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January 22, 1998

Ms. Blanca Bayo
Director, Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

980112 mls

Re: Application for Tariff Revision and Petition for Waiver of or Variance from rule 25-30.320(2)(g), Florida Administrative Code, by United Water Florida Inc

Dear Ms. Bayo:

In connection with the above referenced matter, enclosed please find the following:

1. An original and five (5) copies of the Application for Tariff Revision and Petition for Waiver of or Variance from Rule 25-30.320(2)(g), Florida Administrative Code; and
2. The original and two copies of United Water Florida Inc.'s Third Revised Water Tariff Sheet No. 14.00 Utility, Inc.

Please file the original Application and distribute the copies in accordance with your usual procedures. If you have any questions or comments in connection with this matter, please do not hesitate to call.

ACK _____
AFA _____
APP _____
CAF _____
CMI _____
CTR _____
EAG _____
LIT _____
LIT _____
OF _____
RO _____
SE _____
WAS _____
OTH _____

SGS/msa
Enclosures
cc: Mr. David E. Chardavoyne
Mr. Munipalli Sambamurthi

Sincerely yours,

Scott G. Schildberg
Scott G. Schildberg

DOCUMENT NUMBER-DATE

01268 JAN 23 98

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Tariff)	
Revision and Petition for)	
Waiver of or Variance from)	Date Submitted for
Rule 25-30.320(2)(g), Florida)	Filing: January 22, 1998
Administrative Code, by United)	
Water Florida Inc.)	

Application for Tariff Revision
and Petition for Waiver of or Variance
from Rule 25-30.320(2)(g),
Florida Administrative Code

Pursuant to Section 120.542, Florida Statutes (Supp. 1996), and Rule 28-104.002, Florida Administrative Code ("FAC"), United Water Florida Inc. ("United Water Florida"), hereby petitions the Florida Public Service Commission ("Commission") to waive or vary that certain requirement in the rule relating to refusal or discontinuance of service for nonpayment of bills or noncompliance with the utility's rules and regulations set forth in Rule 25.30.320(2)(g), FAC, which requires that the bills relate to service by the same or an affiliated utility and approve the tariff revisions submitted with this Application. United Water Florida states as follows:

1. The name, address, telephone number and facsimile number of United Water Florida is as follows:

United Water Florida Inc.
1400 Millcoe Road
P.O. Box 8004
Jacksonville, Florida 32239-8004
(904) 721-4600 Telephone Number
(904) 721-4680 Facsimile Number

DOCUMENT NUMBER-DATE
01268 JAN 23 88
FPSC-RECORDS/REPORTING

2. The name, address, telephone number and facsimile number of James L. Ade and Scott G. Schildberg, the attorneys representing United Water Florida in this matter, are as follows:

Martin, Ade, Birchfield & Mickler, P.A.
One Independent Square, Suite 3000
Jacksonville, Florida 32202
(904) 354-2050 Telephone Number
(904) 354-5842 Facsimile Number

3. Rule 25-30.320(2), FAC, provides, in part, as follows:

(2) As applicable, the utility may refuse or discontinue service under the following conditions ... (g) For nonpayment of bills or noncompliance with the utility's rules and regulations in connection with the same or a different type or a different class of utility service furnished to the same customer at the same premises by the same or affiliated utility only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice to the customers.

4. Rule 25-30.320, FAC, is implementing Sections 367.081 and 367.121 of the Florida Statutes.

5. Rule 25-30.320, FAC, allows utility companies to enforce the collection of their bills for water service, wastewater service, or both, by providing utility companies with the ability to terminate service for the nonpayment of bills.

6. United Water Florida seeks to have waived or varied the requirement in the rule that the nonpayment of bills may be only for bills for utility service by the same or affiliated utility in connection with water and wastewater service rendered by the City of Jacksonville and its successor, the Jacksonville Electric Authority, ("City"), and United Water Florida to certain customers

who receive one service from United Water Florida and the other service from the City.

7. United Water Florida provides water service, wastewater service or both to more than 29,000 customers. United Water Florida provides wastewater service to 22,893 of such customers, with the remainder receiving wastewater service through septic tanks or from the City of Jacksonville. Of United Water Florida's 22,893 wastewater customers, 935 customers (i.e., four percent (4%)) receive their water service from the City.

8. Section 159.18(2), Florida Statutes (1995), provides in part that:

Any municipality shall have power to enter into valid and legally binding contracts with any ... public ... corporation ... supplying water to any premises served by the sewer system or facilities of the municipality for the shutting off and discontinuing of the supply of water to such premises as long as any charges for the sewer services or facilities of the municipality are unpaid, under such terms and conditions as shall be mutually agreed upon....

