

**Eric Fryson**

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**From:** Roberts, Brenda [ROBERTS.BRENDA@leg.state.fl.us]  
**Sent:** Wednesday, October 31, 2012 4:09 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Sayler, Erik; Vandiver, Denise; Gene Brown; Lisa Bennett; Martha Barrera; Marty Friedman; Ralph Jaeger  
**Subject:** E-filing (Dkt. No. 110200-WU)  
**Attachments:** First Motion to Compel Discovery Responses.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Erik L. Sayler, 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  
[Sayler.erik@leg.state.fl.us](mailto:Sayler.erik@leg.state.fl.us)

b. Docket No. 110200-WU

In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 59 pages.

e. The document attached for electronic filing is First Motion to Compel Discovery Responses.pdf

Thank you for your attention and cooperation to this request.

Brenda S. Roberts  
Office of Public Counsel  
Telephone: (850) 488-9330  
Fax: (850) 488-4491

DOCUMENT NUMBER-DATE

07400 OCT 31 2012

FPSC-COMMISSION CLERK

10/31/2012

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Application for increase in water rates in )  
Franklin County by Water Management )  
Services, Inc. )

Docket No: 110200-SU

Filed: October 31, 2012

**FIRST MOTION TO COMPEL DISCOVERY RESPONSES**

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

1. On November 7, 2011, Water Management Services, Inc. ("WMSI" or "Utility") filed its Application for an increase in water and wastewater rates and the Application was processed using the Proposed Agency Action ("PAA") pursuant to Section 367.081(8), Florida Statutes ("F.S.").
2. The intervention of the Office of Public Counsel ("Citizens" or "OPC") on behalf of the WMSI customers was acknowledged by Order No. PSC-12-0034-PCO-WS, issued January 23, 2012.
3. On August 22, 2012, the Florida Public Service Commission ("Commission") issued PAA Order No. PSC-12-0435-PAA-WU ("PAA Order") and on September 11, 2012, the Commission issue an Amendatory Order No. PSC-12-0435A-PAA-WU.
4. On September 12, 2012, OPC filed a Petition protesting portions of the PAA Order and requested an administrative hearing on certain issues of disputed material fact. Those issues of disputed material fact relate to (a) the prudence of Cash Advances to WMSI's President and Associated Companies - Account 123 and whether it adversely impacted the Utility's access to funds for utility expenses; (b) Previously Authorized Rate Case Expense by Order No. PSC-11-0011-SC-WU in the last case and whether the Utility's non-payment and/or slow payment is contrary to the statutory intent

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of Sections 367.081(7) and 367.0816, F.S.; (c) Timing and amount of Service Availability Charges established by the PAA Order; and (d) remaining amount of Unamortized Gain on Sales calculated by Order No. PSC-11-0011-SC-WU that apparently was not addressed in the PAA Order.

5. On September 19, 2012, WMSI filed a Cross-petition for formal hearing protesting certain issues in the PAA Order.

6. On October 3, 2012, Order No. PSC-12-0526-PCO-WU establishing procedure ("OEP") was issued, setting forth controlling dates, discovery procedures, and other hearing procedures.

7. On October 5, 2012, Citizens propounded its First Set of Interrogatories (Nos. 1-16) and First Request for Production of Documents (Nos. 1-36). On October 15, 2012, WMSI objected to answering Interrogatories Nos. 4, 5, 6, 7, 8, 9, and 12 and responding to Request for Production Nos. 7, 8, 11, 12, 19, 20, 22, 23, 24, 25, 26, 31, and 36.<sup>1</sup>

8. OPC asserts that the responses to each of Interrogatories and Request for Production of Documents (as identified below) must be compelled in order for this Commission to have the evidence necessary to ultimately decide whether the Utility's cash advances to WMSI's President and associated companies in the amount of \$1.2 million, represented by Account 123, impaired the Utility's ability to meet its financial and operating responsibilities, and if so, what was the effect on the Utility, and what action, if any, should the Commission take? As well as make decisions on the other issues that OPC protested.

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<sup>1</sup> On October 26, 2012, OPC filed a notice of withdrawal for Interrogatory No. 9, subparts e, d, e; and No. 12 as well as withdrawal of Request for Production of Documents No 12, subparts e, f, g; No. 22; No. 24; and No. 25. Upon review of staff's audit workpapers provided to OPC in discovery, OPC withdraws its request for Request for Production No. 36.

## ARGUMENTS IN FAVOR OF COMPELLING DISCOVERY

9. This motion to compel will summarize each Interrogatory and Request for Production to which the Utility objected, set forth the Utility's objections, and state with reasons the response or documents must be compelled:<sup>2</sup>

### GENERAL REMARKS

**Regarding metadata:** In objecting to OPC's instructions to include "metadata," the Utility referenced "Professional Ethics of the Florida Bar, Opinion 06-02, which OPC has attached hereto this motion to compel with relevant portions highlighted (Attachment A). The attached ethics opinion clearly indicates this ethics opinion does not apply to discovery. Rule 1.280 of the Florida Rules of Civil Procedure permits discovery of electronically stored information consistent with the Rules. A party may request electronically stored information in its native format which includes having its metadata intact.

**Regarding withdrawn prefiled testimony:** While no affidavit accompanies a witness' prefiled testimony, a witness pre-filing testimony nonetheless has a duty to provide true and correct testimony since he or she will have to swear an oath that that testimony as drafted is true and correct at the hearing, or note the corrections to the testimony for the record. Parties will often serve interrogatory questions about the prefiled testimony to test the "testimony" being offered, and those responses to interrogatories are accompanied by an affidavit to attest to their veracity. The person signing the affidavit should be the witness who is attesting that "the responses are true and correct to the best of his/her information and belief." Similarly, requests to produce documents referenced in prefiled testimony are routinely made, especially when the party making the request does not have custody of the original documents being requested. "Withdrawing" prefiled testimony in the instant

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<sup>2</sup> For the convenience of the Prehearing Officer, OPC's First Set of Interrogatories and First Request for Production of Documents are attached following Attachment A and B.

case is an attempt by the Utility to avoid answering lawful discovery requests concerning the accuracy of statements made by the Utility and Mr. Brown to this Commission in support of the requested rate increase. The Utility cannot avoid responding to OPC's discovery simply because the testimony was withdrawn. OPC's discovery is tailored to confirm the statements made by Mr. Brown, not only in his "withdrawn testimony" but during the last rate case under oath as well as in a letter dated August 1, 2012 and at the August 2, 2012 Commission Conference.

### **SEPCIFIC ARGUMENTS**

#### **COMPELLING INTERROGATORY NOS. 4, 5, 6, 7, AND 8**

##### **4. Cash Flow Audit. OPC is seeking information about the Utility's self-performed cash flow audit which was performed in response to Audit Staff's cash flow audit.**

**Utility Objection:** By its specific terms, the question refers to testimony that has been withdrawn and therefore is not relevant to this proceeding. The cash flow audit prepared by WMSI is not at issue in this action. This question is made solely for the purposes of harassment. Further, this question seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to discovery of admissible evidence.

**Reason to compel response to Interrogatory No. 4:** In addition to being referenced in prefiled testimony, the Utility referenced the Utility's cash flow audit in other documents provided to this Commission. See DN 02056-12, April 4, 2012, WMSI (Friedman) - Letter dated 3/28/12 with attached response to staff audit. (Audit Control No. 11-319-1-1), Utility response to Finding 7: Cash flow analysis update. Page 12 ("The PSC audit report also confirms the total revenue from WMSI ratepayers as shown by the utility's cash flow audit and general ledgers provided to the PSC staff as part of this audit.") (emphasis added) (Response to Finding 7 attached hereto, Attachment B). Further, a review of Exhibits "A" and "B" attached to Mr. Brown's letter to the Commission dated August 1, 2012 indicate that the Utility performed some sort of cash flow analysis. See DN 05177-12, August 1, 2012, WMSI (Brown) - Letter dated 8/1/12 with attached copy of memo dated 8/1/12 to Commissioners Balbis,

Brisé [sic], Brown, Edgar, and Graham, providing response to OPC/Sayler's letter dated 7/31/12 and to Issue 15 of staff's recommendation dated 7/20/12. Exhibit "C" attached to the letter is the Utility's response to Audit Finding 7 which is referenced above. Id. These are a few documented instances which confirm that the Utility performed its own cash flow audit. Because the Utility's cash flow audit differs significantly from Audit Staff's cash flow audit which confirmed that Utility moved \$1.2 million of Utility money into Account 123, OPC asserts that the Utility should be compelled to answer OPC's interrogatory about the Utility's cash flow audit.

- 5. While originally styled as a question about Capital Resources, this Interrogatory pertains to Account 123. OPC is seeking information about personal resources which Mr. Brown has stated that he liquidated in order to keep the Utility in operation and provide water service to St. George Island.**

**Utility Objection:** By its specific terms, the question refers to testimony that has been withdrawn and therefore is not relevant to this proceeding. The cash flow audit prepared by WMSI is not at issue in this action. This question is made solely for the purposes of harassment. Further, this question seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to discovery of admissible evidence.

**Reason to compel response to Interrogatory No. 5:** Mr. Brown has made statements in his prefiled testimony about liquidating personal resources on behalf of WMSI. These statements should be substantiated. OPC believes the proceeds from those liquidated personal assets if properly accounted for would show up on the books of the Utility either as equity (money contributed by Mr. Brown) or as a liability (a loan of money by Mr. Brown to the Utility) or by some other accounting treatment. OPC tailored its Interrogatory No. 5 to enable OPC's consultant to trace the proceeds from those liquidated personal assets to some place in the Utility's books. OPC did not include a timeframe or materiality threshold in its initial interrogatory. If it will facilitate the Utility's response to this interrogatory, please

limit the compelled response to personal resources liquidated that exceed the value of \$5,000 and that are recorded on the Utility's books since January 1, 2000. If repaid to Mr. Brown, the Utility should identify the amount of repayment and the date.

