

Ruth Nettles

080121-WS

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Sent: Friday, October 23, 2009 4:01 PM
To: Filings@psc.state.fl.us
Cc: Charles Beck; Cecilia.Bradley@myfloridalegal.com; Caroline Klancke; Erik Sayler; Katherine Fleming; Ralph Jaeger
Subject: 080121-WS
Attachments: 080121-WS - Motion for Temporary Protective Order.pdf

a. Person responsible for this electronic filing:

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b. Docket number and title for electronic filing are:

Docket No. 080121-WS

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.

c. The name of the party on whose behalf the document is filed: Aqua Utilities Florida, Inc.

d. Total number of pages: 11

e. Brief description of filing: Aqua Utilities Florida, Inc.'s Motion for Temporary Protective Order.

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10818 OCT 23 8

10/23/2009

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.)
_____)

DOCKET NO. 080121-WS

FILED: October 23, 2009

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

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, respectfully requests that the Florida Public Service Commission ("Commission") issue a temporary protective order covering certain documents requested by the Office of Public Counsel ("OPC"). OPC has requested documents relating to the quality of service monitoring information that AUF is required to submit to the Commission in accordance with Order No. PSC-09-0385-FOF-WS (the "Order"). In support of its request, AUF states:

1. The Order requires AUF to submit to the Commission (i) a monthly report listing all customer complaints for the first six (6) months after the Order is issued and (ii) sound recordings of customer complaints for the month for the first six (6) months after the Order is issued. Order at 22. The Order also requires AUF to submit to staff meter reading route schedules for the six (6) months after the Order is issued and meter reading logs for the same six (6) month period. *Id.* The monthly customer complaints reports and monthly sound recordings contain proprietary customer-specific information, which AUF has requested be classified as confidential and exempt from Chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution.

DOCUMENT NUMBER-DATE

10818 OCT 23 8

FPSC-COMMISSION CLERK

2. AUF has received from OPC the attached request for production of documents, dated September 23, 2009, requesting "unredacted copies of all documents (including CDs or DVDs containing sound recordings) filed with the Florida Public Service Commission on August 20, 2009, and September 21, 2009", except AUF's monthly meter reading logs. The information that OPC has requested subject to specific Requests for Confidential Classification filed by AUF, and contain proprietary customer-specific information, the disclosure of which would harm the privacy interests of individual customers and subject those customers to other harm, including potential identity theft.

3. Because discovery in this matter is closed at this time, AUF is under no obligation to respond to OPC's discovery. *See* Order No. PSC-08-0429-PCO-WS; *see also In re: Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida, Inc.*, 05 F.P.S.C. 5:33, Order No. PSC-05-0484-PCO-TP, Docket No. 040156-TP (May 4, 2005). However, to avoid the time and expense of a protracted discovery dispute, AUF is prepared to voluntarily supply OPC with the unredacted information that it requests subject to a temporary protective order similar to the Commission's Order Granting Temporary Protective Order issued on August 27, 2009. *See* Order No. PSC-09-0578-PCO-WS; *see also Fla. Admin. Code R. 25-22.006(6)*. Through this mechanism, OPC can have access to the information that it requests without the need to reopen discovery in this matter.

4. By providing OPC with the unredacted information that it requests under cover of a temporary protective order, AUF does not waive its appropriate objections to producing this information, nor does it agree to the reopening of discovery in this matter. Instead, AUF will provide the documents to OPC marked as confidential subject to the temporary protective order,

AUF's objections, and the laws, rules and orders cited in its requests for confidential classification in this docket. Furthermore, by following this procedure, AUF is not waiving its rights to seek further relief as necessary to make certain that confidential, proprietary business is not publicly disclosed.

WHEREFORE, AUF respectfully requests that the Commission issue a temporary protective order for documents requested in OPC's thirteenth request for production of documents dated September 23, 2009, and which temporary protective order instructs OPC to treat those documents as confidential and prohibits OPC from utilizing that confidential information in a fashion that would interfere with, or undermine the independence of, staff's service quality audit.

Respectfully submitted this 23rd day of October, 2009 by:



D. Bruce May, Jr.

Florida Bar No. 354473

Gigi Rollini

Florida Bar No. 684491

Holland & Knight, LLP

Post Office Drawer 810

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Counsel for Aqua Utilities Florida, Inc.

CERTIFICATE OF SERVICE

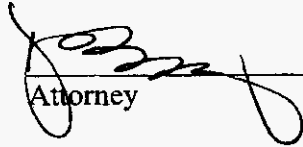
I hereby certify that a copy of the foregoing was furnished by electronic mail and U.S.

