

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** April 23, 2008  
**TO:** Parties and Interested Persons in Docket No. 080121-WS  
**FROM:** Ann Cole, Commission Clerk - PSC, Office of Commission Clerk  
**RE:** Communications received in Docket No. 080121-WS

RECEIVED-FPSC  
 08 APR 23 PM 3:19  
 COMMISSION CLERK

Attached please find letter dated April 21, 2008, from Kenneth Hoffman representing Aqua Utilities, Inc.; letter dated April 22, 2008, from Aqua Utilities Florida, Inc. customer Kelly R. Sullivan; and April 22 and 11, 2008, emails from Aqua Utilities Florida, Inc. customer Ron McKay, which is being forwarded for your information. These communications will be filed in Docket No. 080121-WS this date.

If you have any questions, please feel free to contact me.

Enclosures

/ac

DOCUMENT NUMBER-DATE

03327 APR 23 08

FPSC-COMMISSION CLERK

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** April 22, 2008  
**TO:** Ann Cole, Commission Clerk - PSC, Office of Commission Clerk  
**FROM:** Stephen C. Larson, Executive Secretary to Commissioner Argenziano  
**RE:** Communications received in Docket No. 080121-WS

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Commissioner Argenziano's office has received the attached letters from Kenneth Hoffman representing Aqua Utilities Florida Inc., Aqua customer Kelly Sullivan, and the attached emails from Aqua customer Ron McKay. Commissioner Argenziano has not seen these documents or emails. Please file these in the appropriate docket and disseminate copies to all interested parties.

RECEIVED--FPSC  
08 APR 23 AM 8:12  
COMMISSION  
CLERK

DOCUMENT NUMBER-DATE

03327 APR 23 8

FPSC-COMMISSION CLERK

# RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

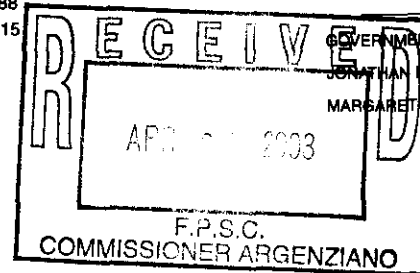
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April 21, 2008

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GOVERNMENTAL CONSULTANTS  
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## HAND DELIVERY

Honorable Matthew M. Carter, II  
Chairman  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 080121-WS; E-mail dated April 11, 2008 from Ron McKay to the Office of Public Counsel, the Attorney General's Office, the Commissioners of the Florida Public Service Commission and Rep. Sandy Adams

Dear Chairman Carter:

Our firm represents Aqua Utilities Florida, Inc. ("AUF"). AUF has filed a request for approval of a test year for the purpose of filing an Application for Rate Relief in the above-referenced docket. I was recently provided a copy of the above-referenced e-mail from Ron McKay, a customer of AUF. In his e-mail, Mr. McKay expresses his displeasure and objection to Troy Rendell's appearance, along with a number of other individuals, on behalf of AUF in a recent pre-rate case meeting convened by the Commission Staff and noticed to all parties. Mr. Rendell is a former employee of the Commission who accepted employment with AUF on January 15, 2008. Mr. McKay's correspondence questions whether Section 350.0605(2), Florida Statutes, precludes Mr. Rendell's participation on behalf of AUF in the above-referenced docket.

Mr. McKay's criticisms of Mr. Rendell's role on behalf of AUF in the instant rate case proceeding have no merit. AUF's representatives, including Mr. Rendell, bring years of experience to the rate case process and are mindful of applicable statutory standards as well as legitimate customer concerns. As evidenced by the commitments made by AUF to customer service and the demonstrated improvements, AUF has been and remains committed to maintaining the highest standards of professionalism and integrity while providing reasonably priced utility services. AUF

Honorable Matthew M. Carter, II

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April 21, 2008

has devoted substantial resources to resolve the customer service issues that were raised at the customer service hearings in the last rate case. AUF also has gone above and beyond in efforts to communicate and work with the Commission Staff and the Office of Public Counsel on customer service issues.

It was with these commitments and efforts in mind that AUF posted a position for an experienced and professional regulatory manager in Florida and was fortunate enough to find a resource like Mr. Rendell. As a part of that hiring process, AUF and Mr. Rendell conducted their respective due diligence to insure that there was no violation of any nature in connection with Mr. Rendell's decision to leave the employ of the Commission and join AUF.