- 6. While originally styled as a question about Capital Resources, this Interrogatory pertains to Account 123. OPC is seeking information about all substantial loans incurred by Mr. Brown or personally endorsed by him, to keep the Utility in operation and provide water service to St. George Island.**

**Utility Objection:** By its specific terms, the question refers to testimony that has been withdrawn and therefore is not relevant to this proceeding. The cash flow audit prepared by WMSI is not at issue in this action. This question is made solely for the purposes of harassment. Further, this question seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to discovery of admissible evidence.

**Reason to compel response to Interrogatory No. 6:** In addition to the statements made by Mr. Brown in his prefiled testimony about incurring substantial loans, personally endorsed by him, on behalf of WMSI, OPC notes these statements have been made on other occasions. Because the Issue of Account 123 is a carryover from the Utility's last rate case, one may look to Mr. Brown's sworn testimony in the last rate case as it relates to substantial loans, personally endorsed by him, on behalf of WMSI. When asked about examples of the types of loans he personally guaranteed, Mr. Brown testified: "I especially remember a \$150,000 second mortgage loan on my house because I had to talk my wife into signing as co-owner. She signed only because I was able to show her that the funds were being used to support the utility company, a portion of which she also co-owned." See *Docket No. 100104-WU; Hearing Transcript Volume 4; Document No. 08650-10, page 525-526*. Mr. Brown later testified: "... there have been many other such loans over the 35 years that I have been the manager and co-owner of the company. Most of these have been repaid, but there is still over \$750,000 in

unpaid personal and BMG loans that have been used to fund the cash-flow deficit of the utility. All of these required my personal guarantee, and all but two required me to pledge assets owned by me personally or by Brown Management Group." Id. "Earlier this year, I personally borrowed an additional \$25,000 to make the Regulatory Assessment Fee payment to the PSC." Id. 526-527. These are three instances from the last rate case where Mr. Brown testified about personally incurring substantial loans, personally endorsed by him, on behalf of WMSI. In response to these statements, the Commission stated: "If debt had been taken on by Mr. Brown and/or a company under his control to pay the expenses of WMSI, there is no evidence in the record other than the statements of witness Brown. If Mr. Brown advanced funds to WMSI, the amount of those advances should be properly accounted for on WMSI's books." Order No. 11-0010-SC-WU, issued January 3, 2011, in Docket No. 100104-WU.

In the current rate case, Mr. Brown has made similar statements about incurring substantial loans, personally endorsed by him, on behalf of WMSI. At the August 2, 2012, Commission Conference, while discussing how the Utility is funded, Mr. Brown stated: "The red are funds from Gene Brown affiliates and third parties, including lenders that I've paid off and extended loans with and worked with and still have to pay. It's about -- now that we've gone through this, it's over \$8 million that my wife and I have to pay, my family, my companies. . . ." See Docket No. 110200-WU; Transcript of August 2, 2012 Agenda Conference; Document No. 05672-12 at Page 113. In response the Commission's staff's Audit Finding 7, the Utility made the following statement: "The other \$3,362,665 came from loans personally secured by Gene Brown, including personal credit cards (which do not have to be repaid by ratepayers) or from other entrepreneurial activities of Gene Brown, such as an \$800,000 damage settlement and the sale (and purchase) of certain other assets in which the ratepayers had no interest." (emphasis added) See DN 02056-12, April 4, 2012, WMSI (Friedman) - Letter dated

3/28/12 with attached response to staff audit. (Audit Control No. 11-319-1-1), Utility response to Finding 7: Cash flow analysis update. Page 13. These are two instances in the current rate case where Mr. Brown or the Utility states that Mr. Brown personally incurred substantial loans, personally endorsed by him, on behalf of WMSI. Because of these statements, OPC tailored its Interrogatory No. 6 to enable OPC's consultant to trace the proceeds from those substantial loans, personally endorsed by him, on behalf of WMSI, to some place on the Utility's books. To the extent that Mr. Brown incurred substantial loans, personally endorsed by him to keep the utility in operation, OPC seeks that those loans should be disclosed. OPC did not include a timeframe or materiality threshold in its initial interrogatory. If it will facilitate the Utility's response to this interrogatory, please limit the compelled response to substantial loans, personally endorsed by him that exceed the value of \$5,000 and that are recorded on the Utility's books since January 1, 2000. If repaid to Mr. Brown, the Utility should identify the amount of repayment and the date.

**7. Account 123. OPC is seeking information to confirm that the value of the 100% ownership of Brown Management Group, Inc. is in excess of the balance in Account 123.**

**Utility Objection:** By its specific terms, the question refers to testimony that has been withdrawn and therefore is not relevant to this proceeding. The cash flow audit prepared by WMSI is not at issue in this action. This question is made solely for the purposes of harassment. Further, this question seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to discovery of admissible evidence.

**Reason to compel response to Interrogatory No. 7:** In addition to the statements made by Mr. Brown in his prefiled testimony that the value of the 100% ownership of Brown Management Group, Inc. is in excess of the balance in Account 123, the Utility made similar statements in other instances concerning the value of Brown Management Group exceeding the balance in Account 123.

In response to Staff Audit Finding 7, WMSI stated: "The company, WMSI, owns all of the outstanding stock of the associated company, Brown Management Group, which has a documented net worth in excess of the \$1,215,075 balance in account 123, 'Investments in Associated Companies.'" (emphasis added). See DN 02056-12, April 4, 2012, WMSI (Friedman) - Letter dated 3/28/12 with attached response to staff audit. (Audit Control No. 11-319-1-1), Utility response to Finding 7: Cash flow analysis update. Page 14.

In Mr. Brown's August 1, 2012 letter to the Commission, he stated: "WMSI documented the fact that the value of the 100% stock ownership in BMG was greater than the \$1.2 million that WMSI paid for the stock." See *Docket No. 110200-WU; Letter submitted to Commission August 1, 2012; Document No. 05177-12*: Page 2. Later on page 4, he writes that the net inter-company calculations "are below the net book value of BMG." *Id.*

Again, at the August 2, 2012 Commission Conference, Mr. Brown stated that "that stock had a value greater than the 1.2 million." See *Docket No. 110200-WU; Transcript of August 2, 2012 Agenda Conference; Document No. 05672-12*: Page 109.

OPC tailored Interrogatory No. 7 to enable OPC's consultant to confirm that the value of Brown Management Group exceeds the balance of Account 123. This information is relevant to the extent supports statements by the Utility that Brown Management Group was a prudent use of the Utility's \$1.2 million. Therefore, the Utility should be compelled to respond to this Interrogatory fully and completely.

**8. Account 123. OPC is seeking information to confirm that a large part of cash for the Utility came from the sale of assets owned by Brown Management Group, Inc**

**Utility Objection:** By its specific terms, the question refers to testimony that has been withdrawn and therefore is not relevant to this proceeding. The cash flow audit prepared by WMSI is not at issue

in this action. This question is made solely for the purposes of harassment. Further, this question seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to discovery of admissible evidence.

**Reason to compel response to Interrogatory No. 8:** Based upon the evidence presented by the Utility, it now owns Brown Management Group, Inc., including all of its assets. Therefore, information concerning the sale of those assets should be compelled in order to determine how much the Utility was benefitted by the sale of the Brown Management Group assets. OPC tailored its Interrogatory No. 8 to enable OPC's consultant to trace the proceeds from those liquidated assets to the Utility's books.

**COMPELLING REQUEST FOR PRODUCTION NOS. 7, 8, 11,  
12 (SUBPARTS A., B., C., D., AND H.), 19, 20, 23, 26, AND 31**

**7. OPC is seeking Utility Bank Statements in order to analyze the Utility's cash flow practices as it relates to Account 123.**

**Objection.** This request is overly broad, onerous and made solely for harassment. Further, this request seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to the discovery of admissible evidence. There certainly can be no relevance to post-year bank statements.

**Response for Request for Production No. 7:** One of the key issues protested by OPC is the Utility's cash flow management, the amount of cash transferred into and out of Account 123, and whether the Utility's cash flow management impaired normal utility operations. A review of the Utility's bank account statements and bank reconciliations will confirm entries in the general ledgers.

**8. OPC is seeking Utility bank reconciliations for this period in order to analyze the Utility's cash flow practices as it relates to Account 123.**

**Objection.** This request is overly broad, onerous and made solely for harassment. Further, this request seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated

to the discovery of admissible evidence. There certainly can be no relevance to post-year bank statements.

**Response for Request for Production No. 8:** See response above as it relates to bank reconciliations and why this response should be compelled.

**11. This Request for Production pertains to Account 123. OPC is seeking documents related to all substantial loans incurred by Mr. Brown or personally endorsed by him, to keep the Utility in operation and provide water service to St. George Island.**

**Objection.** By its specific terms, the documents requested refer to testimony that has been withdrawn and therefore is not relevant to this proceeding. This request is made solely for the purpose of harassment and to pry into the personal finances of Mr. Brown which are not relevant to this proceeding. Further, this request seeks documents that are neither relevant to the issues in dispute in this action nor reasonable calculated to lead to the discovery of admissible evidence.

**Response for Request for Production No. 11:** Please refer to the reasons for compelling Interrogatory No. 6 described above. OPC tailored its Request for Production No. 11 in tandem with Interrogatory No. 6 to enable OPC's consultant to trace the proceeds from those substantial loans, personally endorsed by Mr. Brown, on behalf of WMSI, to the Utility's books.

**12. Account 123. OPC is seeking documents to confirm that the value of the 100% ownership of Brown Management Group, Inc. is in excess of the balance in Account 123.**

**Objection.** By specific terms, the documents requested refer to testimony that has been withdrawn and therefore is not relevant to this proceeding. This request is made solely for the purpose of harassment. Further this request seeks documents that are neither relevant to the issues to dispute in this action nor reasonably calculated to lead to the discovery of admissible evidence.

