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DOCKET NO.: 060368-WS - 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.

WITNESS: Direct Testimony of Frank L. Fulghum III, Appearing on Behalf of the Staff of the Florida Public Service Commission.

DATE FILED: August 21, 2007

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DIRECT TESTIMONY OF FRANK L. FULGHUM III

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- 2 Q. Please state your name and business address.
- 3 A. Frank L. Fulghum III. Florida Department of Environmental Protection, 13051 North
4 Telecom Parkway , Tampa, Florida 33637.
- 5 Q. Please state a brief description of your educational background and experience.
- 6 A. I have a BA in Chemistry from the University of South Florida (USF). I am currently
7 enrolled in the Master of Engineering program at USF. I have been with the
8 Department since March 1, 2004 and have worked in both the Potable Water and
9 Domestic Wastewater Sections.
- 10 Q. By whom are you presently employed?
- 11 A. Florida Department of Environmental Protection (FDEP)
- 12 Q. How long have you been employed with the FDEP and in what capacity?
- 13 A. .I have been with the Department since March 1, 2004 and have worked in both the
14 Potable Water and Domestic Wastewater Sections.
- 15 Q. What are your general responsibilities at the FDEP?
- 16 A. My main responsibilities are to regulate domestic wastewater treatment facilities
17 (WWTFs) and potable water facilities through compliance and enforcement actions.
18 Each facility is inspected yearly, and a report is submitted to the permittee from that
19 inspection and file review of the facility and Department records.
- 20 Q. Are you familiar with Aqua Utilities Florida, Inc.'s (utility) wastewater systems in
21 Marion, Pasco, Polk and Sumter Counties, and the wastewater treatment systems in
22 Pasco County, including Jasmine Lakes, Palm Terrace, and Zephyr Shores, the
23 wastewater treatment systems in Polk County, including Lake Gibson Estates, Rosalie
24 Oaks and Village Water.
- 25 A. Yes, my responsibilities in the Domestic Wastewater Section included the regulatory

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1 oversight of Rosalie Oaks and Village Water WWTFs in Polk County. Lake Gibson
2 Estates does not have a WWTF and is only a collection system that flows to a Polk
3 County Utilities WWTF. The Department does not routinely inspect collection
4 systems.

5 Q. Does the utility have appropriate current permits from the FDEP?

6 A. No, Village Water's application to renew the permit was denied on September 15,
7 2006. Aqua Utilities failed to petition the denial. Village Water has been operating
8 without a permit since October 4, 2006 and is currently operating without a permit.
9 The Rosalie Oaks permit will expire on March 8, 2010. The Lake Gibson collection
10 system is not permitted, as the Department does not issue operating permits for
11 sanitary sewer collection systems.

12 Q. Please state the issuance date and the expiration date of any construction permits.

13 A. The Village Waters permit was issued January 23, 2001, and expired January 22, 2006.
14 It was administratively continued by the timely submittal of an application to renew
15 the permit. The application was denied on September 15, 2006, and since Aqua
16 Utilities did not petition the denial, it became effective on October 4, 2006. Rosalie
17 Oaks Permit Number FLA011045 was issued on March 9, 2005 and will expire on
18 March 8, 2010. Lake Gibson collection system does not require a permit.

19 Q. Is the utility in compliance with its permits?

20 A. Village Water has no current permit, which makes the facility significantly out of
21 compliance. Rosalie Oaks appears to be in compliance with the permitted effluent
22 quality and disposal.

23 Q. Are the wastewater collection, treatment and disposal facilities adequate to serve
24 present customers based on permitted capacity?

25 A. Rosalie Oaks had inflow and infiltration in the collection system that they have

1 repaired. Recent monitoring data shows the facility flows are below the permitted
2 limit.

3 Aqua Utilities has not provided reasonable assurances that the disposal system is
4 adequate to handle the design flow of the facility. A spray field that was part of the
5 disposal system was sold to Southwest Florida Water Management District,
6 (SWFWMD), who will not allow the disposal of effluent on their property. The
7 effluent disposal ponds for Village Waters WWTF are significantly out of compliance,
8 due to inadequate operation and maintenance. No comment on the Lake Gibson
9 collection system.

10 Q. Has FDEP required the utility to take any action so as to minimize possible adverse
11 effects resulting from odors, noise, aerosol drift or lighting?

12 A. No on all.

13 Q. Do pump stations and lift stations meet FDEP requirements with respect to location,
14 reliability and safety?

15 A. No comment. I am unable to present testimony on this because the Department lacks
16 staff to inspect all lift stations within a given service area.

17 Q. Does the utility have certified operators as required by Chapter 62-602, Florida
18 Administrative Code?

19 A. Yes.

20 Q. Is the overall maintenance of the treatment, collection, and disposal facilities
21 satisfactory?

22 A. No. Village Water WWTF is significantly out of compliance, due to reasons iterated
23 above.

24 Q. Does the utility meet all applicable technology based effluent limitations (TBELS) and
25 water quality based effluent limitations (WQBELS)?

1 A. Yes.

2 Q. Does the facility meet the effluent disposal requirements of Rules 62-611 and 62-
3 600.530, Florida Administrative Code?

4 A. No, Village Water's disposal system is significantly out of compliance.

5 Q. Are the collection, treatment and disposal facilities in compliance with all other
6 provisions of Chapter 62, Florida Administrative Code, not previously mentioned?

7 A. No. Village Water is in violation of Rules 62-600, 62-610, and 62-620, FAC. Village
8 Water was served with a Notice of Violation for operating without a permit and
9 problems with its disposal system.

10 Q. Has the utility been the subject of any FDEP enforcement action within the past two
11 years?

12 A. Yes, Village Water is under enforcement for operating without a permit, and a Notice
13 of Violation (NOV) was issued March 23, 2007. To my knowledge, the Lake Gibson
14 collection system has had no complaints or no reported sanitary sewer overflows.

15 Q. Do you have anything further to add?

16 A. A meeting was held on May 31, 2007 to discuss the NOV for Village Waters WWTF.
17 Meetings have been held as recently as August 6, 2007 to enter a settlement with the
18 NOV between Aqua and the Department. To date, Aqua Utilities has not submitted an
19 application after the issuance of the NOV to permit this facility.

20 Q. Does this conclude your testimony?

21 A. Yes.

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BEFORE THE 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

DATED: AUGUST 21, 2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the DIRECT TESTIMONY OF FRANK L. FULGHUM III has been served by U.S. Mail to Kenneth A. Hoffman and Marsha E. Rule, Esquires, Rutledge, Ecenia, Purnell & Hoffman, P. A., P.O. Box 551, Tallahassee, FL 32302-0551, on behalf of AQUA UTILITIES FLORIDA, INC., and that a true and correct copy thereof has been furnished to the following by U. S. Mail, this 21st day of August, 2007:

Stephen Burgess & Stephen Reilly, Esquires
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Cecilia Bradley, Esquire
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050



ROSANNE GERVASI
SENIOR ATTORNEY
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
(850) 413-6224