

Diamond Williams

From: jennifer.gillis@hklaw.com
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To: Filings@psc.state.fl.us
Cc: Andrew.McBride@arlaw.com; Caroline Klancke; Cecilia.Bradley@myfloridalegal.com; David.Bernstein@arlaw.com; jrichards@pascocountyfl.net; KELLY.JR@leg.state.fl.us; kelly.sullivan.woods@gmail.com; kenneth.curtin@arlaw.com; Lisa Bennett; CHRISTENSEN.PATTY@leg.state.fl.us; Ralph Jaeger

Subject: 100330-WS - Electronic Filing

Attachments: Notice of Scrivener's Error.pdf

a. Person responsible for this electronic filing:

D. Bruce May, Jr.
Holland & Knight LLP
Post Office Drawer 810
Tallahassee, FL 32302-0810
(850) 224-7000
bruce.may@hklaw.com

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: 15

e. Brief description of filing: Aqua Utilities Florida, Inc.'s Notice of Scrivener's Error

Jennifer Gillis | Holland & Knight
Sr Legal Secretary
315 South Calhoun Street, Suite 600 | Tallahassee FL 32301
Phone 850.425.5605 | Fax 850.224.8832
jennifer.gillis@hklaw.com | www.hklaw.com

Add to address book

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10/5/2011

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10/5/2011

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

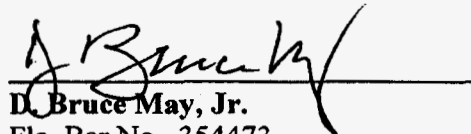
In Re: Application for increase in water and)
wastewater rates in Alachua, Brevard, DeSoto,) DOCKET NO. 100330-WS
Hardee, Highlands, Lake, Lee, Marion, Orange,)
Palm Beach, Pasco, Polk, Putnam,) Dated: October 5, 2011
Seminole, Sumter, Volusia, and Washington)
Counties by Aqua Utilities Florida, Inc.)
_____)

NOTICE OF SCRIVENER'S ERROR

On October 4, 2011, the undersigned filed on behalf of Aqua Utilities Florida, Inc. ("AUF") a Verified Response to Yes Companies, LLC d/b/a Arredondo Farms' Motion for Investigation, Entry of Cease and Desist Order and Entry of Order to Show Cause, which was accompanied by an Affidavit of Susan Chambers. Pages 2, 3 and 5 of the Verified Response contain minor typographical errors and date transpositions. A corrected copy of the Verified Response is attached as Exhibit "A". Attached as Exhibit "B" are pages 2, 3 and 5 of the Verified Response that delineate in redline format the corrections to the referenced typographical errors and date transpositions. There are no corrections to the Affidavit.

Respectfully submitted this 5th day of October, 2011.

HOLLAND & KNIGHT LLP



D. Bruce May, Jr.

Fla. Bar No. 354473

Gigi Rollini

Fla. Bar No. 684491

Post Office Drawer 810

Tallahassee, Florida 32302-0810

Phone: (850) 224-7000

Fax: (850) 224-8832

E-Mail: bruce.may@hklaw.com

gigi.rollini@hklaw.com

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-and-

Kimberly A. Joyce, Esquire
Aqua America, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1077 (Telephone)
(610) 519-0989 (Facsimile)

Attorneys for Aqua Utilities Florida, Inc.

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 5th day of October, 2011 to:

Ralph Jaeger
Caroline Klancke
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Kelly Sullivan
570 Osprey Lakes Circle
Chuluota, FL 32667-6658

Joseph D. Richards
Pasco County Attorney's Office
8731 Citizens Drive, Suite 340
New Port Richey, FL 34654

J.R. Kelly
Patricia Christensen
Office of Public Counsel
c/o The Florida Legislature
111 W Madison St, Room 812
Tallahassee, FL 32399-1400

Kenneth M. Curtin
Adams and Reese LLP
150 Second Avenue North, Suite 1700
St. Petersburg, Florida 33701