**Response for Request for Production No. 12:** Please refer to the reasons for compelling Interrogatory No. 7 described above. OPC tailored its Request for Production No. 12 in tandem with Interrogatory No. 7 to enable OPC's consultant to trace the value of Brown Management Group.

Compelling the Utility to provide copies of asset appraisals of Brown Management Group, Inc. assets is relevant to confirming the Utility's statements concerning the value of Brown Management Group, Inc. at the time it was transferred to the Utility. This information is relevant to establish whether the investments in Account 123 were prudent.

**19. Account 123. OPC is seeking to confirm the value of Brown Management Group, Inc. by reviewing its bank accounts for the period January 1, 2008 through the most recent date available.**

**Objection.** This request is overly broad, onerous, and made solely for harassment. Further, this request seeks documents that are neither relevant to the issues in dispute in this action nor reasonable calculated to lead to the discovery of admissible evidence. There certainly can be no relevance to post-test year bank statements.

**Response to Request for Production No. 19 and 20:**

One of the key issues protested by OPC is the Utility's cash flow management, the amount of cash transferred into and out of Account 123, and whether the Utility's cash flow management impaired normal utility operations. Since Brown Management Group as of January 1, 2011 is wholly owned by the Utility, a review of the Brown Management Group's bank account statements and bank reconciliations will confirm entries in the general ledgers. Further, it will establish the value of Brown Management Group at the time it was transferred to the Utility and whether it was a prudent investment by the Utility. If it aides in the production of these bank statements and reconciliations, please limit the timeframe to the later of January 1, 2008 or the date the transfer took place through July 31, 2012.

**20. Account 123. OPC is seeking to confirm the value of Brown Management Group, Inc. by reviewing bank reconciliations performed by or for Brown Management Group, Inc. for the period January 1, 2008 through the most recent date available.**

**Objection.** This request is overly broad, onerous, and made solely for harassment. Further, this request seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to the discovery of admissible evidence. There certainly can be no relevance to post-test year bank reconciliations.

**Response to Request for Production No. 19 and 20:** See response for Request for Production No. 19 above.

**23. Account 123. OPC is interested in Mr. Brown's personal bank statements only to the extent they relate to the Utility or Brown Management Group for the period January 1, 2008 through the most recent date available. OPC would ask that all other personal banking information be redacted.**

**Objection.** This request is made solely for the purpose of harassment and to pry into the personal finances of Mr. Brown which are not relevant to this proceeding. Further, this seeks documents that are neither relevant to the issues in dispute in this action nor reasonable calculated to lead to the discovery of admissible evidence.

**Response to Request for Production No. 23:** OPC is not interested in the personal finances of Mr. Brown that do not relate to the Utility or Brown Management Group. OPC requests that the Utility redact all other personal information or transactions that may appear on those bank statements. OPC is seeking this information to confirm entries in the general ledgers of the Utility and Brown Management Group. OPC agrees to limit the request for production to entries, transfers, withdrawals, deposits, etc. that relate to the Utility or Brown Management Group and appear on his personal bank statements.

**26. Lease Agreements and Contracts for Brown Management Group, Inc. Facilities Leased to Others. OPC is seeking copies of lease agreements in order to confirm the value of Brown Management Group.**

**Objection.** This request seeks documents that are neither relevant to the issues in dispute in this action nor reasonably calculated to lead to the discovery of admissible evidence.

**Response for Request for Production No. 26:** OPC's Request for Production No. 26 to is necessary for its consultant to determine the value of Brown Management Group. Compelling the Utility to provide copies of "Lease Agreements and Contracts for Brown Management Group, Inc. Facilities Leased to Others", of Brown Management Group, Inc. assets, now owned by the Utility, is key to confirming the Utility's statements concerning the value of Brown Management Group, Inc. at the time it was transferred to the Utility.

**31. Prior Rate Case Expense Being Collected in Rates. OPC is seeking all communications between the Utility and its former law firm Radey, Thomas, Yon, and Clark relating to the amount due for services rendered by the law firm to WMSI in the last rate case to determine why the Utility ceased making payments to its law firm in November 2010 during the pendency of the last rate case.**

**Objection.** Such documents are subject to the attorney-client privilege.

**Response for Request for Production No. 31:** Section 90.502, F.S., of the Florida Evidence Code describes the attorney-client privilege, who may assert it, what matters are protected by attorney-client privilege, and what matters are not protected. Research into whether the attorney-client privilege covers communications about possible billing disputes arising during the course of representation did not produce any cases on point. OPC believes that *Finol v. Finol*, 869 So. 2d 666 (Fla. 4th DCA 2004) may be instructive on the matter where billing information is discoverable:

If this billing information contained descriptions of services rendered which would reveal the mental impressions and opinions of counsel, that information should be redacted as privileged, *Old Holdings, Ltd. v. Taplin, Howard, Shaw & Miller, P.A.*, 584 So.2d 1128 (Fla. 4th DCA 1991); however, the remaining information is not privileged and therefore discoverable.

This court has recently allowed discovery of defense counsel's billing records because they were relevant to plaintiff's claim for prevailing party attorney's fees. *Brown Distrib. Co. of West Palm Beach v. Marcel*, 866 So.2d 160 (Fla. 4th DCA 2004).

*Id.* In the instant case, OPC is not seeking the billing records of the law firm which might contain mental impressions about how the law firm previously represented the Utility. OPC is seeking correspondence between the law firm and the Utility about any possible billing disputes and/or reductions in the final bill that may have arisen either during or after the Final Order PSC-11-0010-SC-WU was issued on January 3, 2011. In the last rate case, the Commission approved more than \$146,000 in rate case expense for this law firm and its consultants; thus, OPC asserts that there is no attorney-client privilege concerning communications about potential matters of billing disputes that arose before or after the final order was issued in the last rate case.

OPC specifically raised the issue of rate case expense approved in the last rate case but not paid to its law firm and consultants. Discovery in this case indicates that the law firm and its consultants are owed approximately \$146,000 in legal fees. At least two other consultants are owed a significant amount of money, but they appear to be on a payment plan. It is relevant to the instant case to know when the Utility decided it would stop paying the law firm Radey, Thomas, Yon, and Clark for legal and consulting services in the last rate case. It is undisputed that the Utility ceased making payments to its law firm around November 1, 2010 during the last rate case and only resumed making \$1,000 payments to the law firm in April 2012, after OPC made inquiries into this matter. If a billing dispute arose between the Utility and its law firm, the timing of that billing dispute is important, as well as whether the final amount was reduced or amended. If the Utility affirmatively communicated to the law firm that it would not pay it for legal services in the last rate case prior to the Commission's final order, then that raises a question of whether the Commission should have authorized any rate case

expense related to unpaid legal and consulting services. Since the law firm Radey, Thomas, Yon, and Clark is no longer representing the Utility by mutual agreement, only the Utility can provide this correspondence. Therefore, the Utility should be compelled to provide copies of correspondence between the Utility and the law firm.

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10. This concludes OPC's arguments in favor of compelling discovery. As noted in the discussion above, the Interrogatories and Requests for Production of Documents, especially those that relate to Account 123, are directly relevant to the issues which OPC has protested. Without the interrogatory responses or actual documents, OPC will be severely prejudiced in pursuing the resolution of these issues on behalf of WMSI's Customers.

#### **RELIEF REQUESTED**

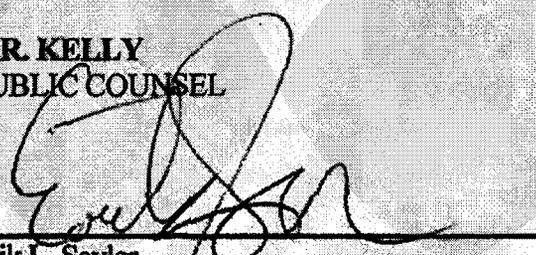
11. OPC respectfully requests that WMSI be compelled to respond to the First Set of Interrogatories and First Request for Production of Documents. Further, OPC asks that the Utility be required to provide all responses to OPC (either scanned to disk or hardcopy) instead of making the documents available for inspection and copying at the offices of the Utility's law firm. Producing documents in such manner at the Utility's law firm only adds unnecessary delay and hardship to OPC in preparing its case.

12. Further, given the extremely limited time period remaining in which OPC has to prepare and prefile testimony on November 26, 2012 in support of its protested issues, should OPC's motion to compel be granted, in full or in part, OPC requests leave to prefile supplemental direct testimony based upon the discovery compelled by this Commission at a date to be established by any Order on this motion to compel. OPC would seek a minimum of 20 to 30 days in which to file any such supplemental direct testimony based upon the compelled discovery.

13. Further, in accordance with Rule 28-106.204(3), Florida Administrative Code, OPC consulted with Counsel for WMSI prior to the filing of this motion to compel and WMSI opposes the relief sought herein.

WHEREFORE, the Office of Public Counsel, on behalf of the customers of WMSI, respectfully requests this Motion to Compel Discovery Responses be granted.

**J.R. KELLY**  
**PUBLIC COUNSEL**



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Erik L. Saylor  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Rm. 812  
Tallahassee, FL 32399-1400  
(850) 488-9330

Attorney for the Citizens  
of the State of Florida

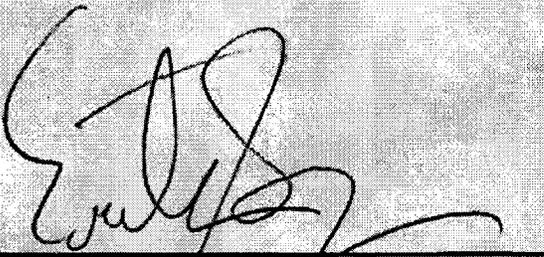
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Office of Public Counsel **FIRST MOTION TO COMPEL DISCOVERY RESPONSES** has been furnished by electronic mail and U.S. Mail to the following parties on this 31st day of October, 2012, to the following:

Martha Barrera  
Lisa Bennett  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Mr. Gene D. Brown  
Water Management Service, Inc.  
250 John Knox Road, #4  
Tallahassee, FL 32303-4234

Martin S. Friedman  
Sundstrom, Friedman & Fumero, LLP  
766 North Sun Drive, Suite 4030  
Lake Mary, Florida 32746



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Erik L. Saylor  
Associate Public Counsel

## PROFESSIONAL ETHICS OF THE FLORIDA BAR

OPINION 06-2  
September 15, 2006

A lawyer who is sending an electronic document should take care to ensure the confidentiality of all information contained in the document, including metadata. A lawyer receiving an electronic document should not try to obtain information from metadata that the lawyer knows or should know is not intended for the receiving lawyer. A lawyer who inadvertently receives information via metadata in an electronic document should notify the sender of the information's receipt. The opinion is not intended to address metadata in the context of discovery documents.

