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November 23, 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

Re: Docket Nos. 980261-WS and 970657-WS

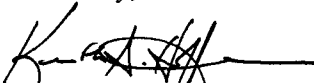
Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced dockets on behalf of Florida Water Services Corporation are the original and fifteen copies of the Rebuttal Testimony of Brian P. Armstrong.

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

CK _____
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FPSC-RECORDS/REPORTING

Blanca S. Bayo, Director
Page 2
November 23, 1998

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following this 23rd day of November, 1998:

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By: 
KENNETH A. HOFFMAN, ESQ.

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REBUTTAL TESTIMONY
OF
BRIAN P. ARMSTRONG
ON BEHALF OF
FLORIDA WATER SERVICES CORPORATION
CONSOLIDATED DOCKETS NOS. 980261-WS and 970657-WS

DOCUMENT NUMBER-DATE
13229 NOV 23 8
FPSC-RECORDS/REPORTING

1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?
2 A. My name is Brian P. Armstrong and my business
3 address is 1000 Color Place, Apopka, Florida 32703.
4 Q. ARE YOU THE SAME BRIAN P. ARMSTRONG WHO TESTIFIED
5 IN FLORIDA WATER'S DIRECT CASE IN THIS PROCEEDING?
6 A. Yes.
7 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN
8 THIS PROCEEDING?
9 A. To rebut certain aspects of the prefiled direct
10 testimony of Ms. Charlotte Sopka of Haus
11 Development, Inc. (hereinafter "Haus") and Mr.
12 Richard E. Howell of Charlotte County Utilities
13 (hereinafter "CCU").
14 Q. WHAT SPECIFICALLY IN MS. SOPKA'S TESTIMONY DO YOU
15 WISH TO REBUT?
16 A. It should be pointed out that Haus' agreement with
17 Lake Suzy for service to the Links Subdivision lots
18 which Haus owns is not binding on the Commission.
19 It is the Commission's responsibility to determine
20 the public interest and the proper utility for
21 providing water and wastewater service, not Haus'
22 or Lake Suzy's. As stated in Florida Water's
23 direct testimony and emphasized again below,
24 Florida Water is better able to provide service
25 than is Lake Suzy. Ms. Sopka also states that Haus

1 wishes to have water service available soon and
2 that without potable water service available Haus
3 will be unable to sell the lots it owns. Ms. Sopka
4 offers no proof whatsoever to support her
5 statements nor any proof that development is
6 imminent. She also does not address wastewater
7 service.

8 **Q. WHAT SPECIFICALLY IN MR. HOWELL'S TESTIMONY DO YOU**
9 **WISH TO REBUT?**

10 A. On pages four and five of his prefilled direct, Mr.
11 Howell states that the Links Subdivision is within
12 CCU's designated service area. However, a county's
13 service area designation is not binding on this
14 Commission. The issue, again, is whether it is in
15 the public interest for Florida Water to provide
16 service to the Links Subdivision. CCU's claim is
17 not dispositive, or necessarily relevant; and
18 Florida Water maintains that it is in the public
19 interest for Florida Water to be the service
20 provider. Moreover, Mr. Howell's statement in his
21 prefilled direct testimony is at odds with Mr.
22 Howell's earlier statements to Florida Water that
23 CCU would not oppose Florida Water's providing
24 service to the Links.

1 On page 5, lines 17 through 22, Mr. Howell
2 asserts that CCU does have an adjacent wastewater
3 line available to serve the Links Subdivision.
4 Florida Water disagrees -- the wastewater line
5 adjacent to the Links is Florida Water's, not
6 CCU's. The October 7, 1988, Substitute Water and
7 Sewer Agreement (hereinafter "the Agreement")
8 between General Development Utilities ("GDU"), CCU's
9 predecessor utility, and Deep Creek Utilities,
10 Florida Water's predecessor utility, provides in
11 paragraph 8 that "GDU shall not utilize Deep Creek's
12 distribution and collection systems to supply water
13 and/or accept sewage from the customers other than
14 those of Deep Creek . . . without the prior written
15 consent of Deep Creek." The wastewater flow meter
16 for the inter-connect has long been and still is
17 located near the GDU-now-CCU wastewater treatment
18 plant, not within the Deep Creek service area.
19 Nowhere in the Agreement did Deep Creek convey any
20 wastewater lines to GDU. Only a Deep Creek water
21 main was conveyed to GDU pursuant to the Agreement.
22 Therefore, the point of connection for wastewater
23 service, the point to which Florida Water owns and
24 maintains the collection system, is at the
25 wastewater flow meter near the treatment plant.