Cecilia Bradley/Pamela Jo Bondi
The Capitol - PL01
Tallahassee, FL 32399-1050



Attorney

EXHIBIT A

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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 Filed: October 4, 2011
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AQUA UTILITIES FLORIDA, INC.'S VERIFIED RESPONSE TO MOTION FOR INVESTIGATION, ENTRY OF CEASE AND DESIST ORDER AND ENTRY OF ORDER TO SHOW CAUSE FILED BY YES COMPANIES, LLC D/B/A ARREDONDO FARMS

Pursuant to Rule 28-106.204, Florida Administrative Code, Aqua Utilities Florida, Inc. ("AUF"), hereby files this Verified Response to the Motion for Investigation, Entry of a Cease and Desist Order, Entry of an Order to Show Cause filed by YES Companies, LLC d/b/a Arredondo Farms ("YES") on September 27, 2011. Because the attached Affidavit of Susan Chambers and exhibits appended thereto ("Affidavit") demonstrate that AUF has not engaged in any retaliatory conduct and that YES's hyperbolic accusations are wholly without merit, YES's motion should be rejected as utterly baseless. AUF states in support as follows:

1. As a public utility, AUF has an obligation under law to bill and collect for services rendered in a nondiscriminatory manner. *See, e.g.*, Order No. PSC-94-1357-FOF-WU. Accordingly, AUF cannot suspend billing and collection activities for some customers simply because it has a rate case pending. While suspending those activities might pacify some delinquent customers and thus might reduce customer complaints during the case, it would be illegal under Florida law which prohibits a utility from giving preferential treatment or charging one customer less than another customer for the same service. *Id.*

2. In accordance with Florida's requirements, when AUF's computer system determines that a customer is delinquent on a bill, that customer is provided with a computer-generated notice advising of the delinquency. (*See* Affidavit, ¶ 5.) Such notices are issued solely on the basis of whether

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payment on an account was received on the prescribed date. (*Id.*) Consequently, when the computer system generates and issues such notice it does so without regard to the personal name on the account. (*Id.*, ¶¶ 5, 8, 9, 13 & 14.) That same basic process is strictly followed where AUF's meter readings indicate unauthorized water usage at a property where there is no customer of record. In that circumstance, AUF's computer system assumes the new customer now occupies the property and the computer system generates and issues a letter to the occupant advising the occupant that it needs to apply for service. (*Id.*) Because these notices are automatically issued by AUF's computer system, it is outrageous for YES to claim that those notices were issued because a particular customer testified at the Gainesville Customer Hearing. (*Id.*)

3. YES's fabricated claim that AUF is retaliating against customers who testified at the Gainesville Customer Hearing is based on three exhibits: 1) an AUF 10-day Shut Off Notice dated September 13, 2011, to Mr. Eugene Davis; 2) an AUF "occupant" notice dated September 13, 2011, regarding unauthorized use of water; and 3) a collections notice from NCO Financial Systems, Inc. dated September 22, 2011, to YES for an outstanding balance YES owes to AUF for services received. (YES Motion, Exhibits A, B & C.)

4. Contrary to YES's repugnant attempts to vilify AUF in its Motion, YES's exhibits are nothing more than routine, computer generated notices that have absolutely nothing to do with any testimony these customers may have offered at the Gainesville Customer Hearing. (Affidavit, ¶¶ 5, 8, 9, 13 & 14.) Instead, the notices have everything to do with documented failure of customers to timely pay bills or documented water usage by occupants that are not current customers of AUF. (*Id.*)

5. With respect to the notice sent to Mr. Eugene Davis, YES misleads the Commission by failing to provide all material facts and documents. First, YES fails to apprise the Commission that Mr. Davis had previously entered into a Payment Arrangement dated October 18, 2010 with AUF to address wastewater service that he received but did not pay for over a three-year period from August 2007 through September 2009. (Affidavit, Exhibit A.) That Payment Arrangement was structured in

