

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water)
and wastewater rates in Alachua, Brevard,)
Highlands, Lake, Lee, Marion, Orange,)
Palm Beach, Pasco, Polk, Putnam,)
Seminole, Sumter, Volusia and Washington)
Counties by Aqua Utilities Florida, Inc.)
_____)

DOCKET NO. 060368-WS

April 18, 2007

**CITIZEN'S RESPONSE TO AQUA UTILITIES FLORIDA, INC.'S
OBJECTIONS TO OPC'S FIRST SET OF INTERROGATORIES
(NOS. 1-43) AND FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS (NOS. 1-45)**

Pursuant to § 350.0611 (1), Florida Statutes, Rule 28-106.206, Florida Administrative Code and Rule 1.350, Florida Rules of Civil Procedure, the Citizens of the State of Florida ("Citizens"), by and through their undersigned attorney with the Office of Public Counsel ("OPC"), hereby responds to Aqua Utilities Florida, Inc.'s ("Aqua", "AUF", "Utility" or "Company") objections to OPC's first set of interrogatories (Nos. 1-43) and first request for production of documents (Nos. 1-45).

For ease of disposition, OPC has arranged AUF's objections into categories that will allow the Commission to address like or identical objections for applicable Interrogatories and Requests for Production of Documents (PODs) simultaneously.

A. Interrogatories

Witness Objection

Int. No. 1: For each interrogatory response, indicate the witness who will sponsor the response and be able to answer cross-examination questions concerning the response.

Objection: AUF objects to the extent this interrogatory implies that the individual or individuals sponsoring the response to a particular interrogatory will be appearing as witnesses in this proceeding or otherwise encroaches on AUF's work product privilege in the preparation for the final hearing in this matter. Subject to

and without waiving this objection, in response to this Interrogatory No. 1, AUF will provide the name(s) to the individual(s) who provided the response to each interrogatory.

OPC Response: To the extent that AUF knows the witness able to answer questions on the subject matter of the interrogatory, the Company should be required to provide the name of the witness. If there will be no witness at the hearing, the Company should be required to so state, such that OPC can further explore how questions about discovery responses can be resolved, or subpoena persons that can testify on the subject matter of the discovery responses. There have been situations where there is no witness able to answer questions about responses to interrogatories, or where the witness most able to respond to the question has been excused. OPC's interrogatory is designed to avoid these complications which leave the record incomplete. The Commission should overrule AUF's objection and require that the Interrogatory be answered as set forth above.

Time Period and Aqua Ownership Objections

AUF objected to the following interrogatories on the grounds that it should only be required to provide information only for the time period in which AUF owned these systems. AUF's objection to the following interrogatories is:

Objection: AUF objects on the grounds that this interrogatory is overbroad. AUF clarifies that it purchased AquaSource Utility, Inc. ("AquaSource") in 2003 and Florida Water Services Corporation ("Florida Water") in 2004 and should only need to provide information for the time period in which AUF owned these systems.

As addressed below, AUF's objection is without merit.

Int. No. 2: By system, separated between water and wastewater, please list all legal expenses included in the test years (historic, intermediate, and projected), the actual year ending 2006, and the preceding three years, please provide the following:

Int. No. 5: State the amount of storm damage recovery expenses included in each of the test years (historic, intermediate, and projected), and the amount actually incurred during 2002, 2003, 2004, 2005, and 2006.

Int. No. 6: By system, for any and all transfers and/or sales of parcels of land or assets to or from the Company's utility operations from non-related or related parties (former or present: parent company, affiliated company, or greater than 5% owners), please provide for the last five years:

Int. No. 12: By system, for each month of the years 2003 through December 2006, and each month of 2007 to-date, and as projected for the years 2008 and 2009, please provide, by customer class, the monthly amount of water sold, water treated, wastewater sold, wastewater treated, the number of water customers, and the number of wastewater customers by customer class.

Int. No. 31: For each system, please provide a schedule similar to page 2 of B-6, stating the amount of expense allocated or directly charged to the system by each affiliate for the test years (historic, intermediate, and projected) and the proceeding two years.

Int. No. 36: For each system, please provide a schedule comparable to page 1 of B-6, for the years 2001-2004.

Int. No. 40: Insurance (a-d):

- a. Please state the amount of D&O insurance expense included in test years (historic, intermediate, and projected) expenses, and the previous two calendar years, by system.
- b. Please state the persons names and titles that are insured by the D&O insurance expense identified in response to (a).
- c. Please state the amount of directors and officers' life insurance expense included in test years (historic, intermediate, and projected) expenses, and the previous two calendar years, by system.
- d. Identify all other insurance carried by Aqua America, Inc., which is associated with the directors, officers, and/or owners of Aqua America, Inc.