9. United Water Florida and the City have entered into an Agreement Between the City of Jacksonville and United Water Florida Inc. Concerning Termination of Water Service ("Agreement"), a copy of which is attached as Exhibit A.

10. The Agreement provides that the City and United Water Florida will work together to enforce payment of wastewater charges by using the termination of water service by the water service provider. United Water Florida will terminate its water service to a City wastewater service customer which is delinquent in its

payment of wastewater service charges in exchange for the City terminating its water service to a United Water Florida wastewater customer which is delinquent in its payment of wastewater charges.

11. Pursuant to City of Jacksonville Ordinance No. 97-229 E, the City of Jacksonville transferred its water and wastewater system to the Jacksonville Electric Authority ("JEA") and all contracts relating to the water and wastewater system became contracts of the JEA.

12. United Water Florida is seeking a permanent variance or waiver.

13. The strict application of the rule to United Water Florida's ability to terminate water service for nonpayment of bills for wastewater service because the City provides the wastewater service will impose a substantial hardship, violate the principals of fairness, and lead to unreasonable, unfair, and unintended results.

a. Rule 25-30.320, FAC, was intended to provide utility companies with a practical means for enforcing their rules and ensuring that customers pay their utility bills. Without the ability to terminate water service for nonpayment of bills, utility companies do not have a cost effective manner to require that customers pay for service. Utility companies would have to sue each delinquent customer for each nonpayment, which is neither economical nor practical.

b. Unless a water and wastewater utility can terminate water service to a nonpaying customer, it does not have either

a cost effective or practical means to discontinue wastewater service to a customer. Wastewater service laterals typically does not have cutoff valves. Accordingly, to terminate wastewater service without using water service termination will require that the laterals be dug out and plugged. Such excavations are costly and time consuming. Furthermore, plugging of such laterals and preventing wastewater flows to treatment plants also raises public health concerns.

c. The difficulty and impracticality of excavating and plugging a wastewater service lateral increases in situations involving apartments and similar housing. Although the individual units may be separately metered for water service and also may have a separate water service cut off valve for each unit, the wastewater from all of the units often flows into a single lateral. A utility company could not plug this single lateral without stopping the wastewater flows from all of the apartment units, including the apartment units of the customers who are not delinquent in their payments.

d. The Agreement will provide United Water Florida with the practical and economic option of using the termination of water service for its delinquent wastewater customers who receive water service from the City.

e. Unless the Commission grants a variance or waiver to United Water Florida and approves the Agreement, the City's use of its legislatively granted power under Section

159.18(2), Florida Statutes (1995), to enter into contracts like the Agreement will be null and ineffective.

f. It is an unfair result for a customer to be able to avoid paying its wastewater bills and for a utility company to be denied payment for its wastewater service merely because another service provider provides the water service to the customer. If the customer received its water and wastewater service from a single provider, the customer would not be able to avoid paying for wastewater service without having its water service terminated and a utility company providing wastewater service could enforce its rights for payment effectively.

g. If United Water Florida does not have an economical or practical method to terminate its wastewater service to delinquent customers who receive water service from the City, then United Water Florida's bad debt expense will be adversely effected. United Water Florida's customers who pay timely may have to pay higher rates because of such increased bad debt expense.

h. The Commission has already acknowledged this type of problem and previously approved an agreement allowing the termination of water service by a Commission regulated utility for non payment of municipal wastewater charges. See Order No. PSC-97-1362-FOF-WU.

13. Rule 25-30.320, FAC, is implementing Sections 367.081 and 367.121 of the Florida Statutes. Granting the waiver or variance

will promote the purpose of such statutes. Denying the waiver or variance would frustrate the purpose of such statutes. Section 367.081, Florida Statutes (1995), provides, in part, as follows:

(2)(a) The Commission shall ... fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. In every proceeding, the Commission shall consider the value and quality of the service and the cost of providing the service. . .

...

(3) The Commission, in fixing rates, may determine the prudent cost of providing service during the period of time the rates will be in effect following the entry of a final order relating to the rate request of the utility and may use such costs to determine the revenue requirements that will allow the utility to earn a fair rate of return on its rate base.

Section 367.121, Florida Statutes (1995), provides, in part, as follows:

(1) In the exercise of its jurisdiction, the commission shall have power:
(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and to prescribe service rules to be observed by each utility....

Pursuant to Sections 367.081 and 367.121, Florida Statutes, the Commission sets rates for utility service which are fair, just, reasonable, compensatory and not unfairly discriminating. The Commission established revenue requirements and fixed rates for United Water Florida in Docket No. 960451-WS. Granting the variance or waiver, approving the Agreement, and adopting the proposed tariff sheets will promote the achievement of the purpose of the implementing statutes by allowing United Water Florida to

collect such rates by using the normal leverage of water service termination for delinquency in payments through its mutual termination arrangement with the City.