**RPC:** 4-1.1, 4-1.2, 4-1.4, 4-1.6, 4-4.4(b)

**Opinions:** 93-3, New York Opinion 749, New York Opinion 782

**Case:** *Williams v. Sprint/United Management Company*, 230 F.R.D. 640, 96 Fair Empl. Prac. Cas. (BNA) 1775 (2005)

**Misc:** David Hricik and Robert B. Jueneman, "The Transmission and Receipt of Invisible Confidential Information," 15 *The Professional Lawyer* No. 1, p. 18 (Spring 2004), *The Sedona Guidelines: Best Practice Guidelines and Commentary for Managing Information and Records in the Electronic Age*, Appendix F (The Sedona Conference Working Group Series, Sept. 2005 Series), Michael Silver, "Microsoft Office metadata: What you don't see can hurt you" *Tech Republic Gartner 2001*, Brian D. Zall, "Metadata: Hidden Information in Microsoft Work Documents and its Ethical Implications," 33 *Colo. Lawyer* No. 10, p. 53 (Oct. 2004)

The Board of Governors of The Florida Bar has directed the committee to issue an opinion to determine ethical duties when lawyers send and receive electronic documents in the course of representing their clients. These ethical responsibilities are now becoming issues in the practice of law where lawyers may be able to "mine" metadata from electronic documents. Lawyers may also receive electronic documents that reveal metadata without any effort on the part of the receiving attorney. Metadata is information about information and has been defined as "information describing the history, tracking, or management of an electronic document." *The Sedona Guidelines: Best Practice Guidelines and Commentary for Managing Information and Records in the Electronic Age*, Appendix F (The Sedona Conference Working Group Series, Sept. 2005 Series), available at <http://www.thesedonaconference.org>. The Microsoft Word and Microsoft Office online sites also contain detailed information about metadata, showing examples of metadata that may be stored in Microsoft applications and explaining how to remove this information from a final document. Examples of metadata that may be hidden in Microsoft documents include the name of the author, the identification of the computer on which the document was typed, the names of previous document authors and revisions to the document, including prior versions of a final document.

Metadata can contain information about the author of a document, and can show, among other things, the changes made to a document during its drafting, including what was deleted from or added to the final version of the document, as well as comments of the various reviewers of the document. Metadata may thereby reveal confidential and privileged client information that the sender of the document or electronic communication does not wish to be revealed. Further references regarding metadata and eliminating metadata from documents may be found on Microsoft's user support websites at <http://support.microsoft.com/kb/290945> and <http://support.microsoft.com/kb/q223790/>. See also, Michael Silver, "Microsoft Office metadata: What you don't see can hurt you" *Tech Republic Gartner 2001* <http://techrepublic.com.com/5100->

## Attachment A

[1035\\_11-5034376.html](#). The court's discussion of metadata in *Williams v. Sprint/United Management Company*, 230 F.R.D. 640, 96 Fair Empl. Prac. Cas. (BNA) 1775 (2005) is also very helpful.

This opinion does not address metadata in the context of documents that are subject to discovery under applicable rules of court or law. For example, the opinion does not address the role of the lawyer acting as a conduit to produce documents in response to a discovery request.

The Florida Rules of Professional Conduct require lawyers to protect information that relates to the representation of a client. Rule 4-1.6(a) provides as follows:

**(a) Consent Required to Reveal Information.** A lawyer shall not reveal information relating to representation of a client except as stated in subdivisions (b), (c), and (d), unless the client gives informed consent.

The Comment to Rule 4-1.6 further provides:

A fundamental principle in the client-lawyer relationship is that the lawyer maintain confidentiality of information relating to the representation. The client is thereby encouraged to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter.

In order to maintain confidentiality under Rule 4-1.6(a), Florida lawyers must take reasonable steps to protect confidential information in all types of documents and information that leave the lawyers' offices, including electronic documents and electronic communications with other lawyers and third parties.

Rule 4-4.4(b) addresses inadvertent disclosure of information and provides as follows:

A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall promptly notify the sender.

The comment to rule 4-4.4 provides additional guidance:

Subdivision (b) recognizes that lawyers sometimes receive documents that were mistakenly sent or produced by opposing parties or their lawyers. If a lawyer knows or reasonably should know that such a document was sent inadvertently, then this rule requires the lawyer to promptly notify the sender in order to permit that person to take protective measures. Whether the lawyer is required to take additional steps, such as returning the original document, is a matter of law beyond the scope of these rules, as is the question of whether the privileged status of a document has been waived. Similarly, this rule does not address the legal duties of a lawyer who receives a document that the lawyer knows or reasonably should know may have been wrongfully obtained by the sending person. For purposes of this rule, "document" includes e-mail or other electronic modes of transmission subject to being read or put into readable form.

Some lawyers may choose to return a document unread, for example, when the lawyer learns before receiving the document that it was inadvertently sent to the wrong address. Where a lawyer is not required by applicable law to do so, the decision to voluntarily return such a document is a matter of professional judgment ordinarily reserved to the lawyer. See rules 4-1.2 and 4-1.4.

The duties of a lawyer when sending an electronic document to another lawyer and when receiving an electronic document from another lawyer are as follows:

(1) It is the sending lawyer's obligation to take reasonable steps to safeguard the confidentiality of all communications sent by electronic means to other lawyers and third parties and to protect from

## Attachment A

other lawyers and third parties all confidential information, including information contained in metadata, that may be included in such electronic communications.

(2) It is the recipient lawyer's concomitant obligation, upon receiving an electronic communication or document from another lawyer, not to try to obtain from metadata information relating to the representation of the sender's client that the recipient knows or should know is not intended for the recipient. Any such metadata is to be considered by the receiving lawyer as confidential information which the sending lawyer did not intend to transmit. See, Ethics Opinion 93-3 and Rule 4-4.4(b), Florida Rules of Professional Conduct, effective May 22, 2006. The ethical implications of such hidden information in electronic documents have been discussed in legal journals and ethics opinions in other states, The New York Bar Association has issued Opinion 749 (2001), which concluded that attorneys may not ethically use computer software applications to surreptitiously "mine" documents or to trace e-mail. New York Ethics Opinion 782 (2004), further concluded that New York lawyers have a duty to use reasonable care when transmitting documents by e-mail to prevent the disclosure of metadata containing client confidences or secrets. Legal commentators have published articles about ethical issues involving metadata. David Hricik and Robert B. Jueneman, "The Transmission and Receipt of Invisible Confidential Information," 15 *The Professional Lawyer* No. 1, p. 18 (Spring 2004). See also, Brian D. Zall, "Metadata: Hidden Information in Microsoft Work Documents and its Ethical Implications," 33 *Colo. Lawyer* No.10, p. 53 (Oct. 2004).

(3) If the recipient lawyer inadvertently obtains information from metadata that the recipient knows or should know was not intended for the recipient, the lawyer must "promptly notify the sender." *Id.*

The foregoing obligations may necessitate a lawyer's continuing training and education in the use of technology in transmitting and receiving electronic documents in order to protect client information under Rule 4-1.6(a). As set forth in the Comment to Rule 4-1.1, regarding competency:

To maintain the requisite knowledge and skill [for competent representation], a lawyer should engage in continuing study and education.

[Revised: 08-24-2011]

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Attachment B

**SUNDSTROM,  
FRIEDMAN & FUMERO, LLP**  
Attorneys | Counselors

766 NORTH SUN DRIVE  
SUITE 4030  
LAKE MARY, FLORIDA 32746

PHONE (407) 830-6331  
FAX (407) 830-8522

www.sflaw.com

March 28, 2012

**HAND DELIVERY**

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COMMISSION  
CLERK

Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Docket No. 110200-WU; Application for increase in water rates in Franklin  
County by Water Management Services, Inc.  
Our File No. 46023.01

Dear Ms. Cole:

Enclosed is Water Management Services, Inc.'s response to the Staff Audit, Audit  
Control Number 11-319-1-1.

Very truly yours,



MARTIN S. FRIEDMAN  
For the firm

MSP/mp  
Enclosures

cc: Gene D. Brown, President (w/enclosure)  
Sandy M. Chase, Vice President (w/enclosure)

ENCLOSURE  
02056 APR - 4 2012

BOCA RATON

LAKE MARY

TALLAHASSEE

FPSC-COMMISSION CLERK

**FINDING 7: CASH FLOW ANALYSIS UPDATE**

Since this finding does not relate to an issue that is directly before the Commission in this docket, WMSI will provide only a cursory response at this time. If this becomes an issue, WMSI will provide a more complete and detailed response.

