

ORIGINAL

Timolyn Henry

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Monday, March 05, 2007 4:06 PM
To: Filings@psc.state.fl.us
Subject: FW: e-filing (Dkt.
Attachments: 060368.objection.doc

The first one I sent did not have the s/ signature. Pls. accept this one in lieu of the one filed at 4pm.

Brenda S. Roberts
Office of Public Counsel
850-488-9330

From: ROBERTS.BRENDA
Sent: Monday, March 05, 2007 4:00 PM
To: filings@psc.state.fl.us
Cc: ken@reuphlaw.com; Marsha E. Rule Esq. (5/06) (marsha@reuphlaw.com); rgervasi@psc.state.fl.us; Katherine Fleming
Subject: e-filing (Dkt.

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Electronic Filing

a. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel
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c/o The Florida Legislature
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b. Docket No. 060368-WS

In re: Application for increase in water and wastewater rates in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia and Washington Counties by Aqua Utilities Florida, Inc..

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 4 pages.

e. The document attached for electronic filing is a Citizens' Objection to Aqua Utilities Florida, Inc.'s Request for Confidential Classification.

(See attached file: 060368.objection)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts

DOCUMENT NUMBER-DATE

02012 MAR-56

3/5/2007

FPSC-COMMISSION CLERK

Office of Public Counsel
Telephone: (850) 488-9330
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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and) Docket No. 060368-WS
wastewater rates in Alachua, Brevard,)
Highlands, Lake, Lee, Marion, Orange,) Filed: March 5, 2007
Palm Beach, Pasco, Polk, Putnam,)
Seminole, Sumter, Volusia, and Washington)
Counties by Aqua Utilities Florida, Inc.)
_____)

CITIZENS' OBJECTION TO AQUA UTILITIES FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL CLASSIFICATION

The Citizens of the State of Florida ("Citizens"), by and through their undersigned attorney, hereby file their objection to Aqua Utilities Florida, Inc.'s ("Aqua", "Utility" or "Company") request for confidential classification. In support of this objection the Citizens state:

1. On February 23, 2007, Aqua filed a request for Confidential Classification of certain personnel information provided staff in response to Accounting Deficiency No. 32. In its motion, Aqua requests the Commission to classify specific employee's salary levels and responsibilities, including what portion of the salary levels were expensed versus capitalized, as proprietary confidential business information, pursuant to Chapter 367.156 (3), (d) and (e), Florida Statutes.
2. Aqua's motion and the attached affidavit allege that public disclosure of the employee compensation and responsibility information would impair the competitive business interests of Aqua, as well as its ability to attract and retain personnel for those positions on favorable terms.
3. Chapter 367.156 (3), Florida Statutes, permits a utility to seek confidential classification of proprietary confidential business information, including (3)(d), which

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includes bid information or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract for goods or services on favorable terms, or (3)(e), which includes information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

4. The Citizens object to Aqua's request because the very statute quoted by Aqua to provide support for its request expressly excludes confidential classification for the type of personnel information which is the subject of this request.

5. Chapter 367.156 (3)(f), Florida Statutes, expressly prohibits utilities from receiving proprietary confidential business classification for employee personnel information related to "**compensation, duties, qualifications or responsibilities.**" (Emphasis supplied).

6. The Commission has repeatedly denied confidential treatment for such position specific salary and responsibility information. In Docket No. 950318-WS, the Commission issued Order No. PSC-95-0503-CFO-WS, which provided in part that: "Because the salary information at issue is employee personnel information related to compensation, and the legislature in Section 367.156 (3)(f), Florida Statutes, specifically excluded that category of information from the statutory definition of proprietary business information, the information must be treated as public record pursuant to Section 119.01, Florida Statutes." Also see Commission Order No. PSC-92-1280-CFO-WS, issued in Docket No. 911188-WS,

7. In fact, the prior owner of the utilities included in this docket sought proprietary confidential business classification of the same type of salary personnel

information in Docket No. 950495-WS. Commission Orders Nos. PSC-96-0113-CFO-WS and PSC-96-0211-CFO-WS denied confidential classification of the salary information. In Order No. PSC-96-0211-CFO-WS the Commission found that: “In view of the compelling clarity of the language of Section 367.156 (3)(f), Florida Statutes, Section 367.156 (3)(e), Florida Statutes, may not be invoked to protect employee compensation information from disclosure under the Public Records Act.” Also see Commission Order No. PSC-92-1073-CFO-WS, issued in Docket No. 920199-WS and Commission Order No. PSC-97-022-FOF-WS, issued in Docket No. 960451-WS.

WHEREFORE, for the reasons stated above, Aqua’s request for confidential classification of the subject portions of the information it provided staff in response to Accounting Deficiency No. 32, should be denied.

Respectfully submitted,

s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel

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Attorney for the Citizens
Of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 060368-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Objection to Aqua's Request for Confidential Classification has been furnished by U.S. Mail and electronic mail to the following parties this 5th day of March, 2007.

Rosanne Gervasi, Esquire
Katherine E. Fleming, Esquire
Florida Public Service Commission
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s/ Stephen C. Reilly
Stephen C. Reilly
Associate Public Counsel