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June 24, 1999

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Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

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RECORDS AND REPORTING

Re: Docket No. 950495-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 Motion for Reconsideration of Order No. PSC-99-1199-PCO-WS.

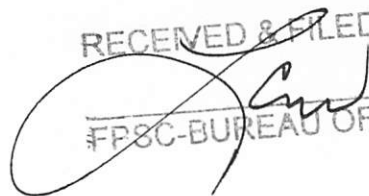
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Thank you for your assistance with this filing.

Sincerely,

  
Kenneth A. Hoffman

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07680 JUN 24 99

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Filed: June 24, 1999

**FLORIDA WATER SERVICES CORPORATION'S  
 MOTION FOR RECONSIDERATION OF  
ORDER NO. PSC-99-1199-PC0-WS**

Florida Water Services Corporation ("Florida Water"), by and through its undersigned counsel, and pursuant to Rule 25-22.0376, Florida Administrative Code, hereby moves for reconsideration of Order No. PSC-99-1199-PCO-WS ("Order"). In support of its Motion, Florida Water states as follows:

1. On May 6, 1999, Florida Water filed a Motion to Toll the Time for Service of Responses to the Office of Public Counsel's ("OPC") pending and future discovery requests, pending the disposition of Florida Water's Motion to Enforce Mandate filed with the First District Court of Appeal. OPC's pending discovery requests consisted of OPC's Second Set of Interrogatories on Remand and OPC's Third and Fourth Requests for Production of Documents on Remand.

2. On June 14, 1999, the Prehearing Officer issued an Order Granting, in Part, and Denying, in Part, Florida Water's Motion to Toll Time. The Prehearing Officer granted Florida

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FPSC-RECORDS/REPORTING

Water's Motion as it pertained to OPC's Fourth Request for Production served on April 30, nine days after the issuance of the order abating this proceeding pending the disposition of Florida Water's Motion to Enforce Mandate ("Order on Abatement").<sup>1</sup> However, the Prehearing Officer required Florida Water to respond to OPC's Second Set of Interrogatories and Third Request for Production, both served prior to the issuance of the Order on Abatement, unless Florida Water had timely raised an objection to any such discovery requests. The Prehearing Officer rationalized his decision on the theory that OPC's discovery requests served before the issuance of the Order on Abatement "... cannot be said to be 'further discovery,' and its suspension could not be said to promote or enhance judicial economy." Order, at 2.

3. As the Commission is well aware, the purpose of a motion for reconsideration is to bring to the forefront a material point of fact or law which was overlooked in the first instance. See Diamond Cab Company of Miami v. King, 146 So.2d 889, 891 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. 1<sup>st</sup> DCA 1981).

4. In this instance, Florida Water respectfully submits that the Prehearing Officer failed to consider or overlooked two points. First, while acknowledging that abatement or suspension of "further discovery" pending the disposition of Florida Water's Motion to Enforce Mandate would promote judicial economy, the Prehearing Officer chose form over substance in determining that OPC's April 9 discovery requests did not constitute "further discovery." The Prehearing Officer failed to consider or overlooked the fact that discovery consists of discovery requests and discovery responses. The Prehearing Offer offers no authority for his determination that the discovery served

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<sup>1</sup>See Order No. PSC-99-O800-PCO-WS. On June 17, 1999, the Court entered an Order denying Florida Water's Motion to Enforce Mandate.

by OPC prior to the issuance of the Order on Abatement is not "further discovery"; indeed, Florida Water will be required to devote significant manpower and resources to provide discovery responses to these discovery requests.

5. The second point supporting reconsideration is Florida Water's Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand filed June 14, 1999. Approval of Florida Water's Settlement Offer would close this docket and eliminate the need for any further discovery responses on the part of Florida Water. The filing of Florida Water's Settlement Offer clearly lends further support to the proposition that judicial economy would be served by tolling all pending discovery responses pending the disposition of Florida Water's recently filed Offer of Settlement.

6. The date on which a discovery request is served is of no moment when weighed against the overriding goal of judicial economy and efficiency. That goal, a goal recognized as a high priority in the Order, will indeed be served by tolling all discovery - - requests and responses - - until the Commission rules on Florida Water's Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand.

WHEREFORE, for the foregoing reasons, Florida Water respectfully requests that the Commission reconsider Order No. PSC-99-1199-PCO-WS and grant Florida Water's Motion to Toll Time for Service of Responses to OPC's Second Set of Interrogatories and Third and Fourth Requests for Production of Documents on Remand, in toto, pending the disposition of Florida Water's Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand.

Respectfully submitted,

  
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I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail to the following on this 24th day of June, 1999:

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