The following points are offered at this time:

- (1) The PSC audit report confirms the balance in account 123, Investments in Associated Companies, that has consistently been shown by WMSI in its annual reports and general ledgers provided to the Commission. WMSI's numbers were correct, to the exact dollar amount of \$1,215,075. This balance includes amounts that were transferred from other accounts in 2004, so it is really a balance of all investments in associated companies since WMSI was formed.
- (2) The PSC audit report also confirms the total revenue from WMSI ratepayers as shown by the utility's cash flow audit and general ledgers provided to the PSC staff as part of this audit. The PSC audit report shows \$11,639,415 in cash receipts from ratepayers during the 8 year period from 2004-2011, including CIAC. The WMSI audit report and general ledgers provided to the Commission show \$11,647,666 in cash receipts during the same 8 year period, including CIAC. The \$8,251 difference is in miscellaneous fees and charges included in the WMSI cash flow audit.
- (3) The PSC audit report is based upon year end balances allocated into "operating," "investing" and "financing" activities, but it does not show the deficits between ratepayer revenue and cash operating requirements during the 8 year audit period. The WMSI audit report is based on the same raw numbers, but it does show the operating deficits by comparing the total cash operating requirements with the total funds received from ratepayers. Based on that analysis, the cash operating deficit was \$7,133,292 for the period 2004-2010, and was \$16,237,529 for the period 2000-2010, as shown by the audit reports previously submitted to the PSC.
- (4) The PSC audit report does not indicate or suggest that the revenue from ratepayers was ever adequate to cover all utility operating cash requirements, or that any ratepayer funds were ever transferred to Gene Brown or any of his associated companies. That fact was confirmed by the WMSI audits based on the same raw numbers. Not only did WMSI never have sufficient ratepayer revenue to operate, WMSI never received the earnings allowed by the Commission after 2000, when the State began tearing down the utility's supply main to the island. WMSI's loss of PSC authorized earnings totaled (\$633,506) between 2000 and 2010, as shown by the numbers in WMSI's annual reports on file with the Commission which are summarized below:

## Attachment B

| YEAR | RATE BASE | EARNINGS    | ACHIEVED RATE OF RETURN | COST OF CAPITAL | ALLOWED EARNINGS | OVER (UNDER) EARNINGS |
|------|-----------|-------------|-------------------------|-----------------|------------------|-----------------------|
| 2000 | \$667,050 | \$62,690    | 8.02%                   | 10.23%          | \$67,216         | (\$14,526)            |
| 2001 | 751,711   | 59,801      | 7.92%                   | 8.95%           | 67,368           | (7,767)               |
| 2002 | 598,176   | 20,355      | 3.40%                   | 5.18%           | 30,986           | (10,631)              |
| 2003 | 5,821,736 | 145,403     | 2.59%                   | 3.95%           | 222,069          | (76,666)              |
| 2004 | 5,463,876 | 273,656     | 5.01%                   | 4.18%           | 228,390          | 45,266                |
| 2005 | 5,311,726 | 301,482     | 5.68%                   | 4.69%           | 249,120          | 52,342                |
| 2006 | 5,387,188 | 211,704     | 3.93%                   | 5.38%           | 289,831          | (78,127)              |
| 2007 | 4,943,816 | 200,468     | 4.05%                   | 5.00%           | 247,191          | (46,723)              |
| 2008 | 4,047,544 | 114,730     | 2.83%                   | 3.56%           | 144,093          | (29,363)              |
| 2009 | 3,877,462 | (28,242)    | -0.73%                  | 3.85%           | 149,282          | (177,524)             |
| 2010 | 3,759,162 | (145,071)   | -3.86%                  | 3.85%           | 144,728          | (289,799)             |
|      |           | \$1,206,758 |                         |                 | \$1,840,262      | (\$633,506)           |

- (5) The PSC audit report shows \$15,085,524 in cash receipts and \$14,614,799 in cash disbursements from "Utility Activity" resulting in \$470,725 of "Net cash for Utility Activity." But that should not be taken as any indication that there was ever an excess of \$470,725 in "net cash" from the ratepayers. Only \$11,722,859 of the \$15,085,524 came from ratepayers. The other \$3,362,665 came from loans personally secured by Gene Brown, including personal credit cards (which do not have to be repaid by ratepayers) or from other entrepreneurial activities of Gene Brown, such as an \$800,000 damage settlement and the sale (and purchase) of certain other assets in which the ratepayers had no interest. These assets included, for example, two investment lots in Tallahassee that had nothing to do with the water company on St. George Island. The lots were purchased for \$236,000 in 2006, which included a \$220,000 loan personally endorsed by Gene Brown. In 2007, Brown Management Group bought the lots from WMSI for \$480,000 by assuming and making the payments on the \$220,000 loan and by giving WMSI a check for \$229,723 at closing. As with many of the other transactions shown as "Utility Activity" in the PSC audit report, this investment lot transaction was a "Utility Activity" only in the sense that it involved property titled in the name of the corporate entity, WMSI. It was not a "Utility Activity" in the sense of having anything to do with rate structure or the utility's ratepayers. Accordingly, the PSC audit report should not be interpreted so as to indicate that WMSI ever had a

**Attachment B**

positive cash flow from activities regulated by the PSC under its rate structure policy and procedure, or from revenue funded by the ratepayers as authorized by PSC rate case policy and procedure.

- (6) A reader of the PSC audit report should also not assume that the reference to investments in associated companies (Account 123) reflects the net total of all the transactions by, between or among WMSI, Gene Brown and his associated companies. For example, the 123 account does not include the cash from Brown Management Group to WMSI under the \$480,000 lot purchase referenced above. It also does not include the \$200,000 paid to WMSI by Brown Management Group as referenced in table 2 of the PSC audit report. And it does not include the debt service paid on outside loans used to fund advances to WMSI. It should also be noted that the balance in account 123 did not just build up over the 2004-2011 time period. A balance of \$240,306 was brought forward from another account as of 1/1/04, so the final 12/31/11 balance is actually from the inception of WMSI. The following is a more accurate summary of the net funds back and forth between or among WMSI, Gene Brown and his associated companies during the period from 1/1/04 through 12/31/10.

|   |                          |
|---|--------------------------|
| Funds to Associated Companies-Account 123                                   | \$ 1,175,075             |
| Less: Misstatement of Beginning Balance-1/1/04                              | <u>(240,306)</u>         |
| Corrected Change in Account 123 Balance                                     | 934,769                  |
| Less: Lot Purchase Proceeds   | (229,723)                |
| Less: Note Payments   | (200,000)                |
| Less: Note Interest Payments  | <u>(43,946)</u>          |
| <b>Actual Funds to Associated Companies</b>                                 | <b>\$ 461,100</b>        |
| Less: Personal Interest Payments on loans for funds advanced to the Utility | (196,602)                |
| <b>Funds to Associated Companies-Adjusted</b>                               | <b><u>\$ 264,498</u></b> |

But whatever the final number may be determined to be after a more comprehensive and complete audit, none of this has had any impact or effect on the rate structure of WMSI or its ratepayers. The company, WMSI, owns all of the outstanding stock of the associated company, Brown Management Group, which has a documented net worth in excess of the \$1,215,075 balance in account 123, "Investments in Associated Companies."

- (7) In the audit report issued by the PSC auditor on July 29, 2011, the auditor states that the balance in account 123 should be zero, and that all the advances to associated companies over the years should be netted out and put back into account 145, "Accounts Receivable from Associated Companies" or account 146, "Notes Receivable from Associated Companies." But that would require WMSI to violate the clear mandate of NARUC, which provides in the instructions under

## Attachment B

account 146 on page 66 as follows:

Items which do not bear a specified due date but which have been carried for more than twelve months and items which are not paid within twelve months from due date shall be transferred to account 123 - Investment in Associated Companies. (Emphasis added.) See Exhibit "K" attached.

The instruction under account 145 on page 65 says: "See account 146."

The word "shall" is mandatory, and all advances to associated companies have been properly recorded in account 123, including those which were originally carried in accounts 145 and 146, but which were not paid within one year.

The reclassification of the 123 balance back into accounts 145 or 146 would also require WMSI to amend many years of Federal and State tax returns which have treated the funds represented in account 123 as equity, not debt, on the advice of WMSI's tax professionals. This would cause havoc with WMSI's tax accounting and would be unexplainable to the IRS and WMSI's lenders.

### SUMMARY

This entire subject of WMSI's cash flow and account 123 is irrelevant to any issue properly before the Commission in this proceeding. Accordingly, WMSI will have nothing else to say on this subject until and unless the Commission enters an order which defines the precise legal issue involved in this docket, and the legal standard which either was or was not violated by WMSI.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Application For Increase in Water Rates )  
In Franklin County by Water Management )  
Services, Inc. )  
\_\_\_\_\_ )

Docket No. 110200-WU

Filed: October 5, 2012

**CITIZENS' FIRST SET OF INTERROGATORIES TO  
WATER MANAGEMENT SERVICES, INC. (Nos. 1 - 16)**

Pursuant to § 350.0611(1), F.S., Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P. 1.340, Florida's Citizens ("Citizens" or "OPC") propound the following Interrogatories to Water Management Services, Inc. ("WMSI") to be answered on or before 20 days from the date of service as set forth by procedural Order No. 12-0526-PCO-WU, issued October 3, 2012, or at such other time and place as may be mutually agreed upon by counsel. In lieu of hard copy responses, OPC requests that WMSI provide the responses to these interrogatories electronically as described below in the Instructions. This First Set of Interrogatories supersedes and replaces all prior Sets of Interrogatories served by OPC in this Docket.

**DEFINITIONS**

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

1. "WMSI" or "the company" means Water Management Services, Inc.
2. The terms "WMSI" and "company" encompass Water Management Services, Inc., together with the officers, employees, consultants, agents, representatives, attorneys, and any other person or entity acting on behalf of Water Management Services, Inc.
3. As used herein the terms "you," "your," and "company" refer to WMSI, as defined in the previous paragraph, together with the officers, employees, consultants, agents,

representatives, and attorneys of WMSI, as well as any other person or entity acting on behalf of WMSI.

4. The term "affiliate" is defined as a corporation that is related to another corporation by shareholdings or other means of control; a subsidiary, parent, or sibling corporation.
5. The term "control" means the direct or indirect power to direct the management and policies of a person or entity, whether through ownership of voting securities, by contract, or other otherwise; the power or authority to manage, direct, or oversee.

