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December 27, 1999

by U. S. Mail

Ms. Blanca Bayo
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 970657-WS; Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

Docket No. 980261-WS; Application for Amendment of Certificate Nos. 570-W and 496-S in Charlotte County by Florida Water Services Corporation.

Dear Ms. Bayo:

Enclosed for filing in the above-referenced consolidated dockets, please find an original and fifteen copies of Florida Water's Reply to Lake Suzy Utilities, Inc.'s Objection to Florida Water Services Corporation's First Request for Production of Documents.

Please acknowledge filing of these items by date stamping the enclosed extra copy of this letter and returning it in the postage paid envelope provided.

If you have any questions, please contact me at (407)598-4260.

Sincerely yours,

Carlyn H. Kowalsky

Carlyn H. Kowalsky
Staff Attorney

- AFA _____
- APP _____
- CAF _____
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Enclosures

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for)
certificates to operate a water)
and wastewater utility in)
Charlotte and DeSoto Counties)
by Lake Suzy Utilities, Inc.)
_____)

DOCKET NO. 970657-WS

ORIGINAL

In Re: Application for)
Amendment of Certificate Nos.)
570-W and 496-S in Charlotte)
County by Florida Water Services)
Corporation.)
_____)

DOCKET NO. 980261-WS

REPLY TO LAKE SUZY UTILITIES, INC.'S OBJECTION TO
FLORIDA WATER SERVICES CORPORATION'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

FLORIDA WATER SERVICE CORPORATION ("Florida Water"), by and through its undersigned attorney, and pursuant to Rule 28-106.204(1), Florida Administrative Code, hereby files its reply to Lake Suzy Utilities, Inc's ("Lake Suzy") Objection to Florida Water's First Request for Production of Documents filed by Florida Water in November 1999. In support hereof, Florida Water states as follows:

1. All of the discovery requests which Lake Suzy has objected to are reasonably calculated to lead to the discovery of admissible evidence on the issues of Lake Suzy's financial ability and technical ability, and, more significantly, the requests seek information relevant to the public interest determination which the Commission must make in the proceeding. Lake Suzy's objections are little but tautology, ignoring the testimony already filed in the proceeding or ignoring that which should be patently obvious in a case of this type.

2. Lake Suzy, while owned by Mr. Dallas Shepard, filed an application for original certificate with this Commission. AquaSource Utility, Inc., ("AquaSource") acquired the stock of Lake Suzy from Mr. Shepard without prior approval of the transfer from any regulatory authority (either the Commission or DeSoto County) and now steps into the shoes of the prior owner. AquaSource should not be allowed to, on the one hand, assert the benefits of its ownership, but, on the other hand, hide behind Lake Suzy (the Corporation) as though its acquisition is irrelevant.
3. Florida Water prefiled the testimony of Mr. Brian Armstrong. Mr. Armstrong states that in Florida Water's last rate proceeding (Docket No. 950495-WS) the Commission criticized Florida Water for the alleged lack of an acquisition plan/strategy. Mr Armstrong also asserts that AquaSource has acquired numerous utilities in Florida and that the Commission should consider whether the Commission's prior criticism of Florida Water applies to AquaSource. In other words, the Commission has already opined that acquisition plans, strategies, patterns and impacts are a pertinent criteria when considering a utility's management ability. That being so, Florida Water suggests that such an examination is material here, where AquaSource acquired Lake Suzy and has a pending original certificate application before the Commission in which AquaSource asserts its technical and financial ability and asserts certificate approval is in the public interest.
4. The Commission has authority to consider acquisition impacts, and a utility's acquisition plans, strategies, criteria drive those impacts. Further, it stands to reason that if the Commission may review the rhyme and reason of a utility's acquisitions in a rate proceeding, such considerations may also be examined in an original certificate proceeding, whether as

part of the public interest determination or some other pertinent issue. To hold otherwise would mean that the Commission could address the long term impacts of acquisitions only after the fact, but not as those acquisitions occur - - an illogical result.

5. Florida Water's Document Request No. 6 is designed to obtain evidence relevant to that public interest determination described hereinabove, as well information reflective of AquaSource's technical and financial ability.
6. Florida Water's Document Request Nos. 2 and 5 are designed to obtain evidence relevant to the public interest determination described hereinabove and evidence of the regulatory and environmental issues facing Lake Suzy which would be revealed in a due diligence review and which AquaSource now asserts it has the ability to cure. As to the latter, Florida Water is specifically aware of Lake Suzy's effluent disposal problems in the past and seeks information regarding the scope of the problems, the course and the cure.
7. Florida Water's Document Request Nos. 7, 8, and 9 are designed to obtain evidence pertinent to the public interest determination discussed hereinabove. Upon information and belief, Mr. Paul Adams was the AquaSource representative or agent responsible for initiating the Lake Suzy acquisition. In its Objection Lake Suzy effectively admits Mr. Adams had a role of this nature by arguing these discovery requests appear to concern why the acquisition took place. Although AquaSource has not prefiled Mr. Adams' testimony, Florida Water may depose Mr. Adams to identify his role and his knowledge of Lake Suzy, AquaSource and AquaSource's acquisition strategies, plans, criteria, etc.
8. Lake Suzy has prefiled the testimony of Mr. Dallas Shepard in this proceeding, and Mr. Shepard has made numerous public appearances since AquaSource's acquisition, holding

himself out as Lake Suzy/AquaSource's representative. The scope of Mr. Shepard's consulting/support services and the terms therefor are relevant to the technical ability of the applicant in this proceeding and are fair subject for the cross-examination of Mr. Shepard.

9. Florida Water's Document Request No. 14 seeks all corporate records of Lake Suzy and is designed to obtain evidence relevant to the technical and financial ability of Lake Suzy. Corporate books, minutes, board notes, board actions and the like should reflect the regulatory and environmental issues Lake Suzy has and will face, and the existence or non-existence of appropriate corporate records can tend to prove or disprove the technical ability of a utility in a general sense.

WHEREFORE, in consideration of the foregoing, Florida Water requests that the Prehearing Officer issue an Order overruling Lake Suzy's Objections and requiring Lake Suzy to produce the propounded discovery immediately.

Respectfully submitted this 27th
day of December, 1999, by:
Florida Water Services Corporation
1000 Color Place
Apopka, Florida 32703
(407) 880-0058
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Marty Friedman, Esquire, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, FL 32301, Charlotte Sopko, Haus Development, Inc., 603 North Eastwood Avenue, Mount Prospect, Illinois 60056-2007, John Marks, Esquire, Knowles, Marks & Randolph, 215 South Monroe Street, Tallahassee, Florida 32301, Anthony P. Pires, Jr., Woodward, Pires & Lombardo, P.A., 801 Laurel Oak Drive, Suite 710, Naples, Florida 34108, and Tim Vaccaro, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 27th day of December, 1999.



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