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September 19, 2007

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, FL 32399-0850

HAND DELIVERY

Re: Docket No. 060368-WS

Dear Ms. Cole:

Enclosed for filing on behalf of Aqua Utilities Florida, Inc. ("AUF") is the original and fifteen copies of AUF's Motion for Return of Confidential Documents.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,


Marsha E. Rule

RECEIVED-FPSC
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COMMISSION
CLERK

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Enclosures

cc: All Parties of Record

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DOCUMENT NUMBER-DATE

08525 SEP 19 07

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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.)
_____)

Docket No. 060368-WS

Dated: September 19, 2007

**AQUA UTILITIES FLORIDA, INC.'S
MOTION FOR RETURN OF CONFIDENTIAL DOCUMENTS**

Aqua Utilities Florida, Inc. ("AUF") by and through its undersigned counsel and pursuant to §367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, hereby files this Motion for Return of Confidential Documents. As grounds for its request, AUF states as follows:

1. On December 1, 2006, AUF filed its Application for Approval of Interim and Final Water and Wastewater Rates, Increased or Revised Service Availability Charges, and For Approval of Allowance for Funds Prudently Invested Charges ("Application") and supporting Minimum Filing Requirements ("MFRs") in this docket. By Notice of Voluntary Dismissal dated August 27, 2007, AUF voluntarily dismissed its request for relief, without prejudice, and withdrew its Application, MFRs, and all deficiency responses filed by AUF.

2. On August 28, 2007, at its regularly-scheduled Agenda Conference, the Commission acknowledged AUF's Notice of Voluntary Dismissal. See Vote Sheet from August 28, 2007 Agenda, Docket No. 060368-WS, attached hereto as Exhibit A.

3. While its Application was pending, AUF provided numerous documents in response to requests from Staff auditors, accounting deficiencies identified by Staff, and discovery requests from Staff and OPC. Certain documents provided by AUF contain or constitute proprietary confidential business information belonging to AUF.

DOCUMENT NUMBER-DATE

08525 SEP 19 8

FPSC-COMMISSION CLERK

4. Pursuant to Rule 25-24.006(9)(b), Florida Administrative Code, the Commission must order the return of confidential information when it is no longer needed for the Commission to conduct its business:

When confidential information is no longer needed for the Commission to conduct its business, the Commission shall order all persons holding such information to return it to the utility or person providing the information.

Given AUF's complete dismissal of its request for relief and accompanying withdrawal of its Application, MFRs and deficiency responses, the Commission no longer requires any of the confidential information provided by AUF in this case. Accordingly, AUF requests the Commission to order the return of the following items:

- a. AUF's confidential response to accounting deficiency No. 32. This document is identified in the Commission's records as Document No. 01146-07, provided on February 2, 2007, and also is identified as Document No. 01785-07, provided by AUF on February 23, 2007 in its Request for Confidential Classification of Document No. 01146-07. This document remains confidential pursuant to Order No. PSC-07-0579-CFO-WS, which held that the information shall remain confidential pending appeal.
- b. AUF's confidential responses to Staff audit requests. These documents are identified in the Commission's records as Document No. 04508-07 (Binder 25 of Staff audit workpapers, Audit Control No. 06-347-1-1) and also are identified as Document No. 04992-07, provided by AUF on June 21, 2007 in its Request for Confidential Classification of Document No. 04508-07.
- c. AUF's confidential responses to OPC Interrogatories Nos. 35 and 96 and confidential supplemental response to OPC Interrogatory No. 96. AUF's original confidential

responses are identified in the Commission's records as Document No. 06353-07, filed with the Commission on July 25, 2007 under confidential cover and subject to AUF's July 23, 2007 Motion for Temporary Protective Order. AUF's confidential supplemental response to OPC Interrogatory No. 96 is identified in the Commission's records as Document No. 06371-07, filed with the Commission on July 25, 2007 under confidential cover and subject to AUF's Motion for Protective Order.

- d. AUF's confidential response to Staff POD No. 34. AUF's response is identified in the Commission's records as Document No. 07491-07, filed with the Commission in CD format under confidential cover on August 6, 2007, subject to AUF's Motion for Protective order filed on the same date.
- e. AUF's response to OPC's PODs Nos. 208 and 220. AUF's response is identified in the Commission's records as Document No. 07579-07 (Page Nos. 23625-23655 provided in response to OPC POD No. 208, and CD 23721 provided in response to OPC POD No. 220), filed with the Commission under confidential cover on August 24, 2007, subject to AUF's August 22, 2007 Motion for Protective Order.

5. As noted above, AUF has dismissed all requests for relief and withdrawn its Application, MFRs and deficiency responses. None of the above-referenced documents relate to any of open issues. Accordingly, none of the documents are needed for the Commission to conduct its business, and the Commission should order their return pursuant to Rule 25-24.006(9)(b), Florida Administrative Code.

