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100330-WS

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Subject: 100330-WS - Electronic filing

Attachments: Second Supplemental Response to OPC's Preliminary Areas of Concern.pdf

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b. Docket number and title for electronic filing are: Docket No. 100330-WS - 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.

c. The name of the party on whose behalf the document is filed: Aqua Utilities Florida, Inc. ("AUF")

d. Total number of pages: 5

e. Brief description of filing: Aqua Utilities Florida, Inc.'s Second Supplemental Response to Citizens' Preliminary Areas of Concern.

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5/3/2011

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

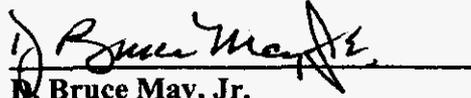
In Re: Application for increase in water and)
wastewater rates in Alachua, Brevard, DeSoto,) DOCKET NO. 100330-WS
Highlands, Lake, Lee, Marion, Orange,)
Palm Beach, Pasco, Polk, Putnam,) Dated: May 3, 2011
Seminole, Sumter, Volusia, and Washington)
Counties by Aqua Utilities Florida, Inc.)
_____)

**AQUA UTILITIES FLORIDA, INC.'S SECOND SUPPLEMENTAL
RESPONSE TO CITIZENS' PRELIMINARY AREAS OF CONCERN**

Aqua Utilities Florida, Inc. ("AUF"), by and through undersigned counsel, hereby files its Second Supplemental Response to Citizens' Preliminary Areas of Concern. Specifically, attached hereto is AUF's supplemental response to the Class C Utility comparison submitted by the Office of Public Counsel to the staff and the parties on April 15, 2011.

Respectfully submitted this 3rd day of May, 2011.

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CERTIFICATE OF SERVICE

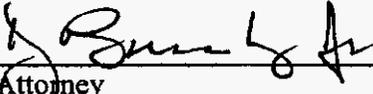
I hereby certify that a true and correct copy of the foregoing was furnished by e-mail and U.S. Mail this 3rd day of May, 2011 to:

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RESPONSE TO OPC'S CLASS C COMPANY COMPARISON
DOCKET NO. PSC-100300-WS

On March 31, 2011, OPC filed its Preliminary Areas of Concern and claimed that it had performed an "analysis using Class C companies" that showed that the management fees allocated to AUF by its service company -- Aqua Services -- have not produced any cost savings, but instead has resulted in excessive costs. OPC did not attach a copy of its "analysis" when it filed its Preliminary Areas of Concern. OPC later provided a copy of its "analysis" to staff and the parties on April 15, 2011 in response to staff's request. AUF has reviewed OPC's submission and respectfully submits that it is fundamentally flawed. However, before examining those flaws in more detail, AUF believes it is important to address two other general deficiencies at the outset.

First, OPC's claims regarding allocated costs completely overlooks the Commission's findings with respect to the reasonableness of AUF's allocated costs in the last rate case. In that case, the Commission noted that its staff had performed an audit of AUF's affiliate transactions for the test year 2007 and ultimately concluded that "there was nothing found in the audit to suggest that the affiliate charges were unreasonable or imprudent." Order No. PSC-09-0385-FOF-WS at 78.

Second, in an effort to justify its comparison group of Class C utilities, OPC erroneously claims that in the last case the Commission stated that it would be "more appropriate to make this comparison using Class C companies." OPC misquotes the Commission. What the Commission actually said was:

Additionally, we do not believe that OPC witness Dismukes' methodology for her recommended adjustments is appropriate. Although AUF is considered a Class A utility, we note that it is actually a collection of many different widely dispersed systems, most of which would be considered class C utilities if on a stand-alone basis. The comparison group proposed by witness Dismukes does not take this into account and inaccurately compares AUF to Class A single systems. We find that the comparison analysis proposed by witness Dismukes does not provide an appropriate basis to warrant an adjustment being made. . . In summary, based on our staff's audit and our review of the record, we find that no adjustment is needed for charges from affiliates.

