

Eric Fryson

From: Vandiver, Denise [VANDIVER.DENISE@leg.state.fl.us]
Sent: Friday, June 29, 2012 4:21 PM
To: Filings@psc.state.fl.us
Cc: gdb5@comcast.net; Martin Friedman Esquire (mfriedman@sfflaw.com); sandymchase@comcast.net; Todd Brown; Bart Fletcher; Andrew Maurey; Ralph Jaeger; Martha Barrera; Vandiver, Denise; Saylor, Erik
Subject: Docket No. 110200-WU; Application for increase in water rates in Franklin County by Water Management Services, Inc.; OPC Additional Issues and Concerns

Attachments: Additional OPC Issues on WMSI.docx

a. The full name, address, telephone number, and e-mail address of the person responsible for the electronic filing:

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b. The docket number and title if filed in an existing docket:

Docket No. 110200-WU
Application for increase in water rates in Franklin County by Water Management Services, Inc.

c. The name of the party on whose behalf the document is filed:

Office of Public Counsel (OPC)

d. The total number of pages in each attached document:

6 pages

e. A brief but complete description of each attached document:

Cover letter with attached list of OPC additional issues and concerns.

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**MIKE
HARIDOPOLOS**
*President of the
Senate*



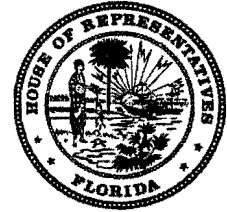
J.R. Kelly
Public Counsel

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DEAN CANNON
*Speaker of the
House of Representatives*



Denise N. Vandiver, C.P.A.
Legislative Analyst
vandiver.denise@leg.state.fl.us

June 29, 2012

Ann Cole, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 110200-WU; Application for increase in water rates in Franklin County by Water Management Services, Inc.

Dear Ms. Cole:

Attached is an additional list of issues that the Office of Public Counsel has prepared to identify concerns we have with the information filed by Water Management Services, Inc. to support its requested rate increase. We are submitting this letter in an effort to highlight our concerns and allow the staff and utility sufficient time to review our concerns and perhaps address them prior to the filing of staff's recommendation. If you should have any questions, please feel free to call or e-mail me.

Respectfully submitted,

s/ Denise N. Vandiver

Denise N. Vandiver
Legislative Analyst

c: Division of Economic Regulation (Maurey,
Fletcher)
Office of the General Counsel (Barrera, Jaeger)

Sundstrom, Friedman & Fumero, LLP
Mr. Martin Friedman

Water Management Services, Inc.
Mr. Gene D. Brown

Office of Public Counsel (Sayler)

DOCUMENT NUMBER DATE

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OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Utility Long Term Debt

1. It appears that the utility is not making its debt service payments even though the utility's authorized rates include the funds to do so. For the following reasons, OPC is concerned with why those funds were not used to service the utility's debt and would ask the Commission to take action and perhaps require an accounting for those funds.
 - a. According to the Department of Environmental Protection (DEP) State Revolving Fund (SRF) Repayment Schedule Report, Water Management Services, Inc. (WMSI) made its last \$162,012.03 SRF payment on June 22, 2009. See Attached SRF Repayment Schedule Report. OPC notes that WMSI has amended its DEP SRF loan approximately five times since 2001. Notwithstanding those multiple loan amendments, WMSI missed its most recent SRF payment that was due on May 15, 2012. By letter dated June 16, 2012, the DEP notified WMSI it was in default and that enforcement action would be delayed until after the conclusion of the utility's pending rate case. See Attached DEP Letter to WMSI dated June 16, 2012. OPC would like to know whether the DEP SRF loan balance has increased as a result of WMSI being in default. According to the MFRs filed in this rate case, the current balance of the DEP SRF loan is approximately \$4.8 million, the bulk of WMSI's long-term debt. WMSI also owes another \$2.7 million (balance outstanding) to Centennial Bank. OPC is unaware of the repayment status of WMSI's outstanding balance with Centennial Bank.
 - b. OPC notes that the Commission first approved the utility's request for a rate increase related to the cost of a new water supply main for which WMSI ultimately secured the DEP SRF loan by Order No. PSC-00-2227-PAA-WU. Subsequent Commission orders that allowed WMSI to increase rates also were related to the water supply main. See Order Nos. PSC-03-1005-PAA-WU, PSC-04-0791-AS-WU, PSC-05-1156-PAA-WU, and PSC-06-0092-AS-WU. The bulk of the rate increases authorized by the Commission from 2000 to 2006 were designed to enable the utility to collect increased rates to make payments on the DEP SRF loan for the new water supply main. Even though WMSI was collecting funds in rates to service the DEP loan, its last loan payment was made on June 22, 2009, and WMSI is currently in default. Because WMSI's approved rates included both interest and depreciation in order to provide funds for debt service costs to the utility, this presents the question of what has happened to those funds that the Commission specifically authorized for the new water main from late 2000 to January 2011?
 - c. OPC notes that, according to Commission practice, the Commission establishes or builds into customer rates funds to provide for debt service costs based on an amount of debt not to exceed the utility's rate base, even if the amount of outstanding debt obligations owed by a utility exceeds rate base. For example, if a utility's rate base was \$2 million, but it owed \$4 million in outstanding debt, the Commission would authorize in rates debt service up to \$2 million but not the full \$4 million. To authorize \$4 million as the example goes could incentivize a utility to imprudently incur debt far in excess of the value of plant in rate base, thus requiring the customers to pay for managerial imprudence.