### INSTRUCTIONS

- A. Documents or reports to be identified shall include all documents in your possession, custody and control and all other documents of which you have knowledge.
- B. To the extent an interrogatory calls for information which cannot now be precisely and completely furnished, such information as can be furnished should be included in the answer, together with a statement that further information cannot be furnished, and a statement as to the reasons therefore. If you expect to obtain further information between the time answers are served and the time of hearing, you are requested to state this fact in each answer. If the information which cannot now be furnished is believed to be available to another person, identify such other person and the reasons for believing such person has the described information.
- C. In the event any Interrogatory herein calls for information or for the identification of a document which you deem to be privileged, in whole or in part, the information should be given or the document identified to the fullest extent possible consistent with such claim of privilege and specify the grounds relied upon for the claim of privilege.

D. Separate answers shall be furnished for each interrogatory, although where the context permits, an interrogatory may be answered by reference to the answer furnished to another interrogatory.

E. For each interrogatory, identify the name, address, telephone number and position of the person responsible for providing the answer.

F. Please provide all responses to these interrogatories that include workpapers, data, calculations and spreadsheets in non-password protected and executable PC-compatible computer program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact.

G. In providing documents, the company is requested to furnish all documents or items in its physical possession or custody, as well as those materials under the physical possession, custody or control of any other person acting or purporting to act on behalf of the company or any of the company's employees or representatives, whether as an agent, independent contractor, attorney, consultant, witness, or otherwise.

H. To the extent practicable if the interrogatory response requires production of documents, OPC requests that responsive documents which cannot be provided in original electronic format be provided on compact disk(s) or other agreed upon electronic medium in an OCR (Optical Character Recognition) searchable PDF format with bate stamp numbering. OPC also requests that responses for each interrogatory request number be contained in separate files.

## INTERROGATORIES

1. **Budgets.** Please describe WMSI's annual budget process, including how the budget is approved and by whom, and how the budget can be amended once it is approved. This should include, but not be limited to, the capital expenditures budget, the operating budget and the cash flow budget.
  
2. **Sale or Transfer of Utility Owned Assets.** Please provide a list of all assets that have been owned by WMSI that have been sold or transferred to other entities, affiliates, persons or parties since December 31, 2009. For each asset, please provide the original cost of the asset, the amount of accumulated depreciation as of date of sale, the market value at time of sale or transfer, the entities, affiliates, persons or parties to the sale or transfer, all consideration given or received, the sale price or amount transferred and the gain or loss incurred or reflected after the sale or transfer.
  
3. **Gain (Loss) From Disposition of Utility Property.** According to WMSI's Annual Report, the utility recorded \$1,500 in Account 414 as a Gain From Disposition of Utility Property. Please provide a detailed explanation of how the Gain From Disposition of utility property was incurred. Include a description of the plant item(s) sold, why the amount(s) were sold, to whom or what entity the asset(s) were sold or transferred, the amount(s) of plant disposed of by primary account, and the calculation of the gain or loss that results in the amount recorded.

4. **Cash Flow Audit.** Please refer to page 4 of Mr. Brown's withdrawn testimony where he states his accountants performed a "cash flow audit" of all WMSI's operations from the beginning of 2000 through end of 2010.
- a. Please identify who (or which accounting firm) performed the cash flow audit and whether the auditor was a Certified Public Accountant (CPA);
  - b. Please identify whether there is a signed engagement letter between WMSI and the person/firm which performed the cash flow audit and describe the terms and scope of the cash flow audit;
  - c. Please explain whether the cash flow audit referenced by Mr. Brown and attached as Exhibit A to Mr. Brown's withdrawn testimony was 1) a *compilation* of the cash flow documents provided by WMSI, 2) a *review* of the cash flow documents provided by WMSI, or 3) an *audit* of WMSI operations and cash flow within the meaning of the term "audit" as used by a CPA;
  - d. Please explain whether the auditor(s) who performed the cash flow audit provided a report describing the audit and whether it was qualified or not (i.e., had audit findings);
  - e. If no report was attached to WMSI's cash flow audit attached as Exhibit A to Mr. Brown's withdrawn testimony, please explain or describe why no such report was attached; and
  - f. Please describe whether WMSI has possession of the audit work papers which supports WMSI's cash flow audit.

5. **Capital Resources.** Please refer to page 5 of withdrawn testimony provided by Mr. Brown where he states that he has liquidated personal resources and incurred substantial loans, personally endorsed by him, to keep the Utility in operation and provide water service to St. George Island. Please provide an itemized listing of all personal resources Mr. Brown has liquidated in order to keep the Utility in operation and provide water service to St. George Island. In order to facilitate a comprehensive response for each of the personal resources liquidated, the response should include the following information:

- The original cost of the resource to Mr. Brown;
- The original date of acquisition of the resource;
- The amount of debt owned on the resource at the time of liquidation;
- The amount received in the liquidation (please break the amount out between cash receipts, dissolution of debt, other form of payment, etc.);
- The amount of gain (loss) realized by Mr. Brown at the time of liquidation;
- The date of liquidation; and
- Identification of who or what entity the resource was sold to in the liquidation.

6. **Capital Resources.** Please refer to page 5 of withdrawn testimony provided by Mr. Brown where he states that he has liquidated personal resources and incurred substantial loans, personally endorsed by him, to keep the Utility in operation and provide water service to St. George Island. Please provide an itemized listing of all loans Mr. Brown has personally endorsed in order to keep the Utility in operation and provide water service to St. George Island. In order to facilitate a comprehensive response, the response should include the following information for each of these loans:

- The amount of the loan proceeds;
- What amount of proceeds were turned over to WMSI;
- What was done with any proceeds that were not turned over to WMSI;
- What entity the loan was from;
- Terms of the loan (i.e., interest rate, term of loan, whether balloon payments are required, etc.);
- Date the loan was entered into;
- What assets are designated in the loan as collateral, if any;
- Current status of the loan and current outstanding balance; and
- Whether or not the loan has been refinanced.

7. Account 123. Please refer to page 7 of withdrawn testimony provided by Mr. Brown where he asserts that "[t]he value of the 100% ownership of Brown Management Group, Inc. is in excess of the balance in Account 123. This was documented as part of the PSC audit of Account 123."

- a. Please identify where in the PSC's cash flow audit, issued July 29, 2011, the Commission audit states that the "value of the 100% ownership of Brown Management Group, Inc. is in excess of the balance in Account 123."
- b. Account 123. On what date did WMSI acquire all the shares or 100% interest in Brown Management Group, Inc.?
- c. Please provide a detailed listing of all assets owned by Brown Management Group, Inc. at the time it was transferred to WMSI. As part of this list identify when the asset was originally acquired by Brown Management Group, Inc., the original cost of the asset, the net book value of the asset at the time of transfer, and the fair market value of the asset at the time of transfer.
- d. Please provide a detailed listing of all assets bought and all assets sold by Brown Management Group, Inc. from the time of the transfer to WMSI to date.
- e. Please provide a detailed listing of all debt owed by Brown Management Group, Inc. at the time it was transferred to WMSI, as well as the terms of the debt and the outstanding balance of the debt.
- f. Please provide a detailed listing of all debt dissolved, all new debt entered into, and all debt that has been refinanced by Brown Management Group, Inc. from the time of the transfer to WMSI to date.

8. **Account 123.** Please refer to page 7 of withdrawn testimony provided by Mr. Brown where he states that “[a] large part of cash for the utility came from the sale of assets owned by Brown Management Group, Inc.” Please provide a detailed listing of all assets sold by Brown Management Group, Inc during the period addressed in Mr. Brown’s statement. In order to facilitate a comprehensive response, the response should include the following information for each sales:

- The original cost of the asset;
- The original date of acquisition of the asset;
- The amount of debt owned on the asset at the time of liquidation;
- The amount received in the sale of the asset (please break the amount out between cash receipts, dissolution of debt, other form of payment, etc.);
- The amount of gain (loss) realized at the time of sale;
- The date of sale; and
- Identification of who or what entity the asset was sold to or transferred.

9. Account 123. Regarding the value of the 100% ownership of Brown Management Group, Inc. transferred to WMSI for the value of the balance of Account 123, please explain or describe:
- a. Please identify the documents associated with the transfer of 100% ownership of Brown Management Group, Inc. to WMSI;
  - b. Please identify who approved the transfer 100% ownership of Brown Management Group, Inc. to WMSI;
  - c. Whether St. George Island Utility Co., Ltd. was consulted prior to the transfer, and if so, please describe how and when that consultation took place;
  - d. Whether the various holders of security interests in St. George Island Utility Co. Ltd. (i.e., owners, shareholders, partners, limited partners, etc.) were consulted prior to the transfer, and if so, please describe how and when that consultation took place;
  - e. Whether T.E. Bronson was consulted prior to the transfer, and if so, please describe how and when that consultation took place; and
  - f. Whether any *independent* audit, appraisal, and/or valuation of the assets of Brown Management Group, Inc. transferred to WMSI took place before or after the transfer, and if so, describe how and when that audit, appraisal, and/or valuation took place and by whom was it performed, and whether a report was attached to the audit, appraisal, and/or valuation.

10. **Brown Management Group, Inc.** Because **Brown Management Group, Inc.** is wholly owned by **WMSI**, please describe **Brown Management Group, Inc.**'s annual budget process, including how the budget is approved and by whom, and how the budget can be amended once it is approved. This should include, but not be limited to, the capital budget, the operations budget and the cash flow budget.

11. **Brown Management Group, Inc.** Does **Brown Management Group, Inc.** have any officers and/or board of directors?

a. If yes, please explain how they were consulted prior to the transfer of **Brown Management Group, Inc.** to **WMSI**.

b. Please identify the officers and board of directors of **Brown Management Group, Inc.**

12. **Adjustments.** Regarding the Commission adjustments ordered by Order No. **PSC-11-0010-SC-WU**, dated January 3, 2010 in Docket No. **100104-WU**:

a. Please describe whether all the Commission adjustments have been made

b. Please explain if the utility made any adjustments to the amounts ordered by the Commission order.

c. Please describe when these adjustments were made and where they are reflected.

d. If any of these adjustments were not made, please explain why.