Id.

OPC'S "ANALYSIS" IS FUNDAMENTALLY FLAWED

The materials that OPC provided to staff do not constitute an "analysis" in the traditional sense. Rather, it is a hastily assembled comparison of AUF to other Class C water and wastewater utility companies. Courts and the Commission have repeatedly cautioned against these types of shallow comparisons that fail to take into account the actual differences in the utilities being compared. See *Sunshine Utilities of Cent. Fla., Inc. v. Fla. Pub. Serv. Comm'n*, 624 So. 2d 306 (Fla. 1st DCA 1993) ("In determining whether an executive salary is reasonable compared to salaries paid to other company executives, the comparison must, at the minimum, be based on a showing of similar duties, activities, and responsibilities and the person receiving the salary."); See also FPSC Order No. 20066 ("A valid comparison would take into account all differences and similarities of the utilities whose rates were being compared.") In short, the policy of the Courts and the Commission is clear: if a "comparison" is to have any place in a proceeding to set rates, it must compare "apples to apples", otherwise it is misleading and invalid. As demonstrated below, OPC's comparison makes no effort to compare "apples to apples."

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The Comparison is Based on Faulty Assumptions.

By comparing AUF to Class C water/wastewater utilities, OUC assumes that each of AUF's systems that are part of this rate case would be considered a Class C Utility if those systems were required to report on a stand-alone basis. While that is true for many of AUF's systems, it is not true for all. Indeed, OPC overlooks the fact that AUF owns 7 water systems and 6 wastewater systems that would be considered Class B Companies if they were required to report on a stand-alone basis. Thus, OPC's "comparison group" is inappropriate because the group is comprised entirely of Class C Companies and fails to include a representative number of Class B utilities.

The Comparison Incorrectly Includes Both Allocated and Non Allocated Costs, and thus Grossly Overstates Aqua Services' Costs.

OPC's comparison schedule incorrectly shows an average AUF Water cost of \$183 per ERC and \$191 per customer and an AUF Wastewater cost of \$239 per ERC and \$268 per customer. OPC then incorrectly asserts that these average costs are the result of charges for services provided by Aqua Services.

OPC bases its comparison on Salaries & Wages, Pensions & Benefits and all of the Contractual Services expense account information from AUF's 2009 Annual Report, and then erroneously infers that the total of these expenses represent charges for services provided to AUF by Aqua Services. That is incorrect. The expense amounts in AUF's Annual Reports include both allocated and non allocated costs. Thus, OPC's comparison schedule grossly overstates the allocated costs of Aqua Services.

In addition, close review of the information underlying AUF's 2009 Annual Report, including specific Salaries & Wages, Pensions & Benefits and Contractual Services expense accounts, shows that the Aqua Services costs allocated for AUF Water are \$29 per ERC and \$30 per Customer. The allocated costs for AUF Wastewater are \$27 per ERC and \$30 per Customer. OPC ignores this cost information.

The Comparison is Based on Widely Dispersed Class C Company Cost Information.

The term "analysis" necessarily implies a thorough examination and evaluation of information, which OPC failed to do. Instead, OPC has simply lifted selective operating expense, ERC and Customer information from the 2009 Annual Reports of several Class C companies, and then uses that selective information to produce a mathematical average cost based solely on those reported numbers. OPC calculates an average Florida Class C Water Company expense of \$137 per ERC and \$109 per Customer. However, a close review of OPC's schedule reveals that, for individual Class C Water Companies, expenses per ERC range from a low of \$15 to a high of \$2,665 and the expenses per Customer range from a low of \$7 to a high of \$2,665. This underscores the inherent flaws in relying on cost comparisons among and between utilities. The extreme disparity of these individual water company costs clearly illustrates that OPC's list of Class C Water Companies have dissimilar costs and operating characteristics, which cannot be relied upon for comparative purposes.