DEPARTMENT NUMBER 110200
04333 JUN 29 2012
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OPC Issues and Concerns
Water Management Services, Inc.
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- d. OPC notes that the Commission followed this practice when it established rates in the utility's last rate case. See Order No. PSC-11-0010-SC-WU. In the last rate case, rate base was established as \$3,735,659. Id. at 69. Unadjusted long-term debt was established as \$7,753,153, but debt reconciled to rate base was \$3,635,160. That amount plus \$100,499 in customer deposits equaled \$3,735,659 or rate base. Id. at 71. Thus, the rates established in the utility's last rate case included both interest and depreciation in order to provide funds for debt service costs. Rates were designed to service outstanding debt in the amount not to exceed rate base, meaning that shareholders are responsible for the remaining debt service obligation.
- e. OPC agrees with the Commission practice not to subsidize imprudent management decisions as it relates to incurring excessive debt. OPC believes that it was a utility management decision to incur the excessive debt, not the customers' decision.
- f. OPC notes that the utility's current rate base of approximately \$3.7 million is less than the outstanding balance of the \$4.8 million DEP SRF loan. Based on Commission practice of authorizing debt service in an amount equal to rate base, OPC is concerned that WMSI, even if authorized a rate increase, may not be able to make its debt service payment to DEP on its \$4.8 million loan, let alone any debt service payments to Centennial Bank on its additional \$2.7 million debt.
- g. When the Commission establishes rates in the pending rate case, because of the utility's record of non-payment, the Commission should consider requiring debt service payments to be escrowed, along with the other items identified in OPC's previous letter to the Commission, so that the utility's creditors would be paid at least the portion of customer rates designed to cover debt service. Because of management decisions to incur debt in excess of rate base, the remainder of the debt service should be borne solely by the shareholders and not the customers.
- h. Further, OPC requests that the Commission determine what happened to the funds previously authorized in rates to make debt service payments that apparently have not been made. This information along with the cash flow audit that the Commission directed its staff to perform in Order No. 11-0010-SC-WU and that its audit staff completed on July 29, 2011, and updated on March 12, 2012, is highly pertinent. Because of the continued failure of WMSI to make its debt service payments, OPC would like the Commission to consider ordering the utility to provide an accounting to the Commission for the funds authorized in rates for these debt service payments that were apparently not made.

Potential Sale

- 2. OPC is also aware that the City of Carrabelle has a pending application with the DEP for a SRF loan up to \$15 million with which to potentially purchase WMSI. This potential sale of the utility is not relevant to this rate case unless the sale closes prior to the Commission's final order in this rate case, and if that occurs, all interim rates must be refunded to the customers with interest.

OPC Issues and Concerns
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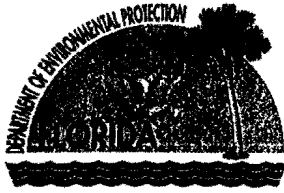
Staff's Motion to Compel

3. Based upon the foregoing, OPC shares Commission staff's concern about whether WMSI is and can remain a going concern. Inasmuch as compelling WMSI to respond to Commission Staff's outstanding discovery request will lead to information pertinent to the rate case, OPC supports Staff's motion to compel.¹ OPC agrees with Staff that the utility must answer Staff's questions and provide the financial documentation that will establish whether WMSI has been prudently managed over the years, or whether prior management practices have potentially harmed the operation of the utility.