Int. No. 42: Identify all systems that were acquired by Aqua or any of its affiliates between December, 2002 and March, 2007. For each system, state the following:

the date of acquisition, the water and wastewater rate base of the facilities, the number of water customers, the number of wastewater customers, the number of other customers, the water revenue, and the wastewater revenue.

OPC Response: There is no rule or regulation of the Commission that would prevent the Company from disclosing historical financial information of its operations merely because the water and sewer systems were recently purchased by AUF. It is typical that when a regulated water/wastewater utility is purchased by another company, the books and records of the system are transferred to the purchasing utility. To do otherwise would be imprudent on the part of the purchasing utility. When AUF purchased the systems, it became the custodian of the records possessed by those systems.

Moreover, the Commission routinely processes rate cases for utility companies that have been purchased or acquired by other regulated utilities. To the best of OPC's knowledge, absent extraordinary circumstances, the Commission has not permitted the acquiring utility to refuse to produce financial information or documents merely because certain companies or systems were acquisitions.

The Commission has always found historical information to be an important part of its evaluation of the reasonableness of future projections. One need only to look to the MFRs required by the Commission to see the significance that the Commission places on historical information and to also ascertain that such information is available to the Company. For example, MFR Schedule A-4 for the Arrendo Estates/Farms system contains annual balances of additions and retirements to rate base since 1995—the date rate base was last established by

the Commission. Obviously, the Company has data for this system back to the year 1995—far beyond the time period requested by OPC. Similarly, MFR Schedule B-7 for the Arrenondo Estates/Farms system contains comparative operation and maintenance expenses for the historical year 2000 compared to 2005. Again, it is clear that historical data for this system, as well as most, if not all, of the other systems in the instant rate application is available.

AUF did not object to these interrogatories on the basis of relevancy. Rather, its objection was that it should provide information only for the time period in which AUF owned these systems. If the Commission were to accept such a hollow objection, it would send the inappropriate signal to utilities that they do not need to acquire or maintain the books and records of the companies that they purchase. Moreover, it would prevent OPC and the Commission from thoroughly examining the investment and expenses upon which the Company's rate request is founded.

For all of the reasons state above, the Commission should overrule the Company's objection and order that the information requested be provided.

Requests for Clarification

Int. No. 10: Please state the year in which the Company expects each of its water and wastewater territory(ies) to be built out.

Objection: AUF objects on the grounds that this interrogatory is vague and ambiguous and requests clarification regarding OPC's use of the terms "built out."

OPC Response: The term "built out" refers to when a water and/or wastewater system's territory will no longer add customers due to all (or the vast majority of)

lots being served, and there is no potential for expansion. "Built out" is a term that has been used repeatedly by this Commission and its staff, and, in fact, by utilities that are regulated by the Commission.

Int. No 15: By system, please provide a depreciation schedule by plant account as of December 31, 2006 (i.e., Plant and Accumulated Depreciation at December 31, 2005 showing additions, deletions and balance at December 31, 2006).

Objection: AUF requests clarification that this request is limited to actual data.

OPC Response: OPC states that the request is limited to actual data.

Int. No. 16: By system, please provide a listing of CIAC, by project or work order number, for water and wastewater operations for the year ending December 31, 2005, the year ending December 31, 2006 and for each month of 2007. Also indicate the respective accumulated amortization. For the five largest CIAC contributions in each year, please provide: the billing with an explanation of how the bill was determined, and the charges to the Company for the work being billed with an explanation as to how the charges were determined.

Objection: AUF requests clarification that this request is limited to actual data.

OPC Response: OPC states that the request is limited to actual data.

Int. No 21 (f): Please explain where, on which company's account records, the costs associated with performing the contract operator services are booked and explain why, if applicable, it is appropriate not to allocate these costs to the systems identified in response to (a).

Objection: AUF requests clarification that this request is limited to test year data.

OPC Response: OPC states that the request is limited to test year data, including projected test year data, where applicable.

Int. No. 25: With respect to costs allocated to the Company by Aqua Services, Inc., please provide the following information for 2004, 2005, actual 2006, and as projected for 2006 and 2007: the total dollars by NARUC account number and name to which an allocation factor is applied; the allocation factor applied to each account; the calculation of the allocation factor including the numerator for each company that is allocated a portion of the cost and the denominator of the allocation factor; and a description of the allocation factor. Provide the requested information in electronic spreadsheet format with all formulas and links intact.

Objection: AUF clarifies that Aqua Services does not allocate costs based on NARUC account numbers, but will provide the information in the format used by the Company.

