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COMMISSION
CLERK

November 8, 2010

claim of confidentiality
 notice of intent
 request for confidentiality
 filed by OPC

Via Hand-Delivery

For DN 09225-10, which
is in locked storage. You must be
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Ann Cole
Commission Clerk
Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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

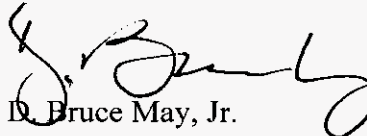
Dear Ms. Cole:

Pursuant to Rule 25-22.006(4), Florida Administrative Code, enclosed for filing on behalf of Aqua Utilities Florida, Inc. ("AUF") are the original and fifteen (15) copies of AUF's Request for Confidential Classification and Motion for Temporary Protective Order. A separate, sealed envelope marked "Confidential" contains Exhibit A to the original Request for Confidential Classification. This envelope contains one copy of the exhibit with the confidential information subject to the request highlighted in transparent ink. Exhibit B contains two copies of the confidential exhibit with confidential provisions blocked out.

For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter. Thank you for your consideration.

Sincerely yours,

HOLLAND & KNIGHT LLP


D. Bruce May, Jr.

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Ann Cole
November 8, 2010
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DBM:kjg
Enclosures

cc: Katherine Fleming, Esq.
Charlie Beck, Esq.
Kimberly A. Joyce, Esq.
William T. Rendell

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

Docket No. 100330-WS

Dated: November 8, 2010

**AQUA UTILITIES FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, respectfully requests that the Commission (i) classify confidential documents which AUF provided to the Commission's auditors in this docket as proprietary confidential business information, and (ii) enter a temporary protective order to protect those confidential documents against public disclosure. In support of its request and motion, AUF states:

Background

1. By letter dated October 21, 2010 from Commission Audit Manager, Kathy Welch, AUF was notified that the confidential documents which it provided to Commission auditors in this docket would become public documents unless AUF filed a request for confidential classification within 21 days. By letter dated October 26, 2010 from Office of Public Counsel ("OPC") Legislative Analyst, Ms. Denise Vandiver, to the Commission Clerk, OPC requested that it be permitted to take possession of the confidential audit workpapers that AUF provided to the Commission's auditors in this docket. More specifically, OPC requested a copy of confidential documents referenced in the docket filing index as follows:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

08822-10	10/22/10	APA/Prestwood - (CONFIDENTIAL) Working papers Vol. 5 for AUF and all Florida affiliates, for audit affiliated transactions (Audit Control No. 10-181-4-1.)
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Request for Confidential Classification

2. The confidential audit workpapers identified in the Commission's letter dated October 21, 2010, and requested by OPC in its letter of October 26, 2010, are entitled to confidential classification pursuant to Section 367.156(3), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, and are exempt from Section 119.07(1), Florida Statutes, and Article I, Section 24(a) of the Florida Constitution, because such information constitutes "proprietary confidential business information" as defined in Section 367.156(3).¹

3. The confidential audit workpapers contain proprietary employee compensation information which AUF and its parent, Aqua America, Inc. ("Aqua"), treat as strictly confidential to prevent other utility companies from luring their employees away with higher salaries, which leads to salary escalation that in turn would drive up rates. This information is also kept strictly confidential by AUF and Aqua in order to maintain morale and prevent internal disputes among employees that have similar positions but different salaries. The First District Court of Appeal recently ruled that this type of competitively sensitive employee compensation information is proprietary confidential business information and should be protected from public disclosure. See *Florida Power & Light Company et al. v. Public Service Commission*, 31 So.3d 860 (Fla. 1st DCA 2010). Moreover, disclosure of this confidential employee compensation information

¹ § 367.156(3), Fla. Stat. defines proprietary confidential business information as: ". . . information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public." § 367.156(3)(e) further provides that proprietary confidential business information includes "[i]nformation relating to the competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information."

would violate those employees' rights of privacy guaranteed by Article I, Section 23 of the Florida Constitution.