Request for Relief

14. WHEREFORE, United Water Florida requests that the Commission:

- (a) Grant the waiver or variance;
- (b) Approve the Agreement; and
- (c) Adopt the tariff sheets attached as Exhibit B.

Dated this 22nd day of January, 1998.

Respectfully submitted,

MARTIN, ADE, BIRCHFIELD &
MICKLER, P.A.

By: 

James L. Ade
Florida Bar No. 0000460
Scott G. Schildberg
Florida Bar No. 0613990
3000 Independent Square
Jacksonville, FL 32202
Telephone: (904) 354-2050

Attorneys for United Water
Florida Inc.

Certificate of Service

I HEREBY CERTIFY that the original and seven copies of the United Water Florida Inc.'s Application for Tariff Revision and Petition for Waiver of or Variance from Rule 25-30.320(2)(g) has been furnished by U.S. Mail this 22nd day of January, 1998, to Blanca Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and a copy of the foregoing has been furnished to Carroll Webb, Executive Director and General Counsel, Joint Administrative Procedures Committee, The Holland Building, Room 120, Tallahassee, Florida 32399-1300, by U.S. Mail, this 22nd day of January, 1998.



Attorney

AGREEMENT BETWEEN THE CITY OF JACKSONVILLE
AND
UNITED WATER FLORIDA INC.
CONCERNING TERMINATION OF WATER SERVICE

THIS AGREEMENT, dated the 27th day of May, 1997, by and between the City of Jacksonville ("City") and United Water Florida Inc ("UWFL"),

WITNESSETH:

WHEREAS, both the City Public Utilities Department ("Department") and UWFL independently provide water service in certain areas of Duval County; and

WHEREAS, in certain instances, customers receiving water and sewer service from the two different utilities pay only the water bill and not the sewer service bill; and

WHEREAS, City and UWFL have recognized that termination of sewer service alone is extremely expensive and impractical, in that sewer lines to customers typically do not have cut-off valves, thus necessitating that the sewer line be dug out and plugged, with associated disruption of the activities of the general public; and

WHEREAS, in recognition of the situation described above, the City has enacted Section 35 of City Ordinance 96-421-273, which provides authorization for the Department to execute an agreement with second party utility companies providing for the termination of water service for customers who do not pay the amounts due for sewer service,

NOW, THEREFORE, the City and UWFL hereby agree as follows:

1. In cases in which the sewer service provider determines that service to a customer should be discontinued, in accordance with applicable laws and regulations, the sewer service provider shall provide the customer with notice and reasonable time to comply with any rule or remedy any deficiency, as required by law.
2. If after such reasonable time or other period as may be required by law, the customer has not complied with the relevant rule or

remedied the deficiency, the sewer service provider shall make a written request to the water service provider to terminate water service to the premises in accordance with Section 35 of City Ordinance 96-421-273.

3. Upon receipt of the written termination request from the sewer service provider, the water service provider shall provide written notice to the customer that water service to the premises will be terminated unless the customer pays the outstanding sewer charges to the sewer service provider. City and UWFL shall develop a mutually agreeable form of notice of termination to be used by either as a water service provider when terminating water service for nonpayment of sewer charges. The water service provider shall comply with all otherwise applicable rules and regulations with regard to terminating water service. Water service terminations pursuant to this Agreement shall not take place between 12:00 noon on a Friday and 8:00 a.m. on a Monday, or between 12:00 noon on the day preceding a public holiday and 8:00 a.m. on the next working day. Termination of water service to a customer's premises shall not take place until one billing cycle following the notification by City to customer of the termination of water service. The notice shall indicate that the sewer charges are to be paid directly to the sewer service provider and shall include the sewer service provider's and the water service provider's customer service telephone number and address, as well as the telephone number of the Florida Public Service Commission.
4. The water service provider shall provide additional notice when necessary to comply with its standard customer service procedures for special accounts, including without limitation, procedures dealing with accounts involving medical or emergency facilities, and third party notification.
5. If the customer advises the water service provider that the customer has a good faith dispute with the sewer service provider pertaining to the sewer charges at issue, the water service provider shall not terminate water service to the customer unless advised by the sewer service provider that the dispute has been resolved by the Florida Public Service Commission or other body having jurisdiction over the matter in favor of the sewer service provider.


