

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water/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
ORDER NO. PSC-11-0484-PCO-WS
ISSUED: October 25, 2011

ORDER ALLOWING MEMORANDUM ON INCLUSION OF ISSUE

On September 1, 2010, Aqua Utilities Florida, Inc. (AUF or Utility) filed an application for increased rates and charges, to include revised service availability charges and an Allowance for Funds Prudently Invested (AFPI) charges for certain systems (Application). The Utility requested that the Application be processed using proposed agency action (PAA) procedures.

Based on this request, nine customer meetings were held throughout the State. Subsequent to these customer meetings, at the May 24, 2011, Commission Conference, the Commission considered staff's PAA recommendation. At this conference, the Commission allowed AUF and numerous customers to address the Commission. Also, the Office of Public Counsel (OPC) and YES Companies, LLC, d/b/a Arredondo Farms (YES), who had both been previously granted intervenor status, addressed the Commission.

Based on its vote at the May 24, 2011, Commission Conference, the Commission issued Order No. PSC-11-0256-PAA-WS (PAA Order) on June 13, 2011. OPC and Ms. Lucy Wambsgan, who had also been previously granted intervenor status, filed their timely protests of portions of the PAA Order on July 1, 2011. Ms. Wambsgan subsequently withdrew. Also, AUF and YES filed their Cross-Petitions on July 11, 2011. On July 25, 2011, by Order No. PSC-11-0309-PCO-WS the Prehearing Officer issued the Order Establishing Procedure setting the Prehearing Conference for November 8, 2011, and scheduling a technical hearing for November 29-30, and December 1, 7, and 8, 2011 (as needed).

Commission staff and the parties participated in issue identification meetings and have agreed upon a list of the issues in the docket, except one. During the issue identification meetings, the parties and staff could not reach consensus on one proposed issue. The parties and staff agreed that this proposed issue should be referred to the Prehearing Officer for determination. Accordingly, to facilitate rulings that will be necessary at the November 8, 2011, Prehearing Conference, all parties are encouraged to file a memorandum setting forth the rationale for the inclusion, exclusion, or modification of the proposed issue. The parties may be requested (but should not rely on the opportunity) to provide oral argument at the Prehearing Conference regarding any issue(s). The disputed issue is as follows:

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

Are the total operating expenses prudently incurred such that the resulting rates are affordable within the meaning and intent of fair, just, and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?

To assist the Prehearing Officer in reaching a decision on the inclusion, exclusion or modification of this issue in an efficient manner, all parties shall be permitted to file memorandum in support of their positions. Parties are encouraged to include in their memorandum all information on which they rely to support their position, including citation to Florida and US District and Supreme Court cases. Parties are notified that the Prehearing Officer may rule upon the inclusion of the proposed issue by a separate Order, prior to the Prehearing based on the memoranda filed by the parties. Such memorandum shall be filed no later than close-of-business on Friday, November 4, 2011.

This Order is issued pursuant to Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Based upon the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that the parties may file a memorandum on the issue as discussed above by November 4, 2011.

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 25th day of October, 2011.



RONALD A. BRISE

Commissioner and Prehearing Officer
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.