
 Docket No.: 950495-WS  
 Company: SSU / FPSC Regulated - Water**

(1)	(2)	(3)	(4)
<u>Class/Meter Size</u>	<u>Present Rates 1/</u>	<u>Immediate Rate Increase To Be Effective No Later Than 11/13/98</u>	<u>Rate Increase After Three Years Effective Date 10/13/2001</u>
<i>Residential, General and Multi-Family Service</i>			
Base Facility Charge:			
5/8" x 3/4" meters		\$0.58	\$0.12
3/4" meters		\$0.87	\$0.18
1" meters		\$1.45	\$0.30
1 1/2" meters		\$2.90	\$0.60
2" meters		\$4.64	\$0.96
3" meters		\$9.28	\$1.92
4" meters		\$14.50	\$3.00
6" meters		\$29.00	\$6.00
8" meters		\$46.40	\$9.60
10" meters		\$66.70	\$13.80
Gallonge Charge (per 1,000 gals):		\$0.12	\$0.03
<i>Private Fire Protection</i>			
Base Facility Charge:			
2" meters		\$0.39	\$0.08
3" meters		\$0.77	\$0.16
4" meters		\$1.21	\$0.25
6" meters		\$2.42	\$0.50
8" meters		\$3.87	\$0.80
10" meters		\$5.56	\$1.15
Gallonge Charge (per 1,000 gals):		\$0.00	\$0.00

1/ Present rates per plant which can be found in Florida Water's 1998 Index filing and will be provided by plant in customer notices.

APPENDIX A

APPENDIX A

**SUMMARY OF PROPOSED SETTLEMENT RATE INCREASES DUE TO REMANDED NON-USED AND USEFUL ISSUES -  
ASSUMES CENTS PER ERC AND FACTORED GALLONS**

**SUMMARY OF PER METER SIZE RATE IMPACTS - PRESENT AND FOR THREE YEAR REGULATORY ASSET**

Docket No.: 950495-WS

Company: SSU / FPSC Regulated - Wastewater

(1)	(2)	(3)	(4)
<u>Class/Meter Size</u>	<u>Present Rates 1/</u>	<u>Immediate Rate Increase To Be Effective No Later Than 11/13/98</u>	<u>Rate Increase After Three Years Effective Date 10/13/2001</u>
<b>Residential Service</b>			
Base Facility Charge:	All meter sizes	\$0.58	\$0.12
Gallonge Charge (per 1,000 gals):		\$0.12	\$0.03
Sewer Cap (gallons)		6,000	6,000
<b>Residential Wastewater Only</b>			
	All meter sizes	2/	2/
<b>General and Multi-Family Service</b>			
Base Facility Charge:	3/8" x 3/4" meters	\$0.58	\$0.12
	3/4" meters	\$0.87	\$0.18
	1" meters	\$1.45	\$0.30
	1 1/2" meters	\$2.90	\$0.60
	2" meters	\$4.64	\$0.96
	3" meters	\$9.28	\$1.92
	4" meters	\$14.50	\$3.00
	6" meters	\$29.00	\$6.00
	8" meters	\$46.40	\$9.60
	10" meters	\$66.70	\$13.80
Gallonge Charge (per 1,000 gals):		\$0.14 3/	\$0.04 3/

1/ Present rates per plant which can be found in Florida Water's 1998 index filing and will be provided by plant in customer notices.

2/ RWO increases will vary by plant. The increase will be applied as the increase to the base + the increase to the gallonge \* the number of gallons used to develop the rate.

3/ General service and multi-family customers pay a 20% surcharge for their wastewater usage. This was taken into account when the per gallon increase was computed.

