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RECORDS AND
REPORTING

June 28, 1999

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 950495-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Response to Florida Water's Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand; Motion to Consolidate for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Citizens' Response to Florida Water's Motion for Approval of New Offer of Settlement and Proposal for Disposition of Mandate on Remand; Motion to Consolidate in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Charles J. Beck
Deputy Public Counsel

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DEPUTY PUBLIC COUNSEL

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase and increase in service)
availability charges by Southern)
States Utilities, Inc. for)
Orange-Osceola County, and in)
Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Highlands, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, St.)
Johns, St. Lucie, Volusia, and)
Washington Counties.)
_____)
Investigation into Ratemaking)
Considerations of Gain on Sale from)
Sale of Facilities of Florida Water)
Services Corporation to Orange County)
_____)

Docket No. 950495-WS

Docket No. 980744-WS

Filed: June 28, 1999

**CITIZENS' RESPONSE TO FLORIDA WATER'S MOTION
FOR APPROVAL OF NEW OFFER OF SETTLEMENT AND
PROPOSAL FOR DISPOSITION OF MANDATE ON REMAND;
MOTION TO CONSOLIDATE**

The Citizens of Florida (Citizens), by and through Jack Shreve, Public Counsel, (1) file this response to the motion of Florida Water Services Corporation (Florida Water) filed on June 14, 1999, for approval of new offer of settlement and proposal for disposition of mandate on remand, and (2) file this motion to consolidate dockets 950495-WS and 980744-WS.

1. Previously the Florida Public Service Commission (commission) divided pending issues in the docket 950495-WS remand proceeding between what it termed "category 1" and "category 2" issues. Category 1 issues relate to matters that were reversed by the court in favor of Florida Water, and no additional evidence will be taken

by the commission. Florida Water increased rates by approximately \$1.1 million per year effective January 11, 1999, to account for these issues on a going-forward basis. The recovery mechanism for an amount of approximately \$2.4 million related to these issues for the period of September 20, 1996, through January 10, 1999, remains unresolved. Category 2 issues relate to matters on which the commission will take additional evidence before making any decision.

2. Florida Water generally proposed the following disposition of all matters pending before the commission on remand:

(a) that it receive 100% of the revenue requirements related to category 2 issues for the period from September 20, 1996, through acceptance of its proposal by the commission.

(b) that it receive 50% of the revenue requirements related to category 2 issues on a going-forward basis, up until its next rate case proceeding, which may not be filed before June 29, 2002.

(c) that it be absolved from making any interim rate refunds, including those previously ordered by the commission for Lehigh and Marco Island wastewater customers.

(d) that all issues in docket 980744-WS, where a pre-tax gain on sale of approximately \$7 million is at issue, be resolved 100% in its favor by closing the docket. In addition, by closing the docket, Florida Water would also prevail 100% on an issue added to the docket by staff related to the gain on sale of a laboratory located in Volusia County.

(e) that neither the commission nor any party may initiate any investigation of its earnings through June 28, 2002.

(f) that it be allowed to retain one third of earnings in excess of the top of its authorized return on equity range during the years 1999, 2000, 2001, and 2002; customers would receive a refund of two-thirds of the earnings above the top of its authorized return on equity range.

(g) that issues regarding rate case expense since approximately September, 1996, be decided in the company's next rate case proceeding.

(h) that AFPI rates remain as they are now.

(i) that potential surcharge amounts for both category 1 and category 2 issues be recovered through a regulatory asset that may not be amortized prior to Florida Water's next rate case proceeding. Florida Water states that recovery of the regulatory asset must be based on the same surcharge methodology previously ordered for category 1 surcharges in order no. PSC-99-0093-FOF-WS.

3. Under Florida Water's proposal, it would book an amount of approximately \$8.5 million related to 100% of the category 1 issues for the period of September 20, 19976 through January 10, 1999, and 100% of the category 2 issues for the period of September 20, 1996 through adoption of its proposal, plus interest. Except for timing, this has the same overall effect for Florida Water as an \$8.5 million surcharge on customers.

4. We believe that use of a regulatory asset is preferable to a surcharge in this proceeding. However, Florida Water's proposal is far too heavily weighted in its own favor. For example, with respect to category 2 issues, staff strongly believes that it will win all of

these issues at a hearing¹, and Florida Water would receive no additional money on account of these issues. Florida Water, on the other hand, proposes that it prevail 100% on category 2 issues for approximately the past three years, and 50% on category 2 issues on a going-forward basis until its next rate case proceeding. With respect to the gain on sale issue, we believe the gain from the sale of systems in Orange County meets all commission standards for providing customers the benefit from the gain on sale, particularly since Florida Water's systems in Orange County were subject to commission jurisdiction at the time of the sale. Florida Water, on the other hand, would win 100% of this \$7 million issue under its proposal. In addition to all of this, Florida Water proposes a regulatory scheme never before approved for a water or wastewater company by the commission. This regulatory scheme would allow Florida Water to retain a portion of earnings above the top of its authorized range for return on equity during the years 1999, 2000, 2001, and 2002.

5. Instead of accepting Florida Water's revenue requirements proposals that so heavily favor the company, the Commission should decide the amount Florida Water is entitled to receive in the docket 9504950-WS remand proceeding. Whatever amounts Florida Water is entitled to receive as a surcharge should be booked as a regulatory asset.

6. In addition, we move to consolidate dockets 950495-WS and 980744-WS. The issues in docket 980744-WS deal with the treatment of Florida Water's gain on the sale of its systems in Orange County, Florida, and the gain on the sale of a laboratory in

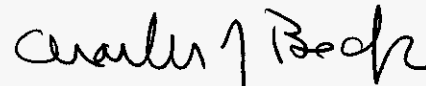
¹ Staff revised recommendation issued October 21, 1998, at 12.

Volusia County, Florida. If the commission decides these issues in favor of the citizens, the amount of the gain on sale could be used by the commission to offset the surcharge (regulatory asset) decided upon in docket 950495-WS, perhaps eliminating the need for any surcharge (regulatory asset). Netting the impact of these two proceedings would provide greater regulatory predictability to customers and provide a more even-handed approach to all parties.

WHEREFORE, the citizens request the commission to (1) use a regulatory asset in lieu of surcharges, (2) decide the amount Florida Water is entitled to receive on remand in docket 950495-WS, and (3) consolidate dockets 950495-WS and 980744-WS.

Respectfully submitted,

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Fla. Bar No. 73622



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**CERTIFICATE OF SERVICE
DOCKET NO. 950495-WS**

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 28th day of June, 1999.

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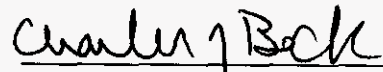
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