6. If the customer advises the water service provider that a payment to the sewer service provider has been made, the water service provider shall contact the sewer service provider by telephone to verify whether payment has been made.
7. Upon receipt of full payment of the outstanding amount of sewer charges, or other resolution of the dispute, the sewer service provider shall advise the water service provider that its request to terminate water service is no longer applicable or, if service has been terminated, it should be restored.
8. Upon receipt of such notice, the water service provider shall promptly discontinue its termination procedures regarding the customer's premises or within a reasonable time restore water service to the premises, as the case may be. The foregoing shall not affect the water service provider's right to terminate service, in accordance with its standard procedures, if the customer's account with the water service provider is delinquent or the customer is otherwise not eligible for continued or restored water service by the water service provider.
9. Customer shall be responsible to the water service provider for any disconnection and reconnection charges, if any, associated with the interruption of water service by the water service provider associated with the nonpayment of sewer charges to the sewer service provider or other grounds for termination of sewer service by the sewer service provider.
10. Subject to the limitations of Florida Statutes Section 768.28, each party hereby holds the other, together with its agents and employees, harmless from any claims or causes of action by third parties resulting out of this Agreement, except to the extent such claims or causes of action arise from the negligence or willful misconduct of the other party, or its agents or employees.
11. It is the intent of both parties that this Agreement operate to afford the customers of the City and UWFL the notifications and opportunity to remedy deficiencies, as required by the standard procedures and/or regulations of the City and UWFL.
12. Either party may terminate this Agreement upon thirty days' written notice to the other.

13. The parties understand that the implementation of this Agreement will require close cooperation and agree to work together to resolve disputes and problems that may arise.
14. This Agreement will become effective upon the date of a final order of the Florida Public Service Commission approving this Agreement. UWFL hereby agrees to use its best efforts to secure regulatory approval of this Agreement by the Florida Public Service Commission..
15. This Agreement may be amended only by a writing signed by both parties.
16. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 27 day of May, 1997.

ATTEST:

CITY OF JACKSONVILLE,
a municipal corporation



Corporation Secretary

By: 

Mayor

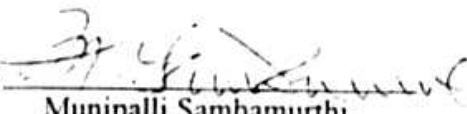
FORM APPROVED

ASSISTANT COUNSEL

WITNESSES:

UNITED WATER FLORIDA INC.

Shannon J. Smith (sign)
Shannon J. Smith (print)

By: 

Munipalli Sambamurthi,
Vice President and General
Manager

David B. deNagy (sign)
David B. deNagy (print)

WATER TARIFF

(Continued From Sheet No. 13.0)

- 25.0 ADJUSTMENT OF BILLS FOR METER ERROR - When meter tests are made by the Commission or by the Company, the accuracy of registration of the meter and its performance shall conform with Rule 25-30.262, Florida Administrative Code and any adjustment of a bill due to a meter found to be in error as a result of any meter test performed whether for unauthorized use or for a meter found to be fast, slow, non-registering, or partially registering, shall conform with Rule 25-30.340, Florida Administrative Code.
- 26.0 METER ACCURACY REQUIREMENTS - All meters used for measuring quantity of water delivered to a customer shall be in good mechanical condition and shall be adequate in size and design for the type of service which they measure. Before being installed for the rendering of water service to a customer, every water meter, whether new, repaired, or removed from service for any cause, shall be adjusted to register within prescribed accuracy limits as set forth in Rule 25-30.262, Florida Administrative Code.
- 27.0 FILING OF CONTRACTS - Whenever a Developer Agreement or Contract, Guaranteed Revenue Contract, or Special Contract or Agreement is entered into by the Company for the sale of its product or services in a manner not specifically covered by its Rules and Regulations or approved Rate Schedules, a copy of such contracts or agreements shall be filed with the Commission prior to its execution in accordance with Rule 25-9.034 and Rule 25-30.550, Florida Administrative Code. If such contracts or agreements are approved by the Commission, a confirmed copy shall be placed on file with the Commission prior to its effective date.
- 28.0 ONE TYPE OF SERVICE PROVIDED BY THE CITY OF JACKSONVILLE AND OTHER BY THE COMPANY - TERMINATION - In addition to other grounds for refusal or termination of service, the Company may discontinue water service to a customer which has not paid its wastewater bill from the City of Jacksonville, the Jacksonville Electric Authority, or their successor ("JEA") or cause the JEA to discontinue water service to a JEA water service customer which has not paid its wastewater bill from the Company.

Effective

Munipalli Sambamurthi
Vice President

WASTEWATER TARIFF

(Continued From Sheet No. 13.0)

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WATER TARIFF

(Continued From Sheet No. 13.0)

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Effective

Original

Munipalli Sambamurthi
Vice President

WASTEWATER TARIFF

(Continued From Sheet No. 13.0)

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Effective

Munipalli Sambamurthi
Vice President