**SUMMARY OF PROPOSED SETTLEMENT RATE INCREASES DUE TO REMANDED NON-USED AND USEFUL ISSUES -  
ASSUMES PERCENTAGE INCREASE TO BASE AND GALLONAGE CHARGE  
SUMMARY OF PER METER SIZE RATE IMPACTS - PRESENT AND FOR THREE YEAR REGULATORY ASSET  
Docket No.: 950495-WS  
Company: SSU / FPSC Regulated - Water**

(1)	(2)	(3)	(4)
<u>Class/Meter Size</u>	<u>Present Rates 1/</u>	<u>Immediate Rate Increase To Be Effective No Later Than 21/13/98 c2 * 4.8%</u>	<u>Rate Increase After Three Years Effective Date 10/13/2001 c2 * 1%</u>
<i>Residential, General and Multi-Family Service</i>			
Base Facility Charge:			
5/8" x 3/4" meters		=c2 * 1.048	=c2 * 1.01
3/4" meters		=c2 * 1.048	=c2 * 1.01
1" meters		=c2 * 1.048	=c2 * 1.01
1 1/2" meters		=c2 * 1.048	=c2 * 1.01
2" meters		=c2 * 1.048	=c2 * 1.01
3" meters		=c2 * 1.048	=c2 * 1.01
4" meters		=c2 * 1.048	=c2 * 1.01
6" meters		=c2 * 1.048	=c2 * 1.01
8" meters		=c2 * 1.048	=c2 * 1.01
10" meters		=c2 * 1.048	=c2 * 1.01
Gallorage Charge (per 1,000 gals):		=c2 * 1.048	=c2 * 1.01
<i>Private Fire Protection</i>			
Base Facility Charge:			
2" meters		=c2 * 1.048	=c2 * 1.01
3" meters		=c2 * 1.048	=c2 * 1.01
4" meters		=c2 * 1.048	=c2 * 1.01
6" meters		=c2 * 1.048	=c2 * 1.01
8" meters		=c2 * 1.048	=c2 * 1.01
10" meters		=c2 * 1.048	=c2 * 1.01
Gallorage Charge (per 1,000 gals):		\$0.00	\$0.00

1/ Present rates per plant which can be found in Florida Water's 1998 index filing and will be provided by plant in customer notices.

**SUMMARY OF PROPOSED SETTLEMENT RATE INCREASES DUE TO REMANDED NON-USED AND USEFUL ISSUES -  
 ASSUMES QENTS PER ERC AND FACTORED GALLONS  
 SUMMARY OF PER METER SIZE RATE IMPACTS - PRESENT AND FOR THREE YEAR REGULATORY ASSET  
 Docket No.: 950495-WS  
 Company: SSU / FPSC Regulated - Wastewater**

(1)	(2)	(3)	(4)
<u>Class/Meter Size</u>	<u>Present Rates 1/</u>	<u>Immediate Rate Increase To Be Effective No Later Than 11/13/98 c2 * 4.8%</u>	<u>Rate Increase After Three Years Effective Date 10/13/2001 c2 * 1%</u>
<b>Residential Service</b>			
Base Facility Charge:			
All meter sizes		=c2 * 1.048	=c2 * 1.01
Gallonge Charge (per 1,000 gals):		=c2 * 1.048	=c2 * 1.01
Sewer Cap (gallons)		6,000	6,000
<b>Residential Wastewater Only</b>			
All meter sizes		=c2 * 1.048	=c2 * 1.01
<b>General and Multi-Family Service</b>			
Base Facility Charge:			
5/8" x 3/4" meters		=c2 * 1.048	=c2 * 1.01
3/4" meters		=c2 * 1.048	=c2 * 1.01
1" meters		=c2 * 1.048	=c2 * 1.01
1 1/2" meters		=c2 * 1.048	=c2 * 1.01
2" meters		=c2 * 1.048	=c2 * 1.01
3" meters		=c2 * 1.048	=c2 * 1.01
4" meters		=c2 * 1.048	=c2 * 1.01
6" meters		=c2 * 1.048	=c2 * 1.01
8" meters		=c2 * 1.048	=c2 * 1.01
10" meters		=c2 * 1.048	=c2 * 1.01
Gallonge Charge (per 1,000 gals):		=c2 * 1.048	=c2 * 1.01

1/ Present rates per plant which can be found in Florida Water's 1998 index filing and will be provided by plant in customer notices.