Mr. McKay cites the Commission to Section 350.0605(2) which states:

Any former employee of the commission is prohibited from appearing before the commission representing any client regulated by the Public Service Commission on any matter which was pending at the time of termination and in which such former employee had participated.

Needless to say, Mr. Rendell has avoided any appearance on behalf of AUF before the Commission on any matter with which he was involved prior to his departure from the Commission. For the record, AUF will memorialize its commitment that Mr. Rendell will not appear before the Commission on any matter from AUF's previous rate case (Docket No. 060368-WS) or on any other matter in which Mr. Rendell was engaged prior to his departure from the Commission. Mr. McKay incorrectly asserts that AUF's new rate case in the above-referenced docket is the same as the prior rate case dismissed by AUF on which Mr. Rendell worked as a member of the Commission Staff. Mr. McKay's position is incorrect. While it is not unusual at all for rate cases to have similar issues such as rate base, used and useful, and rate structure, each case is a new case (and a new matter as contemplated by the statute) developed and based on a new test year, a new set of minimum filing requirements, and a new set of testimony from participating witnesses. In sum, any work performed by Mr. Rendell on behalf of AUF in the new rate case is not precluded by Section 350.0605(2), Florida Statutes.

I would also point out that Mr. Rendell began his employment with the Commission in November, 1987, and is, therefore, exempt from the post-employment restrictions under Section 112.313, Florida Statutes. Under Section 112.313(9)(a)(6)(c), such post-employment restrictions do not apply to "[a] person who was a defined employee of the ... Public Service Commission who held such employment on December 31, 1994..."

Honorable Matthew M. Carter, II  
Page 3  
April 21, 2008

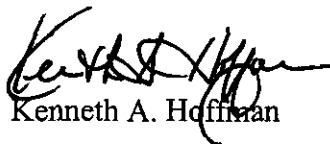
I trust that the above is responsive to the concerns raised in Mr. McKay's letter. I have provided a copy of this letter to Mr. McKay. I would ask that in the future, if Mr. McKay submits any correspondence or writing to the Commission that he provide AUF with a copy of that particular document. Mr. McKay should provide a copy to the following on behalf of AUF:

Kenneth A. Hoffman, Esq.  
ken@reuphlaw.com  
J. Stephen Menton, Esq.  
smenton@reuphlaw.com  
Marsha E. Rule, Esq.  
Marsha@reuphlaw.com  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302

Kimberly A. Joyce, Esq.  
Aqua America, Inc.  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010  
Kajoyce@aquaamerica.com

Thank you for your consideration of this response.

Sincerely,



Kenneth A. Hoffman

KAH/rl

cc: Honorable Nancy Argenziano  
Honorable Lisa Polak Edgar  
Honorable Katrina J. McMurrian  
Honorable Nathan A. Skop  
Larry Harris, Esq.  
Ms. Roberta Bass  
Lorena A. Holley, Esq.  
Bridget M. Grimsley, Esq.  
Charles Beck, Esq.  
Stephen C. Reilly, Esq.  
Cecilia Bradley, Esq.  
Kimberly A. Joyce, Esq.  
Ralph Jaeger, Esq.  
Katherine Fleming, Esq.  
Carolyn Klanche, Esq.  
Mr. Ron McKay, via e-mail

**KELLY R. SULLIVAN**  
570 Osprey Lakes Circle, Chuluota, FL 32766-6658  
*kellyrsullivan@gmail.com*

April 22, 2008

*Via e-mail*

Honorable Matthew M. Carter, II  
Chairman  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 080121-WS

Dear Chairman Carter:

This letter is in response to the April 21, 2008 correspondence by Kenneth Hoffman. The tone of Mr. Hoffman's letter suggests that Mr. McKay was somehow "out-of-bounds" by stating the obvious to the Office of Public Counsel and the Attorney General's Office; two state agencies with which Mr. McKay had experience and believed to be entrusted with the concerns of the citizens of Florida. The fact that Mr. McKay copied each of the Public Service Commissioners shows that he was being above-board with his concerns.

Mr. McKay's concerns are well founded. His message to the Public Service Commission (PSC) was not intended as a personal affront to Mr. Rendell. Ratepayers see the facts for what they are: Mr. Rendell was a long-term employee of the PSC who is now employed by Aqua Utilities. During his tenure with the PSC, Mr. Rendell's energy was devoted exclusively to reviewing applications and making recommendations to the PSC on water and wastewater issues. But for Mr. Rendell's employment with the PSC prior to December 31, 1994, his current employment appears to violate the spirit, if not the language, of the prohibition set forth in Section 350.0605(2), Fla. Stat.

