

**Ruth Nettles**

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**From:** ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]  
**Sent:** Monday, November 10, 2008 9:30 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Bruce May; Caroline Klancke; cecilia\_bradley@oag.state.fl.us; Erik Saylor; Katherine Fleming; Kimberly A. Joyce; Ralph Jaeger; Tim Devlin  
**Subject:** e-filing (Dkt. No. 080121-WS)  
**Attachments:** 080121.OPC' Initial Objections Request for Clarification of Aqua's 3rd Roggs and 3rd POD.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

Stephen C. Reilly, Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
(850) 488-9330  
reilly.steve@leg.state.fl.us

b. Docket No. 080121-WS

In re: Application for increase in water and wastewater rates in Alaucha, Brevard, DeSoto, 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 7 pages.

e. The document attached for electronic filing is a Citizens' Initial Objections and Request for Clarification of Aqua's Third Set of Interrogatories (Nos. 28-55) and Third Request for Production of Documents (Nos. 39-46) to Citizens.

(See attached file: 080121.OPC's Initial Objections Request for Clarification of Aqua's 3<sup>rd</sup> Roggs and 3<sup>rd</sup> POD.sversion.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts

Office of Public Counsel  
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11/10/2008

DOCUMENT NUMBER-DATE  
10467 NOV 10 8  
FPSC-COMMISSION CLERK

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.

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DOCKET NO. 080121-WS

FILED: November 10, 2008

**CITIZENS' INITIAL OBJECTIONS AND REQUEST FOR CLARIFICATION  
OF AQUA'S THIRD SET OF INTERROGATORIES (NOS. 28-55) AND THIRD  
REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 39-46)  
TO CITIZENS**

Pursuant to the requirements set forth in the Order Establishing Procedure (Order PSC-08-0429-PCO-WS issued June 27, 2008) and the First Order Revising Order Establishing Procedure (Order PSC-08-0536-PCO-WS issued August 18, 2008), Citizens submit the following initial objections to Aqua's Third Set of Interrogatories and Third Request for Production of Documents from the Citizens.

**GENERAL OBJECTIONS**

With respect to the "Definitions" and "Instructions" in the requests, Citizens object to any definitions or instructions that are inconsistent with Citizens' discovery obligations under applicable rules. If some question arises as to Citizens' discovery obligations, Citizens will comply with applicable rules and not with any of Aqua's definitions or instructions that are inconsistent with those rules.

Citizens object to each and every request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations or are not properly defined or explained for purposes of such discovery requests. Any

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FPSC-COMMISSION CLERK

responses provided by Citizens are provided subject to, and without waiver of, the forgoing objections.

Citizens also object to any request that purports to require Citizens or its experts to prepare studies, analyses, or to do work for OPC that has not been done for the Citizens.

Citizens generally object to any request that calls for information prepared in anticipation of litigation or hearing, for data or information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law.

Citizens reserve the right to supplement any of its responses if Citizens cannot locate the answers immediately due to their magnitude and the work required to aggregate them, or if Citizens later discover additional responsive information in the course of this proceeding. By making these general objections at this time, Citizens do not waive or relinquish its right to assert additional general and specific objections to Aqua's discovery.

By tendering the responses when due, Citizens do not concede that any request is relevant to this action or is reasonably calculated to lead to the discovery of admissible evidence. Citizens expressly reserve the right to object to further discovery into the subject matter of any of these requests, to the introduction of evidence of any response or portion thereof, and to supplement its responses should further investigation disclose responsive information.

In responding to these Requests, Citizens have made a reasonable inquiry of those persons likely to possess information responsive thereto and has conducted a

reasonable search of those records in Citizens' possession, custody, or control where the requested information would likely be maintained in the ordinary course of business. To the extent that Aqua's requests ask Citizens to go to greater lengths, Citizens object because such requests are overly broad, unduly burdensome, and unreasonable.

Citizens object to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to Aqua through normal procedures.

In responding to these Requests, Citizens do not waive the foregoing objections, or the specific objections that are set forth in the responses to particular requests.

#### **ADDITIONAL SPECIFIC OBJECTIONS OR REQUESTS FOR CLARIFICATION**

In addition to the general objections which apply to every request, Citizens provide the following objections or requests for clarification to specific interrogatories or requests for documents:

**Interrogatory No. 28.** Identify all documents (1) filed by Citizens with the FPSC after January 1993 wherein Citizens requested that a negative acquisition adjustment be included in the rate base of a water and/or wastewater utility, and (2) all FPSC orders ruling on such requests.

