

Diamond Williams

100330-WS

From: DAVIS.PHYLLIS [DAVIS.PHYLLIS@leg.state.fl.us]
Sent: Thursday, October 14, 2010 3:01 PM
To: Filings@psc.state.fl.us
Cc: 'bruce.may@hklaw.com'; 'Troy Rendell'; 'Kimberly Joyce'; Charles Beck; CHRISTENSEN.PATTY; Katherine Fleming
Subject: RE: Electronic Filing 100330-WS-Citizens' Motion to Set Discovery Procedure and Motion to Compel Discovery Responses
Attachments: Motion for Discovery Limit and Motion to Compel 10-14-10.docx.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Patricia A. Christensen, Associate Public Counsel
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b. Docket No. 100330-WS

In Re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, 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 Citizens' Motion to Set Discovery Procedure and Motion to Compel Discovery Responses

DOCUMENT NUMBER 100330-WS

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FPSC-COMMISSIONER CLERK

10/14/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water and)
wastewater rates in Alachua, Brevard,)
DeSoto, Hardee, Highlands, Lake, Lee,) Docket No: 100330-WS
Marion, Orange, Palm Beach, Pasco, Polk,)
Putnam, Seminole, Sumter, Volusia, and)
Washington Counties by Aqua Utilities) Filed: October 14, 2010
Florida, Inc.)

**CITIZENS MOTION TO SET DISCOVERY PROCEDURE AND MOTION TO
COMPEL DISCOVERY RESPONSES**

The Citizens of the State of Florida, through the Office of Public Counsel, file their Motion to Set Discovery Procedure and Motion to Compel Discovery Responses pursuant to Rule 28-106.206, Florida Administrative Code. As grounds for Citizens motion state as follows:

1. On September 1, 2010, Aqua Utilities Florida, Inc. (Aqua) filed its Application for an increase in water and wastewater rates. Aqua's request covers 87 systems in 17 counties in Florida.
2. Aqua has requested that the Application for its 87 systems be processed using the Commission's Proposed Agency Action process. The PAA process provides five months to process the request from the time the MFR's are approved until the Commission renders its decision. Currently, the corrected MFR's are due to the Commission by October 29, 2010. Assuming all the MFR deficiencies are corrected, the timeframe for a decision would be no later than late-March to early-April 2011.
3. Citizens have the obligation to thoroughly review Aqua's requested increase prior to the PAA decision. Citizens need to send out discovery sufficient to conduct such review. Further, any such discovery will assist in making a determination of whether a protest of the PAA order can be obviated.

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4. Given the limited timeframe for discovery until a PAA decision is made, Citizens have already begun discovery. Since this matter is being processed through the PAA process, no Order Establishing Procedure has been issued. However, due to the extensive nature of the requested increase, Citizens ask that the discovery process be set in this case as was established in Aqua's last rate case which involved the similar number of systems. In Docket No. 080121-WS, issued June 27, 2008, the Commission established the discovery limits for interrogatories, production of documents, and admissions at 750 including subparts. Further, discovery responses were to be served within 30 calendar days, inclusive of mailing, from the receipt of the request with any clarification or objections to the discovery to be served within 10 days of receipt.

5. On September 10, 2010, Citizens propounded its First Set of Interrogatories (Nos. 1-118) and First Set of Production of Documents Requests (Nos. 1-97).

6. On October 11, 2010, Aqua sent a letter to Citizens complaining about the discovery request citing to the Florida Rules of Civil Procedures numeric limitation. However, as noted above, the numeric limitation imposed in general civil procedures are routinely increased in Commission proceedings due to complex nature of the litigation.

7. Aqua also served a portion of the responses due on October 11, 2010, proposing to provide the remainder of the discovery, 30 responses at a time every thirty days. Since it was not manifestly burdensome for Aqua to respond to discovery in the previous rate case (including similarly sized request) within 30 days, Citizens see no reason why the Commission should differ in this case.

8. Further, to expedite the review of the discovery response, Citizens request that Aqua be required to provide the requested documents in electronic form with all links and formulas intact, source data used, and with an explanation of all assumptions and calculations used. Citizens would also request that the Commission require that to the extent the data requested is not available in the form requested through discovery that the information be provided in electronic form that most closely matches what has been requested. If no electronic formatting exists, Aqua

should be required to provide a detailed explanation for the lack of an electronic form. Requiring the production of documents in this manner will prevent delay in a very tight schedule and should reduce the burden on document production.

9. Given the extremely limited time period over which Citizens has to prepare before the PAA decision, Citizens request that Aqua be compelled to produce any outstanding discovery within 10 days of the issuance of the order on the discovery process.

WHEREFORE, Citizens request the Commission grant their Motion to Set Discovery Procedure and Motion to Compel Discovery Responses.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Office of Public Counsel **Motion to Set Discovery Procedure and Motion to Compel Discovery Responses** has been furnished by electronic mail and U.S. Mail to the following parties on this 14th day of October, 2010, to the following:

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