Mr. Hoffman correctly states that Aqua Utilities' last effort at a rate increase carried a different docket number; however, the current docketed rate case is essentially a "do over" of that effort. The issues in the present rate case are identical or inextricably intertwined with those of last year. In point of fact, Mr. Rendell made statements over and over again at the Informal Conference held April 9, 2008 leading to that conclusion. For example, Mr. Rendell stated that the engineering reports from the last case should be used in the instant case because "nothing has changed." Most alarming were several comments where he stated, "When we looked at this issue before. . ." indicating an insider's knowledge of the PSC staff deliberations on the issue of a

consolidated rate case. He would know exactly which arguments to make and to whom to achieve Aqua's goal of a rate hike, glossing over areas of concern. Mr. McKay is right to be alarmed.

As ratepayers, we felt betrayed last year when we learned that Aqua Utility representatives were allowed to go door to door to visit with PSC staff promoting their position on the rate case in the days before the Agenda Conference when the PSC was to take up the matter of whether the case should be dismissed. It would not have occurred to us as citizens that we would be allowed to do the same. In fact, I was later told that, *most likely*, we would not have been granted this opportunity. Aqua demonstrated arrogance and over confidence that its rate case would be approved last year because it had close ties with the PSC staff. They now present the same arrogance and over confidence with this new effort. Ratepayers from across the state have complained consistently about Aqua's performance and the poor quality of water. Time and time again we find discrepancies in what they say and their actions. They claim to be reaching out to ratepayers via the mandated Town Hall meetings, yet their first one in Mt. Dora was scheduled on election night and the meeting for Chuluota was held at a time and location which made it difficult for ratepayers to attend. Fortunately, several Chuluota ratepayers were there and expressed their dissatisfaction to Aqua representatives.

For example, one street in our community (Empress) recently learned that it had not been charged for wastewater services for almost two years. How can that be? Ratepayers continue to receive bills that are way beyond the pale of accuracy. One resident present at the meeting last Thursday had a bill of \$2,700. What are the rest of us to think when we learn that bills are written off to silence the discontent? Are we paying for our neighbor's water and wastewater usage through unreasonable rates? Is it no wonder that Aqua is operating at a loss? Is that a function of rates or incompetence? And we continue to have concerns with the water quality.

The PSC's role is the exercise of the police power of the state for the protection of the public health, safety, and welfare. Clearly, Mr. Rendell's participation in the current rate case raises an appearance of impropriety. Allowing Mr. Rendell to participate in this matter undermines the public trust in the PSC. Perhaps Aqua could find a role for Mr. Rendell in any of the other states where his experience and knowledge could be put to use without the benefit of intimate details of internal deliberations by the state agency charged with regulatory responsibility.

The same logic applies to the two former employees of the Florida Department of Environmental Protection. I understand that Aqua recently negotiated a settlement to a long standing Consent Order by being allowed to skip the fine and pay themselves for an upgrade to its system. I realize this is not your issue but, for the ratepayers who do not involve ourselves in these matters for a living, it demonstrates the challenges we face.

The Office of Public Counsel was created specifically to provide representation for the people of the state in proceedings before the PSC. I say, "Hooray" for Ron McKay for raising this very important issue to that agency. I can only hope the PSC in its wisdom and sound judgment can fashion an appropriate response.

Correspondence to Honorable Matthew M. Carter, II  
April 22, 2008  
Page 3

I note that Mr. Hoffman has requested a copy of correspondence related to Docket No. 080121-WS and I will happily comply. That being said, as an Interested Party listed on the Docket prior to Mr. Hoffman's correspondence, I would appreciate the same courtesy.

Sincerely,



Kelly R. Sullivan

cc: Honorable Nancy Argenziano  
Honorable Lisa Polak Edgar  
Honorable Katrina J. McMurrin  
Honorable Nathan A. Skop  
Ralph Jaeger, Esq.  
J.R. Kelley, Esq.  
Charles Beck, Esq.  
Steve Reilly, Esq.  
Cecilia Bradley, Esq.  
Kimberly A. Joyce, Esq.  
Kenneth A. Hoffman, Esq.  
Ron McKay  
Bob Dallari, Seminole County Commissioner  
Sandra Adams, State Representative  
Kimberly Pena