Mail this 23rd day of October, 2009 to the following:

Charles Beck, Esq.
Stephen C. Reilly, Esq.
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Cecilia Bradley, Esq.
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050



Attorney

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ATTACHMENT

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
September 23, 2009

**CITIZENS’ THIRTEENTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
TO AQUA UTILITIES FLORIDA, INC. (NO. 249)**

Pursuant to § 350.0611 (1), Florida Statutes, Rule 28-106.206, Florida Administrative Code and Rule 1.350, Florida Rules of Civil Procedure, the Citizens of the State of Florida (“Citizens”), by and through their undersigned attorney with the Office of Public Counsel (“OPC”), hereby request Aqua Utilities Florida, Inc., (“AUF,” “Aqua,” “Utility,” or “Company”) to produce copies of the following documents to OPC at their office in Room 812, 111 West Madison Street, Tallahassee, Florida 32399-1400, or at such other mutually agreed place, within thirty (30) days of this request.

DEFINITIONS

As used herein, the following words shall have the meanings indicated:

1. “Aqua Utilities Florida, Inc.,” shall mean Aqua Utilities Florida, Inc., including but not limited to any of its directors, officers, employees, consultants, agents, representatives, attorneys (concerning nonprivileged matters, which privilege must be expressly identified and justified) and any other person or entity acting or purporting to act on behalf of the Company.

2. "You" or "Your" means Aqua Utilities Florida, Inc., as defined above.
3. "Affiliate" means any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with Aqua Utility Florida, Inc., or shares a 5% or greater common ownership.
4. The terms "document" or "documents" are meant to have the broadest possible meaning under applicable law and include, but are not necessarily limited to, any written, recorded, filed, or graphic matter, whether produced, reproduced, or on paper, e-mail, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and notes, any of which are in your possession, custody, or control.
5. Words in the past tense include the present, and words in the present tense include the past. Use of the singular includes the plural, and use of the masculine includes the feminine where appropriate, and vice versa.

6. If there is any document or other tangible item described by this request which is no longer in your possession, custody, or control or is no longer in existence or accessible to you, please indicate:
- (a) the date and nature of disposition of such document or other tangible item, including, but not limited to, whether such: (i) is missing or lost, (ii) has been destroyed, or (iii) has been transferred to another person;
 - (b) the circumstances surrounding such disposition, including any authorization thereof; and
 - (c) where applicable, the person currently in possession, custody, or control of such document or item.

INSTRUCTIONS

- A. If any document is withheld under any claim to privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender, recipients, recipients of copies, subject matter of the document, and the basis upon which such privilege is claimed.

- B. If the Company has possession, custody, or control of the original of the documents requested, please produce the originals or a complete copy of the originals and all copies that are different in any way from the original, whether by interlineation, receipt stamp or notation. If the Company does not have possession, custody, or control of the originals of the documents requested please produce any copies in the possession, custody, or control of the Company, however, made.

- C. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of this production of documents any document which might otherwise be constructed to be outside the scope.

- D. If the respondent intends to seek clarification of any portion of the discovery request, the respondent shall request such clarification within 10 days of service of the discovery request. Further, any specific objection to a discovery request shall be made within 10 days of service of the discovery request.

- E. Each page of every document produced pursuant to the request for production of documents shall be identified individually through the use of a Bates stamp or other equivalent method of sequential identification. All produced documents shall be numbered in an unbroken sequence through the final hearing.

- F. The Citizens specifically request the Company to make a review of the files of employees reasonably expected to have information responsive to these document requests. Correspondence and notes of meetings, whether typed or handwritten, are specifically requested. If a particular employee is in charge of an area related to a document request, the Citizens request the Company to search the files both of the employee in charge of the area as well as each employee reporting directly or indirectly to such person if their areas of responsibility also include matters reasonably likely to be responsive to the document request.

- G. Please provide a copy of all written responses and attachments (where available) to these PODs in electronic format. Please provide spreadsheets with all formulas and links intact.

DOCUMENTS REQUESTED

249. With the exception of monthly meter reading logs, please produce unredacted copies of all documents (including CDs or DVDs containing sound recordings) filed with the Florida Public Service Commission on August 20, 2009, and September 21, 2009.


Charlie Beck
Deputy Public Counsel

CERTIFICATE OF SERVICE
DOCKET NO. 080121-WS


I hereby certify that a true and correct copy of the foregoing Citizens' Thirteenth Set of Requests for Production of Documents to Aqua Utilities Florida, Inc. has been furnished by electronic mail and U.S. Mail to the following parties on this 23rd day of September, 2009.

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