

State of Florida



Public Service Commission

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COMMISSION
CLERK

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DATE: July 14, 2011

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Fletcher, Cicchetti, Maurey, Springer)
Office of the General Counsel (Jagoe, Klancke)

Handwritten initials and signatures: BS, MC, ALM, Med, N

RE: Docket No. 100330-WS – Application for increase in water/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.

AGENDA: 07/26/11 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100330.RCM.DOC

Case Background

Aqua Utilities Florida, Inc. (AUF or Utility) is a wholly-owned subsidiary of Aqua America, Inc. AUF provides water and wastewater service in 87 certificated service areas (60 water and 27 wastewater systems) in 17 counties. In the test year ended April 30, 2010, the Utility recorded total regulated operating revenues of \$8,255,766 and \$4,824,531 for water and wastewater, respectively. AUF reported regulated net operating income for the test year of \$605,852 for water and \$526,976 for wastewater. During the test year, 16,357 water and 6,789

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wastewater customers received service from the Utility's regulated systems. Water and wastewater rates were last established for this Utility in a rate case initiated in 2008.¹

On September 1, 2010, the Utility filed an application for approval of interim and final rate increases for its water and wastewater systems. By Proposed Agency Action (PAA) Order No. PSC-11-0256-PAA-WS (PAA Order), issued June 13, 2011, the Commission approved rates that were designed to generate a total water revenue requirement of \$10,134,129 and wastewater revenue requirement of \$5,910,317.

On July 1, 2011, the Office of Public Counsel (OPC) timely filed a protest of portions of the PAA Order. On July 1, 2011, Ms. Lucy Wambsgan also timely filed a protest of portions of the PAA Order. By letter dated July 1, 2011, AUF gave notice that it has elected to put the rates approved in the PAA Order into effect during the pendency of the administrative hearing pursuant to Section 367.081(8), Florida Statutes (F.S.).

On July 11, 2011, AUF and Yes Communities, Inc. d/b/a Arredondo Farms timely filed cross-petitions to protest the PAA Order pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.).

This recommendation addresses the implementation of the PAA rates by AUF and the security to guarantee the increased revenues collected subject to refund. The Commission has jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

¹ See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-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.

Discussion of Issues

Issue 1: Should the Commission acknowledge the implementation of the proposed agency action rates by Aqua Utilities Florida, Inc.?

Recommendation: Yes. The Commission should acknowledge the Utility's implementation of the proposed agency action (PAA) rates on a temporary basis pending the outcome of this rate proceeding. (Fletcher, Jaeger)

Staff Analysis: As discussed in the case background, the PAA Order was protested by OPC and Ms. Wambsgan. On July 1, 2011, AUF filed notice that it has elected to implement rates pursuant to Section 367.081(8), F.S., pending the resolution of the protest filed in this docket. The Utility also submitted tariff sheets, a proposed customer notice, and a request to use a corporate undertaking to secure any potential refund.

Section 367.081(8), F.S., provides:

At the expiration of 5 months following the official filing date, if the commission has not taken action or, if the commission's action is protested by a party other than the utility, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund, upon notice to the commission and upon filing the appropriate tariffs.

The filing of OPC's and Ms. Wambsgan's objections triggers the applicability of Section 367.081(8), F.S., and AUF should be allowed to implement the PAA rates as requested by the Utility. Although AUF has the right to implement its requested final rates, the Utility has elected to implement the rates approved by the Commission in the PAA Order.

Staff reviewed the tariff sheets, customer notice, and security provided by AUF, and determined that the Utility has met the requirements of Section 367.081(8), F.S. The security for the rate increase is discussed further in Issue 2. Based on the above, staff recommends that the Commission acknowledge the Utility's implementation of the PAA rates on a temporary basis pending the outcome of this rate proceeding.

Issue 2: What is the appropriate security to guarantee the increased revenues collected under the temporary proposed agency action rates?

Recommendation: A corporate undertaking is an acceptable security contingent upon receipt of the written guarantee of the parent company, Aqua America, Inc. (AAI or Company), and written confirmation that AAI will not assume outstanding guarantees on behalf of AAI-owned utilities in other states in excess of \$10.8 million (inclusive of AUF). AAI should be required to file a corporate undertaking on behalf of its subsidiary to guarantee any potential refunds of revenues collected under temporary PAA rates. AAI's total guarantee should be a cumulative amount of \$2,763,278. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C. (Springer, Fletcher)

Staff Analysis: As discussed in Issue 1, the Utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund pursuant to Section 367.081(8), F.S. In addition to allowing the Utility to implement its requested rates, the statute requires that "The utility shall keep accurate records of amounts received as provided by subsection (6)." Subsection (6) specifies that "[t]he utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid."

Pursuant to the PAA Order, the Commission approved increased PAA rates and charges, which included annual revenue increases of \$1,750,093 for water and \$860,387 for wastewater.

AUF is a wholly-owned subsidiary of AAI, which provides all investor capital to its subsidiaries. AAI's present outstanding corporate undertaking amount in Florida is \$586,514, which relates to the interim increase granted by the Commission. AAI has requested a corporate undertaking to secure the implementation of temporary PAA rates granted for AUF. In accordance with Rule 25-30.360, F.A.C., staff has calculated the potential refund of revenues and interest collected to be \$2,176,764. The total incremental amount of \$2,176,764 is based on an estimated ten months of revenue being collected. The requested cumulative corporate undertaking amount for Florida is \$2,763,278 (\$586,514 + \$2,176,764).

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed the financial statements of AUF's parent, Aqua America, Inc. (AAI or Company), to determine if AAI can support a corporate undertaking on behalf of its subsidiary. AAI's 2010, 2009 and 2008 financial statements were used to determine the financial condition of the Company. As the attached Schedule A shows, AAI has experienced inadequate levels of liquidity during the three-year period of this analysis. AAI's average equity ratio over the three-year period has averaged approximately 44 percent which is sufficient in this instance based on AAI's overall financial condition. In addition, AAI has experienced an improving and adequate interest coverage ratio. Finally, net income has steadily increased over the period and has been sufficient for the requested cumulative corporate undertaking amount. AAI's financial performance has demonstrated adequate levels of profitability, interest coverage, and equity capitalization to offset the deficient liquidity position.

Staff believes AAI has adequate resources to support a corporate undertaking in the amount requested. Based on this analysis, staff recommends that a cumulative corporate undertaking of \$2,763,278 is acceptable. Additionally, the written confirmation that AAI will not assume outstanding guarantees on behalf of AAI-owned utilities in other states in excess of \$10.8 million is acceptable. This brief financial analysis is only appropriate for deciding if the Utility can support a corporate undertaking in the amount proposed.

Pursuant to Rule 25-30.360(6), F.A.C., the Utility shall provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the Utility.

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Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open to complete the hearing process.
(Jaeger, Fletcher)

Staff Analysis: Because a protest has been filed to the PAA Order, the docket should remain open to complete the hearing process.