WHEREFORE, AUF respectfully requests the Commission to order the return to AUF of all documents provided by AUF under a claim of confidentiality to the Commission, Staff, OPC or the Office of the Attorney General, including but not limited to the above-referenced documents.



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ATTORNEYS FOR AQUA UTILITIES
FLORIDA, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U.S. Mail this 19th day of September, 2007 to the following:

Stephen C. Reilly, Esq.
Steve Burgess, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Rosanne Gervasi, Esq.
Ralph Jaeger, Esq.
Katherine Fleming, Esq.
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Office of the Attorney General
Cecelia Bradley
Senior Assistant Attorney General
Hand delivery address: the Collins Building
Mailing address:
The Capitol – PL 01
Tallahassee, FL 32399-1050

A handwritten signature in black ink, appearing to read 'W. R. ...', is written over a horizontal line.

Attorney

Exhibit A

VOTE SHEET

August 28, 2007

Docket No. 060368-WS – 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.

(Decision Prior to Hearing - Oral Argument Requested on Issue 2 – Interested Persons May Participate on Issues 3-8)

Issue 1: Should OPC and AUF's Requests for Oral Argument on the Joint Motion to Dismiss filed by OPC and the AG be granted?

Recommendation: Yes. The Requests for Oral Argument on the Joint Motion to Dismiss should be granted. Parties should be allotted up to 15 minutes for each side (OPC/AG and AUF) to address the Commission on Issue 2.

In lieu of Oral Argument, the Commissioners heard informal comments from the utilities and parties.

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures of majority commissioners]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

07774 AUG 28 05

Vote Sheet

August 28, 2007

Docket No. 060368-WS – 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.

(Continued from previous page)

Issue 2: Should the Joint Motion to Dismiss AUF's request for an increase in water and wastewater rates filed by OPC and the AG be granted?

Recommendation: Yes. The Joint Motion to Dismiss should be granted. AUF's Minimum Filing Requirements (MFRs) regarding its operating expenses are irreparably flawed, the utility has failed to provide sufficient or timely supporting documentation in response to discovery and audit requests to support its rate request, and failed to fully comply with two Orders compelling discovery responses by dates certain. AUF's request for a general rate increase should also be dismissed because the MFRs are irreparably flawed with respect to 1) projected plant additions and 2) engineering data. In addition, AUF has not provided sufficient documentation regarding the historical number of bills rendered or the number of gallons sold during either the 2005 test year or during 2006, its 2005 and 2006 gallons data are irreparably flawed, and AUF has failed to support its 2006 and 2007 billing determinants projections.

MOOT

notice of voluntary withdrawal was acknowledged by the Commissioners.

Issue 3: What are the appropriate water and wastewater rates for AUF?

Recommendation: AUF's appropriate water and wastewater rates should be the rates in effect prior to the approval of interim rates. The utility should file tariff sheets and proposed customer notices to reflect the Commission-approved rates for the respective systems within 20 days of the Commission vote. The appropriate rates are listed in Schedule 1-A for water and Schedule 1-B for wastewater for the respective systems in staff's memorandum dated August 16, 2007. The approved rates should be effective for service rendered on or after the stamped approval date on the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

APPROVED

Issue 4: Should AUF be required to refund any interim revenues collected?

Recommendation: Yes. The interim revenue increase granted in Order No. PSC-06-0668-FOF-WS should be refunded with interest, pursuant to Rule 25-30.360, F.A.C. Further, pursuant to Rule 25-30.360(7), F.A.C., AUF should be required to file the appropriate refund reports.

APPROVED

Vote Sheet

August 28, 2007

Docket No. 060368-WS – 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.

(Continued from previous page)

Issue 5: Should AUF be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with Rule 25-30.261(1), F.A.C., which requires meters to be read on the corresponding day of each meter reading period?

Recommendation: Yes. AUF should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$10,000 for its apparent failure to comply with Rule 25-30.261(1), F.A.C. The order to show cause should incorporate the conditions stated in the staff analysis in staff's memorandum dated August 16, 2007.

MODIFIED

adopt language in the settlement agreement that is labeled as 5, 6, & 7 and include the additional matter raised by AUF. (attachment A)

Issue 6: Should AUF be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with Rule 25-22.032, F.A.C., concerning customer complaints?

Recommendation: Yes. AUF should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$10,000 for its apparent failure to comply with Rule 25-22.032(6)(b), F.A.C. The order to show cause should incorporate the conditions stated in the staff analysis in staff's memorandum dated August 16, 2007.