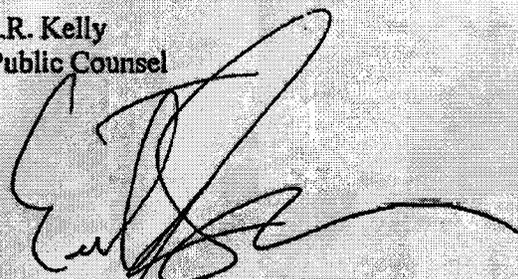
13. **Prior Rate Case Expense Being Collected in Rates.** Regarding rate case expense approved by Order No. PSC-11-0010-SC-WU, dated January 3, 2010 in Docket No. 100104-WU, please explain how much of the \$229,180 in rate case expense approved in WMSI's last rate case has been paid out by WMSI to date for legal fees, consultant fees, and other; and as part of this response, please explain any differences between the amount(s) approved by Order No. PSC-11-0010-SC-WU and the amount paid to date by WMSI.
14. **Prior Rate Case Expense Being Collected in Rates.** Please refer to the attached invoice from Radey, Thomas, Yon, & Clark, dated March 7, 2012, that WMSI provided to OPC that shows a balance due in the amount of \$146,399.78.
- a. Please explain or describe why WMSI has not made full payment to this law firm for services rendered in the last rate case.
  - b. Did WMSI at one time dispute any of this amount or any portion of the amount owed to this law firm?
  - c. Does WMSI currently dispute any of this amount due or any portion of the amount owed to this law firm?
  - d. Were payments to the law firm contingent on what WMSI believed was a successful outcome of its prior rate case?
  - e. What is the total amount of interest, if any, that has accrued on the balance due to the law firm?
  - f. Please explain why WMSI discontinued making payments to this law firm on or about November 30, 2010 during the pendency of the last rate case.

- g. Please explain what prompted WMSI to resume making payments to this law firm on or about April 16, 2012.
- h. When was the most recent payment made to the law firm and in what amount?
- i. When is the next payment due to the law firm and in what amount?
- j. Has WMSI entered into an agreement to repay the law firm for the remaining balance owed?
- k. Please describe the details of payment arrangement(s) made with the law firm for services rendered to WMSI in the last rate case.
- l. What penalty, if any, will be assessed if WMSI stops making payments (or starts missing payments) to the law firm?
- m. Has WMSI pledged any collateral, surety, ownership interest in WMSI, revenues, etc., to the law firm? And if yes, please describe those details of what was pledged and in what amount?
- n. When does WMSI expect to pay off the remaining outstanding balance owed to the law firm?
- o. Relating to the outstanding balance owed to the law firm of Radey, Thomas, Yon and Clark or services rendered, at any time in the past, did the law firm institute any type of legal action or complaints against WMSI or Mr. Gene Brown?
- p. Relating to outstanding balance owed to the law firm of Radey, Thomas, Yon and Clark or services rendered, at any time in the past, did WMSI or Mr. Gene Brown institute any type of legal action or complaints against the law firm?

15. **Prior Rate Case Expense Being Collected in Rates. According to WMSI's May 30, 2012 response to Staff's Sixth Data Request, WMSI had paid \$45,274 of the \$65,428 owed to M&R Consultants – Frank Seidman. Please explain or describe the following:**
- a. **Why are payments to Mr. Seidman still outstanding;**
  - b. **Did or does WMSI dispute any amount or portion of the amount;**
  - c. **The details of any payment arrangements made for the remaining balance owed;**
  - d. **When was the last incremental payment to Mr. Seidman was made and in what amount;**
  - e. **When will the remaining balance owed to Mr. Seidman be paid in full?**

16. **Prior Rate Case Expense Being Collected in Rates. Besides payments due to the law firm of Radey, Thomas, Yon, and Clark and Mr. Frank Seidman for services rendered to WMSI in the last rate case, are there any outstanding bills, invoices, debts, etc., owed to any consultants, engineering firms, etc. from the last rate case?**
- a. **If yes, please explain the reason why payments are still outstanding.**
  - b. **Please explain whether any payment arrangements have been made and the details of those payment arrangements.**
  - c. **Please explain when WMSI expects to pay off the remaining outstanding balance owed to these consultants, engineering firms, etc. from the last rate case.**

J.R. Kelly  
Public Counsel



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Erik L. Saylor  
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

**AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, personally appeared

\_\_\_\_\_, who deposed and stated that he/she

provided the answers to interrogatories \_\_\_\_\_

served on \_\_\_\_\_ by \_\_\_\_\_ on

\_\_\_\_\_ and that the responses are true and

correct to the best of his/her information and belief.

DATED at \_\_\_\_\_, \_\_\_\_\_, this day  
of \_\_\_\_\_, 2012.

Sworn to and subscribed before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2012.

\_\_\_\_\_  
NOTARY PUBLIC

State of \_\_\_\_\_ at Large

My Commission Expires: \_\_\_\_\_

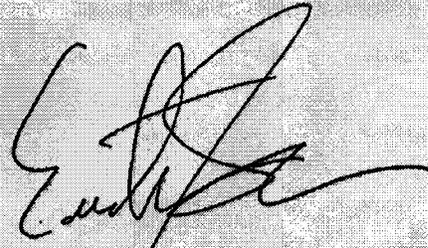
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing **CITIZENS' FIRST SET OF INTERROGATORIES TO WATER MANAGEMENT SERVICES, INC. (Nos. 1 - 16)** has been furnished by electronic mail and U.S. Mail to the following parties on this 5th day of October, 2012, to the following:

**Martha Barrera  
Ralph Jaeger  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850**

**Mr. Gene D. Brown  
Water Management Services, Inc.  
250 John Knox Road, #4  
Tallahassee, FL 32303-4234**

**Martin S. Friedman  
Sundstrom, Friedman & Fumero, LLP  
766 North Sun Drive, Suite 4030  
Lake Mary, FL 32746-2554**



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**Erik L. Saylor  
Associate Public Counsel**

**RADEY THOMAS YON & CLARK**  
**PROFESSIONAL ASSOCIATION**  
**ATTORNEYS AND COUNSELORS AT LAW**  
**POST OFFICE BOX 3947**  
**TALLAHASSEE, FL 32302**  
**(850) 425-4094**  
**Federal Tax ID # 73-1141243**

**BID Number 18963**  
**Invoice Date: March 7, 2012**  
**Activity Filled through: 02/29/2012**

**Gene D. Brown**  
**Water Management Services, Inc**  
**250 John Knox Road**  
**66**  
**Tallahassee, FL 32303**

**Petition for Rate Increase**  
**718 81 117**

**PAYMENT DUE UPON RECEIPT**

**BILLING SUMMARY**

|                                    |                     |
|------------------------------------|---------------------|
| <b>TOTAL CHARGES FOR THIS BILL</b> | <b>\$0.00</b>       |
| <b>PLUS NET BALANCE FORWARD</b>    | <b>\$146,399.78</b> |
| <b>TOTAL BALANCE NOW DUE</b>       | <b>\$146,399.78</b> |

**BALANCE FORWARD SUMMARY**

| <b>BILL DATE</b> | <b>BILL NUMBER</b> | <b>BILLED AMOUNT</b> | <b>AMOUNT DUE</b> |
|------------------|--------------------|----------------------|-------------------|
| 05/07/2010       | 15584              | \$9,483.45           | \$4,007.33        |
| 06/07/2010       | 15823              | \$11,357.06          | \$11,357.06       |
| 07/07/2010       | 15948              | \$7,583.79           | \$7,583.79        |
| 08/05/2010       | 16137              | \$19,679.00          | \$19,679.00       |
| 09/17/2010       | 16266              | \$21,594.87          | \$21,594.87       |
| 10/04/2010       | 16334              | \$33,473.96          | \$33,473.96       |
| 01/07/2011       | 16937              | \$45,394.02          | \$45,394.02       |
| 02/07/2011       | 17086              | \$3,147.75           | \$3,147.75        |

**WHITE - CUSTOMER YELLOW - REMITTANCE**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Application For Increase in Water Rates )  
In Franklin County by Water Management )  
Services, Inc. )  
\_\_\_\_\_ )

Docket No. 110200-WU

Filed: October 5, 2012

**CITIZENS' FIRST REQUEST TO PRODUCE DOCUMENTS TO  
WATER MANAGEMENT SERVICES, INC. (Nos. 1 - 36)**

Pursuant to § 350.0611(1), Fla. Stat. (2004), Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P.1.350, Florida's Citizens ("Citizens" or "OPC") request Water Management Services, Inc. ("WMSI") to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on or before 20 days from the date of service as set forth by procedural Order No. 12-0526-PCO-WU, issued October 3, 2012, or at such other time and place as may be mutually agreed upon by counsel. In lieu of hard copy responses, OPC requests that WMSI provide the responses to these requests for production of documents electronically as described below in the Instructions. This First Request for Production of Documents supersedes and replaces all prior Requests for Production of Documents served by OPC in this Docket.

**DEFINITIONS**

1. The terms "document" or "documents" are meant to have the broadest possible meaning under applicable law and includes, but is not necessarily limited to, any written, recorded, filmed 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.

2. The terms "WMSI" and "company" encompass Water Management Services, Inc., together with the officers, employees, consultants, agents, representatives, attorneys, and any other person or entity acting on behalf of Water Management Services, Inc.

3. As used herein the terms "you," "your," and "company" refer to WMSI, as defined in the previous paragraph, together with the officers, employees, consultants, agents, representatives, and attorneys of WMSI, as well as any other person or entity acting on behalf of WMSI.

### INSTRUCTIONS

1. 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 construed to be outside the scope.

2. Please provide all responses that include workpapers, data, calculations and spreadsheets in non-password protected and executable PC-compatible computer

program/models/software. Formulae, links, and cells, formatting, metadata and any other original features assisting in calculation should be intact.