4. The confidential audit workpapers also contain sensitive internal assessments of active litigation, the disclosure of which would provide AUF's litigation adversaries and potential adversaries with inappropriate insight into AUF's litigation strategies and thus impair AUF's competitive business to the disadvantage of the utility and its customers. Sensitive pending litigation assessment information of this type has been routinely granted confidential protection by the Commission. See *In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company*; *In re: Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company*, 09 F.P.S.C. 6:32, Docket No. 070231-EI; Docket No. 080244-EI; Order No. PSC-09-0400-CFO-EI (June 3, 2009); *In re: Application for rate increase by Florida Public Utilities Company*, 05 F.P.S.C. 3:331, Docket No. 040216-GU; Order No. PSC-05-0317-CFO-GU (March 21, 2005); *In re: Energy Conservation Cost Recovery Clause*, 00 F.P.S.C. 1:339, Docket No. 000002-EG; Order No. PSC-00-0194-CFO-EG (January 26, 2000); *In re: Application for rate increase by City Gas Company of Florida*, 96 F.P.S.C. 12:359, Docket No. 960502-GU; Order No. PSC-96-1534-CFO-GU (December 17, 1996).

5. Attached hereto as Exhibit "A" is a separate sealed envelope containing one copy of the confidential documents with the specific information asserted to be confidential highlighted.

6. Attached hereto as Exhibit "B" are two edited copies of the confidential documents on which the specific information asserted to be confidential has been redacted by the

use of an opaque marker. The redacted copies of the confidential documents attached as Exhibit "B" may be made available for public inspection.

7. AUF requests that the specified confidential information highlighted in Exhibit "A" hereto be classified by the Commission as confidential for the maximum period of 18 months, and that unredacted copy of the confidential documents in the envelope marked "Confidential" and attached hereto Exhibit "A" be promptly returned to AUF upon closure of this docket.

Motion for Temporary Protective Order

8. As indicated above, by letter dated October 27, 2010, the OPC has requested that it be permitted to take possession of certain confidential information which AUF provided to the Commission's auditors in this docket. As more fully explained above, that information is treated by AUF as strictly confidential and is entitled to confidential classification because it constitutes "proprietary confidential business information."

9. Rule 25-22.006(6)(c) specifically permits a utility to agree to allow OPC to inspect or take possession of confidential information for the limited purpose of determining whether that information will be used in a proceeding, and to seek a temporary protective order to ensure the confidentiality of such material during that process.

10. Pursuant to Rule 25-22.006(6)(c), AUF agrees to make the requested documents available to OPC for inspection,² and seeks a temporary protective order to ensure the confidentiality of such material related to that inspection. AUF will also make such documents available to Commission Staff for review upon issuance of the temporary protective order.

² Consistent with past practice, execution of a confidentiality agreement by OPC's outside consultant will be required if OPC intends to share the material with its outside consultant.

11. Rule 25-22.006(6)(c) prohibits OPC's retention of confidential information if OPC determines such information will not be used in a proceeding before the Commission. AUF requests that the Commission require OPC to promptly notify AUF if, after inspection, it intends to use AUF's confidential information at hearing so that AUF has fair opportunity to move for a full protective order under Rule 25-22.006(6)(a). See Fla. Admin. Code R. 25-22.006(6)(c) ("If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under [Rule 25-22.006(6)](a) above.").

12. AUF has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion.

WHEREFORE, AUF requests that the specified confidential information highlighted in Exhibit "A" be classified as confidential and exempt from Chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution for the maximum period. AUF also respectfully requests that the Commission issue a temporary protective order protecting the confidential information provided by AUF to the Commission's auditors in this docket against public disclosure.

Respectfully submitted this 8th day of November, 2010.

HOLLAND & KNIGHT LLP



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-and-

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Aqua America, Inc.
762 West Lancaster Avenue
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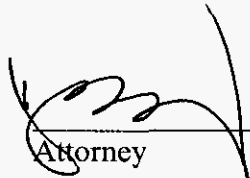
Attorneys for Aqua Utilities Florida, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished by hand delivery this 8th day of November, 2010 to the following:

J.R. Kelley, Esq.
Charles Beck, Esq.
Patricia Christensen, Esq.
Office of Public Counsel
111 West Madison Street
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Tallahassee, Florida 32399-1400

Katherine Fleming, Esq.
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Attorney

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

John T. Burnett
P.O. Box 14042
St. Petersburg FL 33733

Re: Acknowledgement of Confidential Filing in Docket No. 100330-WS

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on November 8, 2010, in the above-referenced docket.

Document Number 09225-10 has been assigned to this filing, which will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.