#### **Initial Specific Objection or Request for Clarification:**

As stated in the general objections, the Citizens object to Aqua requesting information from the Citizens that is already in the public record (public record of past cases) before the Florida Public Service Commission, and available to Aqua through normal procedures (legal research by Aqua's attorneys). Further, the Citizens object to Aqua requesting the Citizens to conduct and complete by a date certain (date discovery

is due), a legal research assignment, which both the scope and timing of the assignment may be inconsistent with the Citizens' preparation for the hearing in this case. On December 1, 2008, to the extent the Citizens are aware of any FPSC cases that are responsive to interrogatory no. 28, this information will be provided to Aqua on that date.

**Interrogatory No. 29** For purposes of this interrogatory, please refer to page 43, lines 1-11, of the prefiled direct testimony of Kimberly H. Dismukes. Please identify all documents (1) filed by Citizens with the FPSC wherein Citizens requests that the FPSC reduce the return on equity of a Florida water and/or wastewater utility by more than 100 basis points, and (2) all FPSC orders ruling on such requests.

**Initial Specific Objection or Request for Clarification:**

As stated in the general objections, the Citizens object to Aqua requesting information from the Citizens that is already in the public record (public record of past cases) before the Florida Public Service Commission, and available to Aqua through normal procedures (legal research by Aqua's attorneys). Further, the Citizens object to Aqua requesting the Citizens to conduct and complete by a date certain (date discovery is due), a legal research assignment, which both the scope and timing of the assignment may be inconsistent with the Citizens' preparation for the hearing in this case. On December 1, 2008, to the extent the Citizens are aware of any FPSC cases that are responsive to interrogatory No. 29, this information will be provided to Aqua on that date.

**Interrogatory No. 37** For purposes of this interrogatory, please refer to page 138, lines 1-12, of the prefiled direct testimony of Kimberly H. Dismukes. Please identify (1) all documents that Citizens has filed with the FPSC requesting that rate case

expense be shared between ratepayers and stockholders, and (2) all FPSC orders ruling on such requests.

**Initial Specific Objection or Request for Clarification:**

As stated in the general objections, the Citizens object to Aqua requesting information from the Citizens that is already in the public record (public record of past cases) before the Florida Public Service Commission, and available to Aqua through normal procedures (legal research by Aqua's attorneys). Further, the Citizens object to Aqua requesting the Citizens to conduct and complete by a date certain (date discovery is due), a legal research assignment, which both the scope and timing of the assignment may be inconsistent with the Citizens' preparation for the hearing in this case. On December 1, 2008, to the extent the Citizens are aware of any FPSC cases that are responsive to interrogatory no. 37, this information will be provided to Aqua on that date.

**Request for Documents No. 39.** Please provide all documents filed by Citizens with the FPSC after January 1993 wherein Citizens requested that a negative acquisition adjustment be included in the rate base of a water and/or wastewater utility.

**Initial Specific Objection or Request for Clarification:**

As stated in the general objections, the Citizens object to Aqua requesting documents from the Citizens that are already in the public record (public record of past cases) before the Florida Public Service Commission, and available to Aqua through normal procedures (legal research by Aqua's attorneys). Further, the Citizens object to Aqua requesting the Citizens to conduct and complete by a date certain (date discovery is due), a legal research assignment, which both the scope and timing of the

assignment may be inconsistent with the Citizens' preparation for the hearing in this case. On December 1, 2008, to the extent the Citizens are aware of any FPSC cases that are responsive to request for documents no. 39, the citations will be provided to Aqua on that date.

**Request for Documents No. 42.** For purposes of this request, please refer to page 138, lines 1-12; of the direct testimony of Kimberly H. Dismukes. Please provide all documents that Citizens has filed with the FPSC requesting that rate case expense be shared between ratepayers and stockholders.

**Initial Specific Objection or Request for Clarification:**

As stated in the general objections, the Citizens object to Aqua requesting documents from the Citizens that are already in the public record (public record of past cases) before the Florida Public Service Commission, and available to Aqua through normal procedures (legal research by Aqua's attorneys). Further, the Citizens object to Aqua requesting the Citizens to conduct and complete by a date certain (date discovery is due), a legal research assignment, which both the scope and timing of the assignment may be inconsistent with the Citizens' preparation for the hearing in this case. On December 1, 2008, to the extent the Citizens are aware of any FPSC cases that are responsive to request for documents no. 42, the citations will be provided to Aqua on that date.

s/ Stephen C. Reilly  
Stephen C. Reilly  
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c/o The Florida Legislature  
111 West Madison Street  
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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 080121-WS**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. Mail to the following parties on this 10th day of November, 2008.

Ralph Jaeger  
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s/ Stephen C. Reilly  
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