Likewise, OPC calculates an average Florida Class C Wastewater Company expense of \$189 per ERC and \$129 per Customer. Again, a close review of OPC's schedule reveals that, for individual Class C Wastewater Companies, expenses per ERC range from a low of \$14.63 to a high of \$970.98, and the expenses per Customer range from a low of \$6.52 to a high of \$970.98. The extreme disparity of these individual wastewater company costs clearly illustrates that OPC's list of Class C Wastewater Companies have dissimilar costs and operating characteristics, which cannot be relied upon for comparative purposes.

Using OPC's own inherently flawed data, the following chart¹ shows that AUF's costs are nowhere near the highest of Class C companies in the State.

Comparison of AUF to Lowest and Highest Class C Companies Avg Cost			
Water Systems		Cost Per ERC	Cost per Customer
Orangedale Utilities, Inc.	Lowest	\$ 15	\$ 7
Kemple Water Company		\$ 33	\$ 33
Heather Hills Estates Utilities, LLC		\$ 38	\$ 38
Coral Cay Water & Sewer Company		\$ 42	\$ 46
Aqua Utilities Florida	AUF	\$ 183	\$ 191
Sun River Utilities, Inc.		\$ 550	\$ 550
Camachee Island Company, Inc.		\$ 820	\$ 759
Mountain Lake Corporation		\$ 1,322	\$ 892
Farmton Water Resources LLC	Highest	\$ 2,665	\$ 2,665
Wastewater Systems			
Wastewater Systems		Cost Per ERC	Cost per Customer
Orangedale Utilities, Inc.	Lowest	14.63	6.52
Heather Hills Estates Utilities, LLC		30.69	30.86
Lake Placid Utilities, Inc.		39.47	36.48
West Lakeland Wastewater, Inc.		38.52	38.77
Aqua Utilities Florida	AUF	238.52	267.67
C.F.A.T. H2O, Inc.		535.97	329.83
Sun River Utilities, Inc.		282.73	372.02
Highlands Utilities Corporation		789.88	789.88
Innerarity Island Development Corporation	Highest	970.98	970.98

In reviewing OPC's schedule, it appears that OPC made no meaningful attempt to evaluate the differences among the individual companies. For example, if it had, OPC would have quickly questioned the inclusion of Orangedale Utilities, Inc. Orangedale is the lowest cost water and wastewater company listed in OPC's comparison group. However, a quick review of that company's 2009 Annual Report reveals that the company is not in compliance with the Uniform System of Accounts prescribed by the Commission. In addition, the utility's wastewater expense schedule S-3 contains only a handwritten notation, "Accounts not separated in 2009." Furthermore, according to OPC's schedule, the only expenses reported for Orangedale were Contractual Services - Professional expenses of \$600 in Water and \$600 in Sewer. Based on this anomaly alone OPC should have removed this utility from its comparison group. However, there is more. On March 12, 2011, Orangedale formally notified the Commission that it had abandoned water and wastewater facilities. See FPSC Docket No. 110076-WS.

The Comparison Relies On Information That Is Inconsistently Reported.

OPC's schedule contains averages for various expenses that are inconsistently reported by individual Class C utilities in its comparison group, which in some instances are developers. For example, OPC's comparison group contains a high number of Class C systems that report no Salaries & Wages or Employee Pensions & Benefits expenses, but then inexplicably includes those systems in the comparison group average. In fact, the cost per ERC that the OPC uses in its flawed analysis overlooks the fact that 50% of the Class C Water utilities and 41% of the Class C Wastewater utilities in the comparison group have no Salary & Wages. Consequently, OPC's comparison schedule dramatically understates average costs and thus is misleading and invalid.

¹ As explained herein, this chart is included for illustrative purposes only and AUF disputes the accuracy of the cost information set forth in OPC's schedule. The chart contains the 4 lowest cost and the 4 highest cost Class C companies in OPC's schedule compared to AUF's "costs" as alleged by OPC.