

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080121-WS

FILED: November 5, 2008

**AQUA UTILITIES FLORIDA, INC.'S
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Pursuant to section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Aqua Utilities Florida, Inc. ("AUF"), hereby moves the Commission, through the Prehearing Officer, for a temporary protective order to exempt from section 119.07(1), Florida Statutes, documents produced in response to the Office of Public Counsel's ("OPC") Eighth Request for Production of Documents to AUF ("Eighth POD") No. 231(a) and (b). As grounds for its request, AUF states:

1. OPC has requested that it be permitted to inspect and potentially take possession of certain of AUF's confidential, trade secret and proprietary business information that is responsive to OPC's Eighth POD No. 231(a) and (b), which requests the "the workpapers and supporting documentation for the correction to the September over-allocation" and "the workpapers supporting the transportation monthly capitalization credits" regarding AUF's response to OPC's Interrogatory No. 201, with all such documents "in electronic spreadsheet format with all formulas and links intact."

2. With respect to AUF's response to OPC's Eighth POD No. 231(a) and (b), AUF has already provided to OPC hard copies of all documents that are responsive. Already having hard copies of such documents, OPC now seeks electronic versions of such documents. However, the electronic versions OPC seeks include information that constitutes trade secrets or

other confidential research, development, or commercial information, disclosure of which to competitors, third-party consultants, or to the public at large would materially harm AUF's interests.

3. Such information is exempt from Florida's Public Records Act pursuant to section 367.156(3)(d) and/or (3)(e), Florida Statutes. *See, e.g., In re: Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County; In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.*, DOCKET NO. 020896-WS; DOCKET NO. 010503-WU; ORDER NO. PSC-04-1152-PCO-WS, at *7-*8, *11 (Nov. 19, 2004) (agreeing with Staff that the Commission's rules and procedures to allow a utility to produce information under a claim of confidentiality are appropriate where a discovery request seeks electronic versions of documents).

4. Rule 25-22.006(6)(c) specifically permits a utility to agree to allow OPC to inspect or take possession of information for the limited purpose of determining whether that information will be used in a proceeding, and to seek a temporary protective order to ensure the confidentiality of such material during that process.

5. Pursuant to Rule 25-22.006(6)(c), AUF agrees to make the requested documents available to OPC for inspection,¹ and seeks a temporary protective order to ensure the confidentiality of such material related to that inspection. AUF will also make such documents available to Commission Staff for review upon issuance of the temporary protective order.

6. Rule 25-22.006(6)(c) prohibits OPC's retention of confidential information if OPC determines such information will not be used in a proceeding before the Commission. AUF requests that the Commission require OPC to promptly notify AUF if, after inspection, it intends

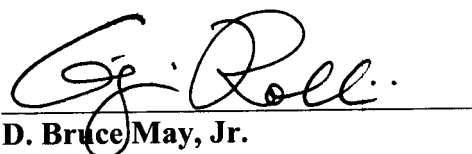
¹ Counsel for AUF has also advised counsel for OPC that execution of a confidentiality agreement by OPC's outside consultant is required if OPC intends to share electronic versions of the material with its outside consultant.

to use AUF's confidential information at hearing so that AUF has fair opportunity to move for a full protective order under Rule 25-22.006(6)(a). See Fla. Admin. Code R. 25-22.006(6)(c) ("If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under [Rule 25-22.006(6)](a) above.").

7. AUF has been authorized by counsel for OPC to represent that OPC does not object to the granting of this Motion.

WHEREFORE, AUF respectfully requests that the Commission enter a temporary protective order protecting against public disclosure the confidential information provided by AUF in response to OPC's Eighth POD No. 231(a) and (b).

Respectfully submitted this 5th day of November, 2008.

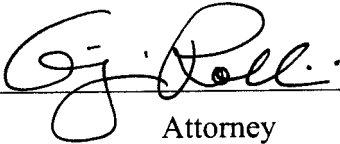


D. Bruce May, Jr.
Florida Bar No. 354473
Gigi Rollini
Florida Bar No. 684491
Holland & Knight, LLP
Post Office Drawer 810
Tallahassee, Florida 32302-0810
(850) 224-7000 (Telephone)
(850) 224-8832 (Facsimile)

Counsel for Aqua Utilities Florida, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by U.S. Mail and electronic transmission to **Charles Beck, Esq., Office of Public Counsel**, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400; to **Cecilia Bradley, Esq., Office of the Attorney General**, The Capitol-PL01, Tallahassee, FL 32399-1050; and to **Ralph Jaeger, Katherine Fleming, Caroline Klancke and Erik Sayler, Esq., Office of General Counsel, Florida Public Service Commission**, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this 5th day of November, 2008.



Attorney

5778504_v1