1 Indeed, an earlier version of the Agreement
2 confirms that the wastewater point of connection is
3 at the GDU-now-CCU wastewater treatment plant. CCU
4 has no right to provide wastewater service to the
5 Links Subdivision through Florida Water's lines
6 without Florida Water's consent, and that consent
7 has not been granted.

8 On page 6 and 7, Mr. Howell claims that
9 CCU/Charlotte County has not unilaterally and
10 improperly changed the terms of the Agreement.
11 Florida Water vehemently disagrees. The Agreement
12 is replete with references to changes in rates or
13 charges which may be made "by Charlotte County or
14 the appropriate rate regulatory agency." (Emphasis
15 added.) The Agreement is also replete with
16 references to GDU's "service policy" (obviously a
17 reference to service availability policy) and
18 approved "tariffs." Paragraph 4 of the Agreement,
19 which addresses connection charges specifically,
20 has multiple references to changes subject to
21 approval by a rate regulatory agency, to a service
22 policy, and to tariffs. Based on the plain
23 language of the Agreement, I think it is
24 preposterous to suggest, as Mr. Howell does, that
25 the parties intended anything other than an

1 objective, third-party agency sitting in the role
2 of the PSC to make the appropriate cost
3 determinations for setting connection charges.
4 Charlotte County improperly thinks it can play the
5 role of both a party to the Agreement and the sole
6 judge of what monies it is entitled to collect from
7 Florida Water pursuant to that Agreement. The
8 Agreement does not permit or contemplate such a
9 patent inequity. Florida Water maintains that
10 CCU's interpretation of the Agreement is utterly
11 wrong in this regard and CCU's actions in accord
12 with same are unlawful. As indicated in my direct
13 testimony, any attempt by CCU/Charlotte County to
14 restrict Florida Water's connecting future
15 customers will be met with litigation.

16 CCU is not, as Mr. Howell asserts, abiding by
17 the terms of the Agreement. If CCU were doing so,
18 CCU would not attempt to unilaterally and
19 improperly alter the connection charges stated in
20 the Agreement. Nor would CCU, contrary to
21 paragraph 4.F.(4) of the Agreement, assess Florida
22 Water both reserve capacity charges and a carrying
23 cost recovery charge (representing accrued carrying
24 costs) for the same connections or suggest that it
25 could use Florida Water's wastewater line without

1 consent. Instead, CCU would owe Florida Water
2 money for connection charge overpayments.

3 On page 7, Mr. Howell discusses CCU's costs for
4 providing service. It should be undisputed fact
5 that Charlotte County condemned the GDU systems at
6 a cost exceeding rate base by almost 2x. It should
7 further be undisputed that CCU spent some \$20
8 million on a wastewater study project that caused a
9 public furor and from which the County's customers
10 received little benefit. These are the sort of
11 costs that CCU/Charlotte County has passed on
12 through rates and connection charges and which
13 Florida Water should not have to bear pursuant to
14 the Agreement.

15 **Q. IS THERE ANYTHING ELSE YOU WISH TO ADD AS PART OF**
16 **YOUR REBUTTAL?**

17 A. Yes. I do not think there is any question that
18 Florida Water's technical and financial ability to
19 provide service is superior to that of Lake Suzy
20 Utilities. Florida Water is the state's largest
21 investor-owned water and wastewater utility and the
22 fourth largest water utility in the state. Lake
23 Suzy is a class "C" utility with, at best,
24 questionable financial resources and ability to
25 serve.

1 Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?

2 A. Yes.