Utility compliance with Order No. 11-0010-SC-WU

4. Pursuant to the stipulation approved by Order No. 11-0010-SC-WU, issued January 3, 2011, the utility shall provide proof of Commission ordered adjustments within 90 days of the final order issued in that rate case and the adjustments made for all the applicable NARUC USOA primary accounts. Id. 5. On June 27, 2012, the utility submitted the adjustments for the applicable NARUC USOA primary accounts pursuant to Order No. 11-0010-SC-WU. Notwithstanding the utility's appeal of that order, the utility should have timely made those Commission ordered adjustments especially since the majority of those adjustments were not the subject of the utility's underlying appeal. OPC is concerned with the obvious tardiness of the utility's compliance with this Commission order. Thus OPC would request that the Commission inquire whether it was willful noncompliance or something else, and determine whether this noncompliance would subject the utility to a notice to show cause.

¹ Although OPC disagrees with some of Staff's assumptions made in its motion to compel, this letter is not the proper forum in which to discuss those assumptions.



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

June 15, 2012

Mr. Gene Brown
President
Water Management Services, Inc.
250 John Knox Road 4
Tallahassee, Florida 32303

Re: DW190101 - Water Management Services, Inc
Supply, Transmission & Treatment

Dear Mr. Brown:

This is in response to your recent request to issue additional debt, and restructure your existing State Revolving Fund Loan. We understand the need for the additional work you have proposed to be funded by a \$6.2 million loan with Fidelity Bank and guaranteed by USDA. However, we are unable to subordinate our loan to Fidelity Bank at this time. The Department will reassess its position once a decision by the Public Service Commission (PSC) is made regarding the rate case.

Regarding the May 15th payment that was due, we cannot capitalize your payment at this time. Your loan is hereby determined to be in default in accordance with Rule 62-552.430. The Department will delay enforcement of its agreement until a ruling is made by the PSC on your current case. A revised payment schedule will be considered if the rate increase is approved.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Holmden".

Robert E. Holmden, P.E., Chief
Bureau of Water Facilities Funding

RH/ak

SRF - State Revolving Fund

Report: Repayments Schedule Report - Sponsor: Water Management Services, Inc - Funding # 190101