OPC Response: OPC states that the Company's offer of information is acceptable, but requests that the Company provide a cross-reference or reconciliation between the NARUC account numbers and the account numbers used by the Company if possible.

Int. No. 29: Please describe all water and wastewater consulting and management services provided by Aqua America, Inc., or its affiliates, and identify the companies these services are provided to.

Objection: AUF asserts that the interrogatory is vague and ambiguous and requests clarification regarding the particular information requested.

OPC Response: OPC clarifies its request as follows: "Please describe all water and wastewater consulting and management services provided by Aqua America, Inc. (or its affiliates), to unaffiliated companies. In each instance where Aqua America, Inc. or its affiliates provides these services, please identify the companies to which these services are provided." OPC seeks only to determine if Aqua America, Inc. or any of its affiliates are providing consulting or management services to unaffiliated companies.

B. OPC's First Request for Production

Requests for Clarification

Document Request No. 4: Please provide copies of current resumes or curriculum vitae of all expert witnesses who may be called at the final hearing in this case.

Objection: AUF requests clarification that copies of current resumes or curriculum vitae are requested in addition to information filed within the expert witnesses' testimony.

OPC Response: Yes, current resumes or curriculum vitae to the extent they differ from the information filed with the testimony should be provided in response to this production of documents.

Document Request No. 5: Please provide a copy of the December 31, 2005, and December 31, 2006, trial balance, in the most detailed format available, for the water and wastewater operations of the Company. This would include a balance sheet and the income and expenses for the twelve months ended December 31, 2005, and December 31, 2006. Please provide the monthly trial balances for each month of 2007 that is available. Please provide the requested documents in electronic spreadsheet format (if applicable) with all formulas and linked spreadsheets intact.

Objection: AUF objects to this document request on the grounds that it is vague and ambiguous and requests clarification that the document request is limited only to AUF.

OPC Response: Yes, the requested information is only for AUF. Having clarified this request, the Company should provide a response.

Document Request No. 17: Please provide a copy of the Company's most recent Operation and Maintenance Performance Report and Capacity Analysis Report for the wastewater plants involved in this docket.

Objection: AUF requests clarification as to the specific documents requested by OPC under this document request.

OPC Response: The Operation Maintenance Performance Report is the same as defined in DEP Rule 62-600.720 Operation and Maintenance Manual. The

Capacity Analysis Report is the same Capacity Analysis Report as required by DEP Rule 62-555.348.

Document Request No. 18: Please provide a copy of any appraisals of property purchased by the Company since the last rate case for each of the systems in this docket that involved an affiliated party.

Objection: AUF objects to this document request on the grounds that it is vague and ambiguous. Depending on what is intended by this question, AUF reserves an objection to this document request on the ground that the information sought is not reasonably calculated to lead to admissible evidence. AUF requests clarification of OPC's use of the terms or phrases "Company," "since the last rate case," and "that involved an affiliated party."

OPC Response: "Company" refers to AUF and its predecessors, including each water and wastewater system. "Since the last rate case" means the time period since the Commission last established rates, through the rate case process, for AUF and its predecessors, including each water and wastewater system. "That involved an affiliated party" is designed to obtain the requested information only in situations where property was purchased from an affiliated party, which is defined in the instructions to these PODs as "any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with Aqua Utility Florida, Inc., or shares a 5% or greater common ownership."

Document Request No. 26: Please provide all correspondence between the Company and its consultants, its lawyers, and Aqua America, Inc., for the services shown on Schedule B-10. This would include but not be limited to engagement letters, RFPs, responses to RFPs, etc.

Objection: AUF objects and requests clarification regarding the particular documents requested in connection with Schedule B-10 services; AUF objects to

the provision of any documents protected by the attorney-client or work product privileges.

OPC Response: OPC does not seek attorney-client or work product documents, but requests that if such an objection is made, a privilege log should be provided such that OPC can evaluate the claims made to that effect. The particular documents requested include, but are not limited to engagement letters, RFPs, responses to RFPs, letters, memoranda or e-mails on the subject matter of the instant rate proceeding and, spreadsheets on the subject matter of the instant rate proceeding that have been exchanged between the Company, its consultants, its lawyers, and Aqua America, Inc., for the services shown on Schedule B-10.

Document Request No. 29: Please provide each and every document containing all materials, supply and service cost studies, and other cost information you have used or intend to use for comparison and analysis of the materials and supply and service costs charged to or incurred by the Company. Your response to this request should include, but it is not limited to, any and all documents that describe the items of materials, supplies and services, and the sources of such studies and other information.

Objection: AUF objects on the grounds that this interrogatory is vague and ambiguous. AUF requests clarification of the documents sought by OPC under this request.

