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October 13, 1998

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**HAND DELIVERY**

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

Re: Docket No. 950495-WS

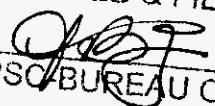
Dear Ms. Bayo:

Enclosed for filing are an original and fifteen copies of this letter reflecting Florida Water Services Corporation's ("Florida Water") objections to the deferral and postponement of the October 13, 1998 Special Agenda Conference to November 2, 1998.

This rate case was initiated by Florida Water in June 1995. In the Final Order, the Commission unlawfully denied Florida Water recovery through rates of numerous prudently incurred investments in water and wastewater facilities. Florida Water appealed the Final Order. The First District Court of Appeal reversed the Commission on virtually all of the revenue requirement related decisions in the Final Order challenged by Florida Water. On August 21, 1998, the First District Court issued its Mandate thereby remanding this rate case back to the Commission.

Florida Water has maintained throughout the remand stage of these proceedings that it is in the best interests of all concerned, particularly Florida Water's valued customers, to bring these remand proceedings to an expeditious resolution. Based on the court's reversal of numerous revenue requirement-related Commission determinations in the Final Order, Florida Water is now authorized to recover substantial additional revenues, including surcharges. The continued postponement of a resolution of the issues on remand, including the Commission's decision to slide the hearing back to February 25-26, 1998, only imposes additional surcharges on Florida Water's customers.

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- WAS Crouch
- OTH \_\_\_\_\_

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Ms. Blanca S. Bayo, Director

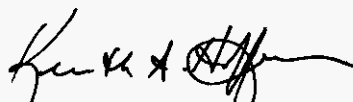
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Florida Water's tariffs implementing the Commission approved final rates became effective on September 20, 1996. Under Florida Water's proposal, which considered surcharges accrued through September 20, 1998, the new rates shall be implemented no later than thirty days after the Commission vote approving the proposal. The effective date for the new rates under the proposal would have been November 12, 1998 had the October 13, 1998 Special Agenda Conference not been deferred. Thus, due to the timing of settlement negotiations, the date of filing of Florida Water's proposal and the date of the October 13 Special Agenda Conference, Florida Water's proposal, had it been approved on October 13, would not have allowed Florida Water to recover almost two months' worth of revenue based on the November 12 implementation date. As a result of this deferral to November 2, 1998, Florida Water will not be able to begin recovering the increased revenues under its proposal until approximately December 3, 1998. Therefore, in light of these circumstances and as a result of this delay, please be advised that Florida Water amends its Offer of Settlement and Proposal for Disposition of Mandate on Remand to include an additional \$240,000 of required surcharges. Please be further advised that additional delay beyond a December 3, 1998 implementation date of Florida Water's proposal will result in further amendment of the proposal to include additional surcharges of \$240,000 per month. In the event Florida Water's proposal, as amended above, is not approved by the Commission, Florida Water will pursue recovery of the annual revenue requirement deficiency of approximately \$3.1 million, as calculated by the Commission staff, interest on the surcharges pursuant to Commission precedent, rate case expense and, potentially, attorneys' fees on appeal.

As outlined in the October 7, 1998 staff recommendation, Florida Water, along with the Marco Island customers, have made a joint proposal for disposition of this case on remand which would authorize Florida Water to collect increased rates significantly below what the staff has established to be the revenue requirements at risk in the event Florida Water prevails on both used and useful issues. While staff's unequivocal support for the Florida Water/Marco Island proposal during settlement negotiations is now weighed down with a few erroneous caveats in the staff recommendation, Florida Water continues to maintain that this proposal, as amended above, provides a fair, equitable and expeditious resolution of a rate case that has been pending since mid-1995. Notwithstanding the Commission's eleventh hour notice of deferral of the October 13 Special Agenda Conference, Florida Water maintains that the public interest and Florida Water's customers will clearly be served by approval of this amended Joint Offer of Settlement and Proposal for Disposition of Mandate on Remand.

Respectfully submitted,



Kenneth A. Hoffman

KAH/rl

Ms. Blanca S. Bayo, Director

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cc: All Parties of Record

Ralph Jaeger, Esq.

Brian P. Armstrong, Vice President and General Counsel, Florida Water Services Corp.

Mr. Joseph P. Cresse

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