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Subject: 100330-WS Electronic Filing
Attachments: 100330-WS - Notice of Withdrawal.pdf

a. Person responsible for this electronic filing:

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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, Hardee, 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: 4

e. Brief description of filing: Aqua Utilities Florida, Inc.'s Notice of Withdrawal of Distinct Cross-Petition Issue

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| 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 Filed: August 24, 2011 |
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**AQUA UTILITIES FLORIDA, INC.'S NOTICE
OF WITHDRAWAL OF DISTINCT CROSS-PETITION ISSUE**

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Florida Rule of Civil Procedure 1.420(a), hereby notifies the Commission that AUF is withdrawing the following distinct issue, which AUF identified in its July 11, 2011 Cross-Petition as a protested issue:

Whether the PAA Order failed to properly include the following pro forma plant additions in AUF's rate base:

....

(v) The Village Water Wastewater Disposal Project

(AUF's Cross-Petition, at 4-5 ¶ 7(b)(v).)

The Commission has consistently recognized that Florida Rule of Civil Procedure 1.420 is applicable to proceedings pending before it. See, e.g., *In re: Complaint against BellSouth Telecommunications, Inc. by Cbeyond Communications, LLC*, Docket No. 090135-TP; Order No. 09-0801-FOF-TP (Dec. 3, 2009); *In re: Petition for approval of contract for the purchase of firm capacity and energy between Gen. Peat Res., L.P. and Fla. Power & Light Co.*, Docket No. 920977-EQ; Order No. PSC-94-0310-FOF-EQ (Mar. 17, 1994). Rule 1.420(a) permits voluntary dismissal of "a claim, or any part of an action or claim . . . without an order of court" by notice prior to hearing. Rule 1.420(c) expressly extends this rule to counterclaims.

Because AUF has withdrawn this distinct pro forma plant addition issue relating to the Village Water Wastewater Disposal Project, and because the issue has not been protested by any other party to this proceeding, pursuant to Section 120.80(13)(b), Florida Statutes, this distinct

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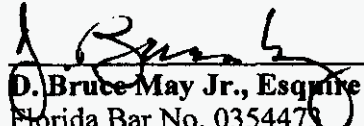
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issue is deemed stipulated as determined in the Commission's Order No. PSC-11-0256-PAA-WS dated June 13, 2011 (the "PAA Order"). See § 120.80(13)(b), Fla. Stat. (2010) ("[A] hearing on an objection to proposed action of the Florida Public Service Commission may only address the issues in dispute. Issues in the proposed action which are not in dispute are deemed stipulated."); see also, e.g., *In re: Joint petition for approval of standard offer contracts of Fla. Power Corp. and Auburndale Power Partners, L.P.*, Docket No. 940819-EQ; Order No. PSC-94-1505-FOF-EQ (Dec. 7, 1994) (reinstating PAA Order after sole petitions for formal proceeding filed in protest of the Commission's PAA Order were dismissed). All other issues protested in AUF's Cross-Petition remain in dispute.

The undersigned has conferred with counsel of record for each party to this proceeding, and is authorized to represent that those parties do not object to the withdrawal of the distinct pro forma plant addition issue relating to the Village Water Wastewater Disposal Project or the Commission's recognition that this issue is deemed stipulated as determined in the Commission's PAA Order.

WHEREFORE, AUF hereby withdraws the distinct pro forma plant addition issue relating to the Village Water Wastewater Disposal Project, and respectfully requests that the Commission recognize that this distinct issue is deemed stipulated as determined in the Commission's PAA Order.

Respectfully submitted this 24th day of August, 2011.



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by U.S.

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