strict accordance with Commission Rule 25-30.350, and established an installment payment plan which billed Mr. Davis for the wastewater service from September 2010 back to September 2009, which was twelve months prior to AUF learning of the undercharge.¹ Under the Payment Arrangement, Mr. Davis was allowed to pay the undercharged amount in \$50 installments over seventeen months. (*Id.*) The Payment Arrangement expressly provided that payment would need to be made by the last day of each month, in addition to timely payment of each monthly bill for current service, or the Payment Arrangement would be automatically deemed in default and the entire past due balance on the account would be due and payable. (*Id.*) Mr. Davis missed making his August 31, 2011 payment due date required under the Payment Arrangement and, more than a week after that due date, still no payment had posted to his account. (Affidavit, ¶ 12.) Just as his Payment Arrangement stated would occur, the missed payment automatically triggered a default of the Payment Arrangement in AUF's computer system. Consequently, on September 9, 2011, AUF's computer system automatically generated a 10-day Shut Off Notice, noting that the entire past due balance on the account would be due by September 22, 2011. (Affidavit, Exhibit B.) This initial Notice was issued prior to Mr. Davis' testimony at the Gainesville Customer Hearing on September 12, 2011. YES's motion fails to apprise the Commission of this material fact. (*Id.*) Because Mr. Davis' late payment posted after the close of business on September 13, 2011, the Payment Arrangement had already automatically defaulted, and the entire unpaid balance on the account had become due and payable. (*Id.*) Thus, Mr. Davis' late payment—which was not enough to satisfy the account's entire unpaid balance—automatically triggered the computer system to issue a second 10-day Shut Off Notice on September 13, 2011. (Affidavit, Exhibit C.) This second 10-day Shut Off Notice noted the remaining balance due in light of the payment that posted on September 13, and extended Mr. Davis' time to pay the new, lesser balance to September 26, 2011. (*Id.*) This second 10-day Shut Off Notice is what YES

¹ The facts underlying this Payment Arrangement were extensively discussed in AUF's Response to YES's Memorandum in Opposition to the Rate Case filed in docket on April 28, 2011.

has attached to its Motion to support YES's ludicrous claim that AUF retaliated against Mr. Davis for testifying at the September 12 Gainesville Customer Hearing. (*Id.*; YES Motion, Exhibit. A.) Moreover, as shown in Exhibit "D" to Ms. Chambers' Affidavit, AUF then permitted Mr. Davis to enter a new Payment Arrangement on September 21, 2011, which allows him to pay the remaining balance in \$50.00 per month installments over the next 7 months. (Affidavit, Exhibit D.) Again, YES's motion fails to inform the Commission of these important and material facts. As explained in Ms. Chambers' Affidavit, computer generated notices issued to Mr. Davis had nothing to do with the fact that Ms. Davis had testified at the Gainesville Customer Hearing on September 12, 2011. (Affidavit, ¶ 12.)

6. With respect to the notice that AUF sent to the occupant on September 13, 2011, regarding unauthorized use of water, YES again misleads the Commission by omitting material facts. As Ms. Susan Chambers explains in her Affidavit, Ms. Lewis is not a current customer of AUF as YES would have the Commission believe. (Affidavit, ¶ 10.) On July 26, 2011, after multiple delinquent notices by AUF, Ms. Lewis' service was shut off for nonpayment. (*Id.*) On July 28, 2011, two days after the service was shut off, Ms. Lewis contacted AUF and was told that a payment of \$268.66 was required in order to restore service. Although Ms. Lewis has not contacted AUF since that time, and AUF physically shut off the water on July 26, 2011, and has not turned the water back on, unauthorized usage has continued to register on the meter. Specifically, as stated in the Affidavit, after Ms. Lewis received the final bill that YES attached to its motion (issued through the July 26 service termination date) meter readings show that there has been 3,400 gallons of unauthorized water use at the property. (*Id.*) As explained in Ms. Chambers' Affidavit, when unauthorized water use is detected at a location where there is no current customer, AUF's computer system assumes that there is a new resident at the property, automatically generates and issues a letter to the "occupant", advising the occupant that he or she needs to apply for service. (Affidavit, ¶ 9.) This is precisely what prompted the computer generated letter to the occupant dated September 13, 2011, which YES attaches to its Motion. As

explained in Ms. Chambers' Affidavit, the "occupant" letter was automatically generated by AUF's computer system due to the fact that unauthorized water use had been detected at the property. This notice was automatically generated and issued by AUF's computer system based on the detection of unauthorized water use. (Affidavit, ¶ 10.) As Ms. Chambers' Affidavit explains, the issuance of the letter had nothing whatsoever to do with the fact that Ms. Lewis had testified at the Gainesville Customer Hearing.