MODIFIED

adopt language in the settlement agreement that is labeled as 5, 6, & 7 and include the additional matter raised by AUF. (attachment A)

Issue 7: If the Commission denies staff's recommendation to dismiss AUF's request for a general rate increase in Issue 2 of this recommendation, should AUF be ordered to show cause in writing, within 21 days, why it should not be fined for its apparent failure to comply with Order Nos. PSC-07-0592-PCO-WS and PSC-07-0598-PCO-WS, compelling discovery responses?

Recommendation: Yes. If the Commission denies staff's recommendation to dismiss AUF's request for a general rate increase in Issue 2 of this recommendation, AUF should be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$5,000 for its apparent failure to comply with Order Nos. PSC-07-0592-PCO-WS and PSC-07-0598-PCO-WS. The order to show cause should incorporate the conditions stated below in the staff analysis. If the Commission dismisses the rate case in Issue 2, this issue need not be ruled upon.

MOOT

Vote Sheet

August 28, 2007

Docket No. 060368-WS - 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.

(Continued from previous page)

Issue 8: Should this docket be closed?

Recommendation: No. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff, that the interim refund has been completed and verified by staff, and for the disposition of the show cause portions of the order. If the utility responds to the show cause order by remitting the fines, the show cause matter should be considered resolved and the docket should be closed administratively upon staff's verification of the above items. If the utility timely responds in writing to the show cause order, the docket should remain open pending final disposition of the show cause issues.

MODIFIED

Keep docket open until staff has confirmed the interim refunds have been made, that all directives given and adopted will be completed, and after all steps have been completed, staff will close the docket administratively.

Issue 1: The parties agree that oral argument should be granted consistent with the staff recommendation.

Issue 2: The parties agree that Issue 2 will be rendered moot by the filing by AUF of a Notice of Voluntary Dismissal which AUF will file by no later than 5:00 p.m. on August 27, 2007.

Issue 3: The appropriate water and wastewater rates for AUF are those rates in effect prior to the filing by AUF of its Application for Increased Water and Wastewater Rates on December 1, 2006.

Issue 4: AUF will refund interim revenues collected, with interest, pursuant to Rule 25-30.360, Florida Administrative Code, and AUF will file appropriate refund reports.

Issues 5, 6 and 7: With respect to Issues 5, 6 and 7, AUF agrees to make a voluntary contribution of \$50,000.00 to contributions-in-aid-of-construction to benefit all AUF customers under the jurisdiction of the ^{Florida}PSC.

In addition, AUF makes the following commitments:

- (1) The Company commits to complying with Rule 25-30.261(1) F.A.C., Meter Readings, and will add the topic as a formal agenda item to its weekly management meetings.
- (2) The Company commits to accurately stating on customer bills whether bills reflect actual or estimated meter readings.
- (3) The Company commits to the implementation of the following proposal and plan to enhance the quality, timeliness and efficiency of its customer service:

a. The Company will work with Staff to cooperatively set up single channel at the Company for the sole purpose of answering customer complaints in the most timely manner. AUF commits to answering all complaints that are filed within a mutually agreed upon channel within the fifteen day deadline set forth in Rule 25-22.032(6)(b), Florida Administrative Code.

b. The Parties will hold monthly meetings for a six month period, i.e. from September 1, 2007 through February 29, 2009, in order to work together to review the complaint process and response time performance (and any other service quality issues that may arise in the future).

c. The Parties agree to discuss and monitor call center inquiries and the interaction of AUF's call center with its customers at the monthly meetings. The Company commits to ensuring that its customer service representatives are courteous, properly trained, and responsive to all customer inquiries.

d. The Company commits to holding a series of town meetings in its service areas that will facilitate better communication between the Company and its customers. The Company will provide education on improvements that it has made and will make in the future and address any water quality issues raised by customers. The Company commits to promptly following up with customers that raise complaints or issues at these town meetings.

The parties do not waive any of their rights, including but not limited to their right to seek remedies for future rule violations, on account of the commitments made by the company.

Issue 8: The Parties agree that this docket should be closed.

Additional Matter Raised by AUF: In this Docket, Staff witness Stallcup has filed testimony endorsing the implementation of some form of rate consolidation in the future for AUF. Mr. Stallcup presented two alternatives for rate consolidation which differed from AUF's proposal to consolidate rates on a county-wide basis. Staff witness Stallcup explained that his proposals to effect some level of rate consolidation for AUF were intended to "accomplish the desirable goals of rate consolidation without imposing excessive cross-subsidies" while also addressing the affordability of rates.

Consistent with the concepts advanced by Mr. Stallcup, AUF will request that the Commission hold a Commission and Staff workshop to discuss the matter of rate consolidation by the end of the year. The parties will not object to such a request.

All Parties to this proceeding agree that the Staff Recommendation issued in this docket to be considered by the Commission on August 28, 2007 should be resolved as specifically set forth above.