## Steve Larson

---

**From:** Ron McKay [rmckay@vertiquest.com]  
**Sent:** Tuesday, April 22, 2008 2:40 PM  
**To:** REILLY.STEVE; Cecilia Bradley; Adams, Sandy; bdallari@seminolecountyfl.gov; Office of Commissioner Argenziano; Office Of Commissioner Edgar; Office of Commissioner McMurrian; Office of the Chairman; Nathan A. Skop; Charles Beck; Merkt, Diane; Steven Stolting; flaudgen@aud.state.fl.us  
**Cc:** Kelly Sullivan  
**Subject:** Aqua Utilities & former PSC employee Troy Rendell's Unethical Situation  
**Attachments:** carterltr042108-1.pdf

Dear Commissioners, Counsel and Representatives:

On April 21, 2008 I received copy of a letter written by Aqua Utilities of Florida (AUF) attorney Kenneth A. Hoffman that was in response to an email I wrote on April 11, 2008. Attached you will find my original email and Mr. Hoffman's letter for ease of reference.

Obviously, Mr. Hoffman and AUF are attempting to minimize the blatant conflict of interest and the spirit of ethics that is outlined in Title X Chapter 112 Part III of the Florida Statutes. It is clear that the intent of this statute is to prevent government employees from entering into a conflict of interest and to prevent any opportunity for biased actions against parties they are both obligated to protect and regulate. Mr. Rendell was offered employment with Aqua for the sole and intended purpose of helping them "work the system" in an effort to win the next rate case. Anyone can clearly see Aqua's intent in this matter and his date of employment certainly does not excuse nor exclude him from his ethical and public obligations.

I am requesting that the PSC disallow any involvement or content that Mr. Rendell would be contributing on Aqua Utilities behalf and used for any upcoming rate cases brought before the PSC. Mr. Rendell has had 20 years of relations with the PSC staff and he is obviously seen by his former colleagues as someone they can "trust" and "listen to". This "trust" in the eyes of PSC employees can easily be manipulated and misleading for the advantage of Aqua and at to the disadvantage of the public. I don't think the PSC wants to appear as being "biased or unfair" towards the interest of the public. The following is a quote by PSC staff recommendation on February 17, 2006 as related to Docket 041269-TP:

" The Commission Code of Ethics requires that, consistent with their role as public servants of the State of Florida, Commissioners and **Staff of the Commission shall aspire to "provide fair and impartial analyses, recommendations, and decisions regarding all Commission matters."** The Code of Ethics also clearly identifies that its purpose is "to communicate to the public that the Commissioners and **Staff of the Florida Public Service Commission are dedicated to the highest standards of professional integrity and conduct and that**, individually and collectively, we are fair and honest with all parties in all Commission-related business and professional activities."

Staff believes that the conduct of Ms. Moss has created a perception of bias and raises reasonable concerns regarding the impartiality of her analyses and recommendations addressing Issues 5 and 16-18. Additionally, her actions raise concern regarding the handling of Issues 13 and 22(b) on which she improperly communicated with a party. Staff believes the perception of bias in this case contravenes the purpose of the Commission

Code of Ethics and that the Commission should take aggressive action to ameliorate these concerns. "

How can the public feel confident that decisions being made by the PSC are truly unbiased and impartial should the PSC allow any of Mr. Rendell's work be used in it's decision making process? I am sure that if other "Aqua" communities were aware that this is happening they too would feel just as violated and outraged as I am over this issue.

**"AUF will memorialize its commitment that Mr. Rendell will not appear before the Commission on any matter from AUF's previous rate case (Docket No. 060368-WS) or on any other matter in which Mr. Rendell was engaged prior to his departure from the Commission"**

In the April 9, 2008 Informal Conference meeting, which provided the PSC staff with an overview of Aqua's case, Mr Rendell requested that documents and discovery from the 060368-WS rate case be allowed in the new rate case. Was Mr. Rendell not involved in those previous documents and discoveries? He certainly was! He specifically requested to use information from a prior case which he was personally involved in overseeing and "regulating" and have that same information be made available in the "new" case. That is clearly unethical and should not be allowed. Mr. Hoffman's letter essentially acknowledges that Mr. Rendell would be covered under the ethics prohibition except for the fact that he is exempted due to his hire date. This, at a minimum, create and appearance of impropriety for which the PSC should take aggressive actions to ameliorate.