Repayment Nbr.	Due Date	Type	Repayment Amt.	Bond Ind.	Fid# Id	Deposit Date	Interest	GAA Interest	Service Fee	SF Int.
1	11/15/2003	Sponsor	209,823.00	N	C904109	11/17/2003	70,228.22	---	121,232.14	1,812.51
2	05/15/2004	Sponsor	209,823.00	N	C904376	05/19/2004	85,475.04	---	0.00	0.00
3	11/15/2004	Sponsor	208,694.89	N	C904633	12/01/2004	89,947.75	---	0.00	0.00
4	05/15/2005	Sponsor	208,694.89	N	C904898	05/18/2005	88,177.07	---	0.00	0.00
5	11/15/2005	Sponsor	208,694.89	N	C905192	11/28/2005	86,375.46	---	0.00	0.00
6	05/15/2006	Sponsor	208,694.89	N	C261875	06/23/2006	84,546.90	---	0.00	0.00
7	11/15/2006	Sponsor	208,694.89	N	C905878	11/17/2006	82,690.99	---	0.00	0.00
8	05/15/2007	Sponsor	208,694.89	N	C906312	05/17/2007	80,807.34	---	0.00	0.00
9	11/15/2007	Sponsor	208,694.89	N	C908323	11/19/2007	78,895.51	---	0.00	0.00
10	05/15/2008	Sponsor	208,694.89	N	C908814	06/16/2008	76,955.09	---	0.00	0.00
11	11/15/2008	Sponsor	208,694.89	N	C909384	11/14/2008	74,985.64	---	0.00	0.00
12	05/15/2009	Sponsor	208,694.89	N	C90912A	06/22/2009	72,986.75	0.00	0.00	0.00
18	05/15/2012	Sponsor	162,012.03	N	---	---	76,425.76	0.00	0.00	0.00
19	11/15/2012	Sponsor	162,012.03	N	---	---	75,146.30	0.00	0.00	0.00
20	05/15/2013	Sponsor	162,012.03	N	---	---	73,847.70	0.00	0.00	0.00
21	11/15/2013	Sponsor	162,012.03	N	---	---	72,529.68	0.00	0.00	0.00
22	05/15/2014	Sponsor	162,012.03	N	---	---	71,191.96	0.00	0.00	0.00
23	11/15/2014	Sponsor	162,012.03	N	---	---	69,834.22	0.00	0.00	0.00
24	05/15/2015	Sponsor	162,012.03	N	---	---	68,456.17	0.00	0.00	0.00
25	11/15/2015	Sponsor	162,012.03	N	---	---	67,057.52	0.00	0.00	0.00
26	05/15/2016	Sponsor	162,012.03	N	---	---	65,637.94	0.00	0.00	0.00
27	11/15/2016	Sponsor	162,012.03	N	---	---	64,197.14	0.00	0.00	0.00
28	05/15/2017	Sponsor	162,012.03	N	---	---	62,734.79	0.00	0.00	0.00
29	11/15/2017	Sponsor	162,012.03	N	---	---	61,250.58	0.00	0.00	0.00
30	05/15/2018	Sponsor	162,012.03	N	---	---	59,744.14	0.00	0.00	0.00
31	11/15/2018	Sponsor	162,012.03	N	---	---	58,215.18	0.00	0.00	0.00
32	05/15/2019	Sponsor	162,012.03	N	---	---	56,663.37	0.00	0.00	0.00
33	11/15/2019	Sponsor	162,012.03	N	---	---	55,088.33	0.00	0.00	0.00
34	05/15/2020	Sponsor	162,012.03	N	---	---	53,489.75	0.00	0.00	0.00
35	11/15/2020	Sponsor	162,012.03	N	---	---	51,867.25	0.00	0.00	0.00
36	05/15/2021	Sponsor	162,012.03	N	---	---	50,220.49	0.00	0.00	0.00
37	11/15/2021	Sponsor	162,012.03	N	---	---	48,549.09	0.00	0.00	0.00
38	05/15/2022	Sponsor	162,012.03	N	---	---	46,852.70	0.00	0.00	0.00
39	11/15/2022	Sponsor	162,012.03	N	---	---	45,130.93	0.00	0.00	0.00
40	05/15/2023	Sponsor	162,012.03	N	---	---	43,383.41	0.00	0.00	0.00
41	11/15/2023	Sponsor	162,012.03	N	---	---	41,609.75	0.00	0.00	0.00
42	05/15/2024	Sponsor	162,012.03	N	---	---	39,809.55	0.00	0.00	0.00
43	11/15/2024	Sponsor	162,012.03	N	---	---	37,982.45	0.00	0.00	0.00
44	05/15/2025	Sponsor	162,012.03	N	---	---	36,128.00	0.00	0.00	0.00
45	11/15/2025	Sponsor	162,012.03	N	---	---	34,245.82	0.00	0.00	0.00
46	05/15/2026	Sponsor	162,012.03	N	---	---	32,335.49	0.00	0.00	0.00
47	11/15/2026	Sponsor	162,012.03	N	---	---	30,396.58	0.00	0.00	0.00
48	05/15/2027	Sponsor	162,012.03	N	---	---	28,428.66	0.00	0.00	0.00
49	11/15/2027	Sponsor	162,012.03	N	---	---	26,431.32	0.00	0.00	0.00
50	05/15/2028	Sponsor	162,012.03	N	---	---	24,404.10	0.00	0.00	0.00
51	11/15/2028	Sponsor	162,012.03	N	---	---	22,346.55	0.00	0.00	0.00
52	05/15/2029	Sponsor	162,012.03	N	---	---	20,258.22	0.00	0.00	0.00
53	11/15/2029	Sponsor	162,012.03	N	---	---	18,138.66	0.00	0.00	0.00
54	05/15/2030	Sponsor	162,012.03	N	---	---	15,987.39	0.00	0.00	0.00
55	11/15/2030	Sponsor	162,012.03	N	---	---	13,803.94	0.00	0.00	0.00
56	05/15/2031	Sponsor	162,012.03	N	---	---	11,587.83	0.00	0.00	0.00
57	11/15/2031	Sponsor	162,012.03	N	---	---	9,338.58	0.00	0.00	0.00
58	05/15/2032	Sponsor	162,012.03	N	---	---	7,055.67	0.00	0.00	0.00
59	11/15/2032	Sponsor	162,012.03	N	---	---	4,738.61	0.00	0.00	0.00
60	05/15/2033	Sponsor	162,012.13	N	---	---	2,386.90	0.00	0.00	0.00