

Antonia Hover

From: Betty Leland on behalf of Office of Commissioner Graham
Sent: Friday, October 16, 2020 3:21 PM
To: Commissioner Correspondence
Subject: FW: OPC's Comments on Secondary Water Standards (10-16-2020)
Attachments: OPC's Comments on Secondary Water Standards (10-16-2020).pdf

Importance: High

Good Afternoon:

Please place this email in Docket #20200000.

Thanks.

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Commissioner Art Graham
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From: David, Tad [mailto:DAVID.TAD@leg.state.fl.us]
Sent: Friday, October 16, 2020 3:16 PM
To: jkuhns@plurisusa.com; Marissa Ramos; Office of Commissioner Polmann; Office of Commissioner Graham; trendell@uswatercorp.net; Gary.williams@frwa.net; mike@fus1llc.com; JR Kelly; chris.snow@uiwater.com; Patrick.Flynn@uiwater.com
Cc: Oakley, Emily
Subject: OPC's Comments on Secondary Water Standards (10-16-2020)
Importance: High

Marissa,

Thank you for the opportunity to provide comments after the vibrant discussion during the workshop held on October 8, 2020. Attached are OPC's comments on the issues presented at the workshop. Please let us know if further discussion is necessary or warranted. Thank you.

Thomas A. (Tad) David
Associate Public Counsel
Office of Public Counsel
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Testing for Secondary Water
Standards in Water Distribution Systems

Undocketed

Filed: _____

COMMENTS OF THE OFFICE OF PUBLIC COUNSEL
TESTING FOR SECONDARY WATER STANDARDS IN WATER DISTRIBUTION
SYSTEMS

The Office of Public Counsel (“OPC”) would like to thank the Florida Public Service Commission (“FPSC” or “Commission”) for the opportunity to present comments that emanate from the Staff Workshop on Testing for Secondary Water Standards in Water Distribution Systems (“the Workshop”).

The OPC was created by the Florida Legislature in 1974 to provide legal representation for Floridians in proceedings before the Commissions. The OPC is dedicated to the principle that the rate-setting function of the Commission is best performed when ratepayers who are ultimately responsible for paying utility rates are represented on a basis comparable to those advocating on behalf of the utility companies operating in Florida. OPC reserves our right to change positions regarding any issue related to secondary water quality standards if and when additional information becomes or is made available or to the extent there is a change in law affecting the Commission’s authority or role related to these standards.

I. Introduction

On October 8, 2020, Staff held the Workshop to discuss several topics directly related to secondary water quality standards for investor-owned water utilities in Florida. In addition to Commissioner Graham, Commissioner Polmann, and PSC Staff, the OPC and representatives of

interested utilities, including U.S. Water Services Corporation, Utilities, Inc. of Florida, Pluris Wedgefield, Inc., Florida Utility Services 1, LLC, and the Florida Rural Water Association, participated in the Workshop. After introductions, Staff began the Workshop with a presentation from U.S. Water Services Corporation. Discussions during and after the presentation ensued. Discussions at the Workshop were informative and impassioned, but often skewed heavily toward the utilities' perspective. Subsequent to the Workshop, some of the utilities have filed comments regarding testing that contain some constructive points. Without directly addressing any comments served, the OPC offers its comments herein.

II. Objective vs Subjective Secondary Water Standards

During the Workshop, several utility representatives voiced concerns that complaints about secondary water standards were often based on subjective perception of the water quality, with no defined metric. The OPC understands that the effects of secondary water standards may be subjective; however, this does not mean that secondary water standards cannot be monitored and controlled within objective standards. On the contrary, the United States Environmental Protection Agency (“EPA”) publishes National Secondary Drinking Water Regulations (“NSDWR”),¹ which the Florida Department of Environmental Protection (“DEP”) has adopted pursuant to rule 62-550.320, Florida Administrative Code, which incorporates by reference Table 6.² While these standards are not new and are not a panacea for all of the concerns addressed in the workshop, they are objective and widely-accepted metrics for gauging acceptable and unacceptable levels of the listed contaminants. The utilities' representatives voiced consternation over addressing odor in the water. There is a reference test for odor, namely the Threshold Odor

¹ <https://www.epa.gov/sdwa/drinking-water-regulations-and-contaminants#Secondary>

² The information in Table 6 is also available at <https://floridadep.gov/water/source-drinking-water/content/secondary-drinking-water-standards>.

Number (“TON”) referenced in the DEP standards which can be measured and calculated in a laboratory setting.³

With these standards and metrics available, the OPC recommends that the Commission consider utilizing them to establish quantifiable expectations for investor-owned water utilities in Florida.

III. Utility Testing Frequency, Scheduling, and Locations

Another issue broached during the Workshop was the frequency, scheduling, and location of testing. In many rate cases, the most recent secondary water test was conducted over two years before the utility filed its rate case, sometimes even before the current owners bought the utility. This stale evidence fails to provide the utility, the OPC, the PSC Staff, and the Commissioners with reliable information. OPC recommends as part of any rate increase, whether by full rate case, Staff Assisted Rate Case, or a Limited Alternative Rate Increase, the utility be required to provide the results of secondary water testing conducted within the six months immediately preceding the filing. Also, consistent with some of the utilities’ comments, tests should be conducted at more than one location in systems larger than a certain size, based on number of customers, pipe volume, or some other verifiable metric. This would assist the utilities and customers in determining the source of a problem and if a problem is isolated or a system-wide problem.

IV. Costs

The OPC does not object to classifying the costs for any regularly scheduled testing,

³ TON = (A + B)/ A, where A = Volume of Sample with odor, B = Volume of Pure Water with no odor added to achieve an undetectable level of odor. (If A was a 100 ml sample and 100 ml of water had to be added to not detect the odor, the TON would be 2.) See <https://water-research.net/index.php/water-treatment/tools/drinking-water-smells-taste-and-odors>.

including testing necessitated by the utility’s request for a rate increase or annual testing as proposed by multiple utilities in their comments, as an operating and maintenance (O&M) expense. However, any testing necessitated by or conducted in response to a customer complaint should be borne directly by the utility. Pursuant to section 367.0812, Florida Statutes, it is the utility’s “obligation to provide quality of water service that meets [the secondary water quality] standards.” It is not reasonable to think that the Legislature mandated these standards only to allow the burden to determine the satisfaction of the standards to be shifted onto the customers who have no power to remedy deficiencies in the water or to change where they access water. The utility has the ability and the obligation to provide water that meets these standards. The only time a customer should pay for a test is if they voluntarily, and without prompting from the utility, decide to have their water tested. .

V. Conclusion

OPC appreciates the opportunity to provide the preceding comments to the Commission and its Staff regarding testing for secondary water standards in water distribution systems. To reiterate, the OPC recommends that the Commission consider adopting certain objectively measurable criteria for secondary water standards, establish requirements for more relevant and frequent testing, and clarify the utilities’ responsibility to pay for such testing.

/s/Thomas A. (Tad) David
Thomas A. (Tad) David
Associate Public Counsel