My prior email to you was in full context of Aqua Utilities and Mr. Rendell's violation of questionable ethics. Mr. Hoffman's statement about AUF's "devotion of resources" and "customer service" has absolutely nothing to do with the context of my complaint. It is their continued campaign of subliminal messages and self-praise that is a subterfuge to convince the PSC that they deserve and are entitled to an exorbitant rate increase. Cheryl Banks suggested at the Informal Conference that AUF should consider asking for less than the statute allows when they request interim rates due to the "rate shock" that customers would experience. Chris Franklin, Aqua's senior vice president for the Southeast Region, make it abundantly clear that AUF would ask for all it is statutorily entitled to. This is just one example of the crack in the facade that Aqua cares about its ratepayers. We should expect no less from a publicly traded company which is whole-heartedly committed to its shareholders.

Aqua's actions by hiring Mr. Rendell were calculated to achieve its goal of raising rates. Their intent of pushing the ethical envelope by hiring Mr. Rendell, was to capitalize on every opportunity to "slip" through the rate process as quickly as possible. They are fully aware of the value and knowledge that Mr. Rendell possesses for having worked as staff to the PSC. Mr. Rendell has insider knowledge as well as relationships with current PSC employees. I am doing my very best to point out the fact that this is a very dangerous formula for biased favoritism and the PSC should disallow his involvement. It is a citizen's responsibility to raise these issues and concerns.

During the last rate case Aqua attempted to make a mockery of the PSC with their defiant and arrogant demeanor. They are once again doing their part to sabotage the credibility and integrity of the PSC by manipulation and unethical tactics. I ask the PSC to see this situation for what it is...wrong and unethical!

**"I would ask that in the future, if Mr. McKay submits any correspondence or writing to the Commission that he provide AUF with a copy of that particular document."**

Mr. Hoffman should be reminded that I am a citizen and a ratepayer of Chuluota. I really don't think I am required to include his legal team every time I wish to file a complaint with the PSC, write an email to the Attorney General or contact the Office of Public Counsel? These are agencies that are in place to protect and serve the interest of the public. I am merely voicing my concerns as they impact me and my community. I believe I have the right to communicate with the PSC on any matter that I believe impacts me as a rate payer. I am not a paid lobbyist nor am I a lawyer. Anything I send to the PSC is a matter of public record anyway and I assume there are processes in place as set forth in Section 350.042, Florida Statutes to ensure that Mr. Hoffman has access to public records. I am confident that Mr. Hoffman can and will eventually gain access to my writings in the same manner that my previous correspondence "just happened" to be forwarded to him.

Mr. Hoffman's letter is a sad attempt at intimidation to prevent me from writing future correspondence and raising obvious but valid objections. I am sure that Aqua would love nothing more than to have the ratepayers of Chuluota be quiet. Attempts at squelching our voice and diminishing our involvement has been on-going effort of Aqua Utilities. They know that every issue we have brought forward is legitimate and accurate. They think if they can eliminate the "interference" then they will stand a better chance of pushing their agenda through faster. The experience of the ratepayers of Chuluota with Aqua has demonstrated that they simply cannot be trusted at any level. This act of unethical behavior is just another example of their tactics and overall arrogant demeanor.

Regards,

Ron McKay  
Chuluota, Florida  
407-366-6898

----- Original Message -----

**Subject:**Unethical Situation

**Date:**Fri, 11 Apr 2008 15:33:58 -0400

**From:**Ron McKay <[rmckay@vertiquest.com](mailto:rmckay@vertiquest.com)>

**Reply-To:**[rmckay@vertiquest.com](mailto:rmckay@vertiquest.com)

**To:**REILLY.STEVE <[REILLY.STEVE@leg.state.fl.us](mailto:REILLY.STEVE@leg.state.fl.us)>, Cecilia Bradley  
<[Cecilia.Bradley@myfloridalegal.com](mailto:Cecilia.Bradley@myfloridalegal.com)>

**CC:**Adams, Sandy <[Sandy.Adams@myfloridahouse.gov](mailto:Sandy.Adams@myfloridahouse.gov)>,  
[Commissioner.Argenziano@psc.state.fl.us](mailto:Commissioner.Argenziano@psc.state.fl.us), [Commissioner.Edgar@psc.state.fl.us](mailto:Commissioner.Edgar@psc.state.fl.us),  
[Chairman@psc.state.fl.us](mailto:Chairman@psc.state.fl.us), [Commissioner.McMurrian@psc.state.fl.us](mailto:Commissioner.McMurrian@psc.state.fl.us),  
[nathan.a.skop@psc.state.fl.us](mailto:nathan.a.skop@psc.state.fl.us)