3. In providing documents, the company is requested to furnish all documents or items in its physical possession or custody, as well as those materials under the physical possession, custody or control of any other person acting or purporting to act on behalf of the company or any of the company's employees or representatives, whether as an agent, independent contractor, attorney, consultant, witness, or otherwise.

4. To the extent practicable, OPC requests that responsive documents which cannot be provided in original electronic format be provided on compact disk(s) or other agreed upon electronic medium in an OCR (Optical Character Recognition) searchable PDF format with bates stamp numbering as prescribed by the Public Service Commission's order establishing procedure. OPC also requests that responses for each document request number be contained in separate files.

### **DOCUMENTS REQUESTED**

1. **Workpapers.** Please provide a copy of all non-electronic workpapers used in preparing the testimony, exhibits and minimum filing requirements in pdf format on a compact disk.
  
2. **General Ledger.** Please provide a copy of WMSI's detailed General Ledgers for each of the years ended December 31, 2008, 2009, 2010, and 2011 and for 2012 year-to-date.
  
3. **WMSI Budget.** Please provide a copy of the 2011 and 2012 annual budgets for WMSI in the most detailed format available. This should include, but not be limited to, the capital expenditure budget, the operating budget and the cash flow budget.
  
4. **Financial Statements.** Please provide a complete copy of WMSI's financial statements for the two most recent fiscal years.

5. **Income Tax Returns.** Please provide a complete copy of all federal income tax returns filed by WMSI for the 2008, 2009, 2010 and 2011 tax years. If any amendments were made to those returns, the amended returns should also be provided.

6. **Income Tax Returns.** Please provide a complete copy of all state income tax returns filed by WMSI for the 2008, 2009, 2010 and 2011 tax years. If any amendments were made to those returns, the amended returns should also be provided.

7. **Please provide a copy of all bank statements for each of WMSI's bank accounts for the period January 1, 2010 through the most recent date available.**

8. **Please provide a copy of any bank reconciliations done by or for WMSI for the period January 1, 2010 through the most recent date available.**

9. **Sale or Transfer of Utility Owned Assets.** Please provide all documents that pertain to the sale or transfer of any and all assets that have been owned by WMSI that have been sold or transferred to other entities, affiliates, persons or parties since December 31, 2009. For each asset, please provide the original cost of the asset, the amount of accumulated depreciation as of date of sale, the market value at time of sale or transfer, the entities, affiliates, persons or parties to the sale or transfer, all consideration given or received, the sale price or amount transferred and the gain or loss incurred or reflected after the sale or transfer.
  
10. **Gain (Loss) From Disposition of Utility Property.** If not provided in response to OPC's Interrogatory No. 3, please provide all documents that support the \$1,500 gain in Account 414 reflected on WMSI's 2009 annual report.
  
11. **Capital Resources.** Please refer to page 5 of withdrawn testimony provided by Mr. Brown where he that he has liquidated personal resources and personally endorsed substantial loans to keep the Utility in operation and provide water service to St. George Island. Please provide an itemized listing of all loans Mr. Brown has personally endorsed in order to keep the Utility in operation and provide water service to St. George Island. For each of these loans, please provide a copy of the debt agreement.

12. Account 123. Please refer to page 5 of withdrawn testimony provided by Mr. Brown where he asserts that the value of the 100% ownership of Brown Management Group, Inc. (BMG) is in excess of the balance in Account 123. Please provide a copy of the following:

- a. all journal entries made on both WMSI's and Brown Management Group, Inc.'s books at the time the ownership of Brown Management Group, Inc. was transferred to WMSI,
- b. any business appraisals and/or valuations conducted by or for WMSI regarding the value of Brown Management Group, Inc. at the time of transfer,
- c. any *independent* business appraisals and/or valuations conducted by or for WMSI regarding the value of Brown Management Group, Inc. at the time of transfer,
- d. copies of any documents including the minutes of meetings where the transfer of Brown Management Group, Inc. to WMSI was approved,
- e. copies of any documents including the minutes of meetings with St. George Island Utility Co., Ltd. where the transfer of Brown Management Group, Inc. to WMSI was approved,
- f. copies of any documents including the minutes of meetings with T.E. Bronson where the transfer of Brown Management Group, Inc. to WMSI was approved,
- g. copies of any documents submitted to St. George Island Utility Co., Ltd. or T.E. Bronson explaining or describing the reason or purpose of transfer of Brown Management Group, Inc. to WMSI,
- h. a copy of the report attached to WMSI's cash flow audit attached as Exhibit A to Mr. Brown's withdrawn testimony.

13. Account 123. Please provide a copy of Brown Management Group, Inc.'s detailed General Ledgers for each of the years ended December 31, 2008, 2009, 2010, and 2011 and for 2012 year-to-date.

14. Account 123. Please provide a complete copy of Brown Management Group, Inc.'s Annual Reports and financial statements for the five most recent fiscal years.

15. Account 123. Please provide a complete copy of all existing vehicle leases for Brown Management Group, Inc.

16. Account 123. Please provide a copy of the W-2's for each of Brown Management Group, Inc.'s employees for 2009, 2010 and 2011.

17. Account 123. Please provide a complete copy of all federal income tax returns filed by Brown Management Group, Inc. for the, 2008, 2009, 2010 and 2011 tax years.
  
18. Account 123. Please provide a complete copy of all state income tax returns filed by Brown Management Group, Inc. for the 2008, 2009, 2010 and 2011 tax years.
  
19. Account 123. Please provide a copy of all bank statements for each of Brown Management Group, Inc.'s bank accounts for the period January 1, 2008 through the most recent date available.
  
20. Account 123. Please provide a copy of any bank reconciliations done by or for Brown Management Group, Inc. for the period January 1, 2008 through the most recent date available.

21. Account 123. Please provide a copy of the 2011 and 2012 annual budgets for Brown Management Group, Inc. in the most detailed format available. This should include, but not be limited to, the capital expenditure budget, the operating budget and the cash flow budget.
  
22. Account 123. Please provide a complete copy of all federal personal income tax returns filed by Gene Brown for the 2008, 2009, 2010 and 2011 tax years.
  
23. Account 123. Please provide a copy of all bank statements for each of Gene Brown's personal bank accounts for the period January 1, 2008 through the most recent date available.
  
24. Account 123. Please provide a copy of any bank reconciliations done by or for Gene Brown for the period January 1, 2008 through the most recent date available.

25. **Lease Agreements and Contracts for Utility Facilities Leased to Others. Please provide a copy of all lease agreements or contracts between WMSI (or affiliate, or other entity or person acting on WMSI's behalf) and entities that utilize facilities located on utility property, including but not limited to the water tower, the St. George Island office, and the source of supply land in East Point.**
  
26. **Lease Agreements and Contracts for Brown Management Group, Inc. Facilities Leased to Others. Please provide a copy of all lease agreements or contracts between Brown Management Group, Inc. (or affiliate, or other entity or person acting on Brown Management Group, Inc.'s behalf) and other entities.**
  
27. **Account 123. Please provide a copy of the shareholder agreement and other documents that show WMSI now owns all the stock and/or shares for Brown Management Group, Inc.**
  
28. **Account 123. Please provide a copy of the articles of incorporation for Brown Management Group, Inc.**

29. **Rate Case Expense for current rate case. Please refer to MFR Schedule B-10.**

- a. **Please provide a copy of all contracts and/or agreements with each of the firms and vendors identified on this schedule whose costs are included in the estimated rate case expenses.**
- b. **Please provide a copy of any engagement letters received for the firms and vendors identified on the schedule.**
- c. **Please provide a copy of the written scope of work for each of the firms and vendors identified on the schedule.**
- d. **Please provide a copy of all invoices received to date for each of the firms and vendors identified for work on this rate case.**

30. **Prior Rate Case Expense Being Collected in Rates. Regarding rate case expense approved by Order No. PSC-11-0010-SC-WU, dated January 3, 2010 in Docket No. 100104-WU, please provide copies of receipts, canceled checks, bank transfers, or other proof of payment for the rate case expense(s) approved in the last rate case.**

31. **Prior Rate Case Expense Being Collected in Rates.** Starting November 1, 2010, please provide all copies of correspondence, including letters, emails, invoices, etc., between WMSI (including Mr. Gene Brown, and Ms. Sandra Chase) and the law firm Radey, Thomas, Yon, and Clark relating to the amount due for services rendered by the law firm to WMSI in the last rate case.
  
32. **Prior Rate Case Expense Being Collected in Rates.** Please provide a copy of the engagement letter between WMSI and the law firm Radey, Thomas, Yon, and Clark prior to the commencement of the last rate case.
  
33. **Prior Rate Case Expense Being Collected in Rates.** Please provide a copy of the current agreement with Radey, Thomas, Yon, and Clark to pay the bill in full with installment payments as well as any prior agreements to pay the bill.
  
34. **Account 123.** Please provide a copy of all Board minutes for WMSI for 2010, 2011, and 2012 to-date.

35. **Account 123.** Please provide a copy of all Board minutes for Brown Management Group, Inc. for 2010, 2011, and 2012 to-date.
36. **General Ledger.** Please provide the detailed ledger for each of WMSI's cash accounts for each year, 2005 through 2007

J.R. Kelly  
Public Counsel



Erik L. Sayler  
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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing **CITIZENS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO WATER MANAGEMENT SERVICES, INC. (Nos. 1 - 36)** has been furnished by electronic mail and U.S. Mail to the following parties on this 5<sup>th</sup> day of October, 2012, to the following:

Martha Barrera  
Ralph Jaeger  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Mr. Gene D. Brown  
Water Management Services, Inc.  
250 John Knox Road, #4  
Tallahassee, FL 32303-4234

Martin S. Friedman  
Sundstrom, Friedman & Fumero, LLP  
766 North Sun Drive, Suite 4030  
Lake Mary, FL 32746-2554



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Erik L. Sayler  
Associate Public Counsel