OPC Response: OPC clarifies its request as follows: To the extent the Company has used or intends to use comparative data to support the cost of materials, supplies, and services included in the instant rate case, OPC requests that all comparative data and studies be provided in response to this POD.

Document Request No. 30: Please provide each and every document related to cost allocation guidelines and related studies utilized or relied on for comparison with or analysis of cost allocation practices affecting the Company in this proceeding.

Objection: AUF objects on the grounds that this interrogatory is vague and ambiguous. AUF requests clarification of the documents sought by OPC under this request.

OPC Response: OPC clarifies its request as follows: To the extent the Company has used or intends to use cost allocation guidelines or other studies or comparisons to support the reasonableness of the cost allocation procedures and results presented in the instant proceeding, these documents should be produced in response to this POD.

Document Request No. 40: Please provide the minutes of any business development or acquisition committee meetings conducted during the last 18 months.

Objection: AUF objects on the grounds that this document request is not reasonably calculated to lead to admissible evidence and requests information that constitutes proprietary confidential business information.

OPC Response: The requested business development or acquisition committee meetings are relevant and likely to lead to admissible evidence. The parent company of AUF is in the business of buying, selling, owning and operating water and wastewater systems across the United States. Costs related to the parent and/or the affiliated service company are charged to AUF. These charges are believed to be allocated¹ to the Company and are a function of the number of water and wastewater systems owned by the parent company, Aqua America, Inc. To the extent that Aqua America, Inc. is on the verge of, or has acquired a new system, this information and related information would be revealed in the documents requested in this POD. Clearly, if the Company's projections are inconsistent with or different from the information revealed through the

¹ OPC has discovery outstanding on the issue of how costs from the Parent company and Service company are charged and/or allocated to the AUF and its sister regulated water and sewer companies.

documents responsive to this POD, OPC would utilize this information in the presentation of its case and make appropriate adjustments.

Concerning the claim of confidentiality, this can be resolved with a protective agreement.

Document Request No. 42: Please provide all memos, reports, meeting minutes, and other documents prepared by or for Aqua America, Inc. concerning the sale and or purchase of any water or wastewater systems in Florida since 2002.

Objection: AUF objects on the grounds that this interrogatory is overbroad, vague and ambiguous, and is not reasonably calculated to lead to admissible evidence.

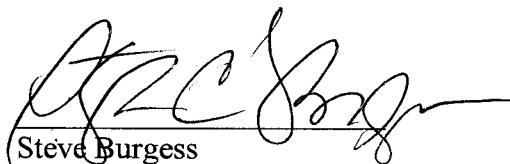
OPC Response: OPC does not believe that this POD is overbroad, vague and ambiguous, or not reasonably calculated to lead to admissible evidence. To the contrary, the information sought in this POD is extremely relevant to this case. The parent company of AUF is in the business of buying, selling, owning and operating water and wastewater systems across the United States. Costs related to the Parent and/or the affiliated service company are charged to AUF. These charges are believed to be allocated² to the Company and are a function of the number of water and wastewater systems owned by the parent company, Aqua America, Inc. To the extent that Aqua America, Inc. is on the verge or has acquired a new system, this information and related information would be revealed in the documents requested in this POD. Clearly, if the Company's projections are inconsistent or different from the information revealed through the

² OPC has discovery outstanding on the issue of how costs from the Parent company and Service company are charged and/or allocated to the AUF and its sister regulated water and sewer companies.

documents responsive to this POD, OPC would utilize this information in the presentation of its case and make appropriate adjustments.

In addition, the time period of this request would include the period where Aqua America, Inc. was in the process of buying the current AUF systems. Information in these minutes could reveal information about the terms and conditions of the sale that are not oblivious from the Purchase and Sale agreement, but could affect the terms of the investment and costs that make up the current rate request. For these reasons, the documents sought by OPC are relevant and likely to lead to admissible evidence. The Commission should dismiss the Company's objection and order the documents to be produced.

Respectfully submitted this 18th day of April, 2007.



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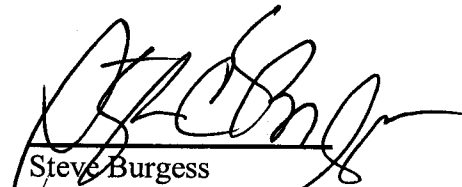
CERTIFICATE OF SERVICE
DOCKET NO. 060368-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizen's Response to Aqua Utilities Florida, Inc.'s Objections To OPC's First Set Of Interrogatories (Nos. 1-43) And First Request For Production Of Documents (Nos. 1-45) has been furnished by electronic mail and U.S. Mail to the following parties on this 18th day of April, 2007.

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