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March 3, 2011

Via Hand-Delivery

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

Re: *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. 100330-WS*

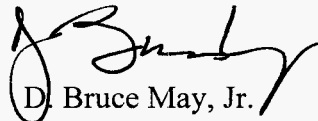
Dear Ms. Cole:

On behalf of Aqua Utilities Florida, Inc. ("AUF"), enclosed for filing are the original and seven (7) copies of AUF's Response to the Petition to Intervene filed by David L. Bussey.

Please acknowledge receipt by stamping the extra copy of this letter "filed" and returning the copy to me. Thank you for your assistance.

Sincerely,

HOLLAND & KNIGHT LLP



D. Bruce May, Jr.

DBM:kjg

Encls.

cc: Ralph Jaeger, Esq.
Caroline Klancke, Esq.

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Ann Cole
March 3, 2011
Page 2

J.R. Kelly, Esq.
Patricia Christensen, Esq.
David L. Bussey
Kimberly A. Joyce, Esq.
Troy Rendell

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and 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.	Docket No. 100330-WS Filed: March 3, 2011
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**AQUA UTILITIES FLORIDA, INC.'S RESPONSE
TO PETITION TO INTERVENE BY DAVID L. BUSSEY**

Pursuant to Rule 28-106.204, Florida Administrative Code, Aqua Utilities Florida, Inc. ("AUF") hereby files its response to the Petition to Intervene filed by David L. Bussey ("Mr. Bussey") on February 24, 2011.¹ Mr. Bussey alleges that he is a retail customer of AUF. AUF does not object to Mr. Bussey's intervention on that basis but respectfully requests that, if the Commission is inclined to grant intervention, it clarify that intervention in two respects.

1. First, Mr. Bussey should be advised that intervention does not permit him to raise arguments outside of the scope of this base rate proceeding. In paragraph 8.e. of Mr. Bussey's petition, he lists the following as a disputed issue of material fact:

Should the Commission encourage AUF to divest its systems to counties and municipalities to facilitate consumers receiving quality water at an affordable price?

The Commission is a creature of statute and only has those powers that are conferred on it by statute. Any reasonable doubt as to the lawful existence of a particular power must be resolved against its exercise. *City of Cape Coral v. GAC Utilities, Inc. of Florida*, 281 So.2d 493, 495-6 (Fla. 1973). The Commission's authority to regulate private water and wastewater utilities is found exclusively in Chapter 367, Florida Statutes. Nothing in Chapter 367 empowers the Commission to require or encourage government takeover of

¹ Mr. Bussey's Petition was dated February 23, 2011, but was actually received by the Commission after business hours and therefore is deemed to be filed on February 24, 2011.

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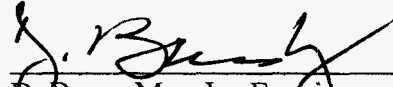
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private water and wastewater utilities like AUF. To the contrary, the Florida Legislature has made it clear that Chapter 367 is designed to "encourage the private sector to participate in the investment in water and wastewater infrastructure." See § 367.0813, Fla. Stat. (2010). Accordingly, Mr. Bussey's participation should be expressly limited to those issues within the jurisdiction and scope of this rate case proceeding, which is being conducted pursuant to Section 367.081(8), Florida Statutes. *See, In re: Petition for increase in rates by Florida Power & Light Company*, Docket No. 080677-EI; Order No. PSC-09-0280-PCO-EI (April 29, 2009) ("The decision to grant [retail customer] intervention should not be construed to permit him to raise arguments outside the scope of the issues the Commission determines to address in this rate proceeding.") *See also, In re: Petition for a rate increase in Martin County by Sailfish Point Utility Corporation*, Docket No. 900816-WS; Order No. 24486 (May 7, 1991) ("In granting intervention, we do so with the understanding that issues raised [by retail customer group] are to be relevant and directly related to this rate proceeding, and designed to foster our pursuit for a determination of rates which are just, reasonable, compensatory, and not unfairly discriminatory. We will not address issues which are outside the scope of this proceeding or which are beyond our jurisdiction.").

2. Second, Mr. Bussey should be reminded that, as an intervenor, he takes the case as he finds it. *See* Rule 25-22.039, Florida Administrative Code ("Intervenors take the case as they find it."). Furthermore, as an intervenor, Mr. Bussey is required to "comply with the same standards, rules, statutes, and procedures as all other parties to this proceeding and shall be required to stay within the scope of this proceeding as established through the issues, rules, and governing statutes." Order No. PSC-09-0280-PCO-EI, *supra* at p. 8.

Wherefore, AUF respectfully requests that the Commission clarify the proper scope of this proceeding and Mr. Bussey's participation therein as described above.

Respectfully submitted this 3rd day of March, 2011.



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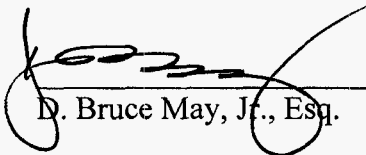
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail
to the following this 3rd day of March, 2011:

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