Steve & Cecilia,

I have been disturbed ever since I learned that former PSC employee Troy Rendell (as well as previous FDEP employees) decided to leave the PSC and go to work for Aqua Utilities. To me it seems very unethical for an individual that once worked in a capacity to help regulate and control a utility to now go and work for them. Troy was personally involved with the refund calculation as well as overseeing other recent aspects of this last rate case. To further my point about where Troy's priorities were while with the PSC, he made several references during the most recent April 9, 2008 Informal Conference meeting that gave the appearance of impropriety. Troy stated, "When **we** looked at this before," in the context of when **he** was on staff for PSC. The clear message was that since he knew of confidential behind the scenes discussions by PSC staff, he was reminding former colleagues of their collective agreement. This gentleman is now the face of Aqua and dealing with his former colleagues at the PSC as though he has them cornered on a position because it was discussed while he was part

4/22/2008

of the PSC staff. What is wrong with this picture? Clearly a lot!!

As a citizen of Florida, how can one feel comfortable that he remained unbiased while entertaining a job offer from Aqua Utilities? It is absolutely unethical and outrageous!! Citizens lose confidence in the one entity they are supposed to trust for protection. Yet PSC employees are allowed to go to work for the utility they regulated and use their special insight and institutional knowledge against their former colleagues and customers. This is a clear conflict of interest. I also share the same sentiment when other regulating agency employees are abandoning their authoritative roles to go work for an entity of which they previously regulated. It is very evident that Aqua wants to advance their already over-inflated rate initiative and continue ignoring their utility service obligations and responsibilities. I personally feel that Aqua Utilities will stop at nothing to gain the advantage of winning the next rate case...even if it means luring knowledgeable PSC/FDEP insiders to help them work the system. I have also learned that Aqua is seeking legislation to gain "safe harbor" from lawsuits against water contamination as if they should no longer be responsible for providing a bad product and incompetent service. Does accountability reside with anyone anymore?

Many citizens have commented about the fact that there seemed to be a few PSC employees that have come across as being too "buddy buddy" with Aqua. This has become blatantly obvious during the most recent series of calls as well as responses to citizens by PSC staff members. It seems as no coincidence that several obvious things have taken place that would help minimize or avoid citizen participation in the "all interested parties" conference calls and other scheduled meetings. Now they have a "buddy" they have known for 20 years working with Aqua. You can't tell me that after 20 years of service with the PSC that Troy will not receive any favoritism from his former colleagues. This is of great concern and we feel it is in need of being promptly addressed and rectified.

Well, the purpose of my letter is to ask you about the following Florida State Statute that I stumbled upon. It reads as follows:

**350.0605 Former commissioners and employees; representation of clients before commission.--**

- (1) Any former commissioner of the Public Service Commission is prohibited from appearing before the commission representing any client or any industry regulated by the Public Service Commission for a period of 2 years following termination of service on the commission.
- (2) Any former employee of the commission is prohibited from appearing before the commission representing any client regulated by the Public Service Commission on any matter which was pending at the time of termination and in which such former employee had participated.
- (3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ss. 364.02(14) and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Item # 2 - I note the reference to "any matter which was pending at the time of termination." Docket 060368 is still open as of today. Troy was obviously involved in this case when he took employment with Aqua. Further, although there is a new docket number for the upcoming rate demand, clearly the case will involve the same issues as the prior docket. Troy has asked the PSC to allow Aqua to use engineering reports from the prior case since, in his words, "nothing has changed since those reports were completed." As referenced above, Troy admitted that the PSC staff had looked at the consolidation issue before.

Item # 3 - Unless this is being directed towards commissioners only, what I read is that "a former member may not accept employment" for 2 years after termination.

Can you explain whether there is any enforceability of this statute in this situation? To claim a new docket number suddenly turns this into a "new matter" is form over substance. Who's role is it to enforce the statute?

4/22/2008

There is no doubt that, while still a PSC employee and fulfilling duties with the #060368 case, he had in the back of his mind some type of offer with Aqua. I personally feel that his employment with Aqua creates a serious and unethical disadvantage for the citizens of Florida. What options do we have? Are there any PSC specific rules regarding employees working for utilities they are involved in regulating? It seems that justice has to reside somewhere. Please, please, please help us find it.

Thank you for your attention and I look forward to your reply.

Best Regards,

Ron McKay  
Chuluota, Florida  
407-366-6898

4/22/2008