7. Finally, with respect to the collections notice issued to YES on September 22, 2011, for the outstanding balance owed, YES once again misleads the Commission by omitting material facts and failing to provide pertinent documents. As Ms. Chambers' Affidavit shows, YES has been delinquent in paying its own account for an extended period of time. (Affidavit, ¶ 14.) YES was the customer of record at Lot 2440 and requested service for this address effective on November 30, 2010. YES was billed for this address on December 15, 2010, for service through December 13, 2010. (*Id.*) YES continued as customer of record at Lot 2440 until December 28, 2010, when a new customer applied for service at this location. Accordingly, YES was responsible for a turn-on fee and service from November 30, 2010, through December 28, 2010. As indicated on the January 11, 2011 bill, the full amount due for service on the account for that period was \$89.87, which included the \$22 turn-on fee. After failing to pay the January 11, 2011 bill by the February 2, 2011 due date, a reminder notice was issued to YES on March 15, 2011 for \$89.87. (Affidavit, Composite Exhibit E.) YES subsequently paid the \$22 turn-on fee on April 2, 2011—two months late—but failed to pay the remaining \$67.87 owed on the account. Given that the remaining \$67.87 bill remains unpaid, and in light of the length of the delinquency and multiple notices, the delinquent account was turned over for collections to an outside collection agency - NCO Financial Systems, Inc. (Affidavit, ¶ 14.) The September 22, 2011, letter from NCO advising that the account remains delinquent is, therefore, correct. Furthermore, as explained in Ms. Chambers' Affidavit, AUF has provided no information to the collection agency concerning whether or not a particular or former customer testified for or against the utility in any legal

proceeding. (Affidavit, ¶ 14.) YES's claim that the collection agency issued a notice to YES in retaliation for YES's testimony at the Gainesville Customer Hearing is absurd.

8. Nor is there any support for YES's claim that a supposed "heated exchange" occurred between AUF's counsel and customers at the Gainesville Customer Hearing. The customer hearing transcripts show that AUF's counsel has consistently treated customers with respect and courtesy, and that counsel's inquiries all have been politely made to gather clarifying information relating to the customer's system, account name, and the nature of the concern so that AUF can file a response by November 3, 2011, in accordance with the Commission directive.

9. YES's claims that AUF is systematically retaliating against those who testify at customer hearings are patently false, completely unsupported by material facts, and appear to be interposed for an improper purpose of misleading the Commission. Unfortunately, YES's outrageous claims needlessly increase rate case expense, which ultimately is borne by customers. The Commission should reject YES's motion.

WHEREFORE, AUF respectfully requests that the Commission deny YES's motion.

Respectfully submitted this 4th day of October, 2011.



D. Bruce May Jr., Esquire

Florida Bar No. 0354473

Gigi Rollini, Esquire

Florida Bar No. 684491

Holland & Knight

315 South Calhoun Street, Suite 600

Tallahassee, FL 32301

(850) 224-7000 (Telephone)

(850) 224-8832 (Facsimile)

-and-

Kimberly A. Joyce, Esquire

Aqua America, Inc.

762 West Lancaster Avenue

Bryn Mawr, PA 19010

(610) 645-1077 (Telephone)

(610) 519-0989 (Facsimile)

Attorneys for Aqua Utilities Florida, Inc.

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 4th day of October, 2011 to:

Ralph Jaeger
Caroline Klancke
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850


Kelly Sullivan
570 Osprey Lakes Circle
Chuluota, FL 32667-6658

Joseph D. Richards
Pasco County Attorney's Office
8731 Citizens Drive, Suite 340
New Port Richey, FL 34654

J.R. Kelly
Patricia Christensen
Office of Public Counsel
c/o The Florida Legislature
111 W Madison St, Room 812
Tallahassee, FL 32399-1400

Kenneth M. Curtin
David Bernstein
Adams and Reese LLP
150 Second Avenue North, Suite 1700
St. Petersburg, Florida 33701

Cecilia Bradley/Pamela Jo Bondi
The Capitol - PL01
Tallahassee, FL 32399-1050



Attorney

EXHIBIT B

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