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From: Roberts, Brenda [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Monday, May 14, 2012 2:24 PM
To: Filings@psc.state.fl.us
Cc: Saylor, Erik; Merchant, Tricia; Gene Brown; Martha Barrera; Marty Friedman; Ralph Jaeger
Subject: E-filing (Dkt. No. 110200-WU)
Attachments: 110200 Motion to Establish Discovery Procedures & Motion to Compel Discovery Responses.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 110200-WU

In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

c. Document being filed on behalf of Office of Public Counsel.

d. There are a total of 31 pages.

e. The document attached for electronic filing is OPC's Motion to Establish Discovery Procedures and Motion to Compel Discovery Responses.
(See attached file: 110200 Motion to Establish Discovery Procedures & Motion to Compel Discovery Responses.pdf)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
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FPSC-COMMISSION CLERK

5/14/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water rates)
in Franklin County by Water Management)
Services, Inc.)
)
)

Docket No: 110200-SU

Filed: May 14, 2012

MOTION TO ESTABLISH DISCOVERY PROCEDURES
AND MOTION TO COMPEL DISCOVERY RESPONSES

The Citizens of the State of Florida, through the Office of Public Counsel, file their Motion to Set Discovery Procedure and Motion to Compel Discovery Responses pursuant to Rule 28-106.206, Florida Administrative Code. As grounds for Citizens motion state as follows:

1. On November 7, 2011, Water Management Services, Inc. ("WMSI" or "Utility") filed its Application for an increase in water and wastewater rates.

2. WMSI has requested that the Application be processed using the Commission's Proposed Agency Action ("PAA") process. The PAA process provides five months in which to process the request from the time the official filing date which is determined after MFR deficiencies are corrected and MFRs are approved until the Commission renders its PAA decision, unless the utility waives the statutory timeframe

3. The intervention of the Office of Public Counsel ("Citizens" or "OPC") on behalf of the WMSI customers was acknowledged on January 23, 2012. The official filing date was established as February 17, 2012. On April 18, 2012, WMSI provided a waiver until July 31, 2012, for the Commission to render its decision. According to the docket time schedule ("CASR"), the Commission's recommendation will be filed on July 19, 2012 with a Commission vote on July 31, 2012.

DOCUMENT NUMBER DATE

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FPSC - COMMISSION CLERK

4. Citizens have the right to thoroughly review WMSI's requested increase prior to the PAA decision. Citizens have served discovery requests and intend to serve additional discovery sufficient to conduct such review.

MOTION TO ESTABLISH DISCOVERY PROCEDURES

5. Given the limited timeframe for discovery until a PAA decision is made, Citizens have already begun serving discovery. Since this matter is being processed through the PAA process, no Order Establishing Procedure has been issued. OPC is hopeful that WMSI is not simply using the absence of an Order Establishing Procedure to hinder OPC's ability to discover admissible information that OPC requires to evaluate the merits of WMSI's claims. In order to provide guidance to the parties, OPC hereby files this motion to request discovery procedures be established.

6. In the 2010 WMSI rate case, by Order No. PSC-10-0449-PCO-WU, issued July 13, 2010, in Docket No. 100104-WU, the Commission established the discovery limits of 300 including subparts for interrogatories and requests for production of documents, and 100 including subparts for requests for admissions. In that case, discovery responses were served within 20 calendar days, inclusive of mailing, from the receipt of the discovery request with any clarification or objections to the discovery made within 10-days of the service of discovery request.

7. Since there are not many days remaining before the PAA recommendation is due to be filed, since WMSI was able to respond to discovery in the previous rate within 20-days, and since many issues in this case are nearly indistinguishable from the issues in the last rate case, OPC requests that the discovery process and procedures from the last rate case be adopted for this rate case. Further, any such discovery will assist in making a determination of whether a protest of the PAA order can be avoided.

8. Although many of the issues may be nearly identical, that in no way reduces the complexity of this rate case or the need to seek additional discovery to fully investigate the utility's current request. Moreover, enough time has passed since the last rate case, thereby

requiring additional discovery to be performed for the nearly identical issues. Further, the record from the last rate case is not part of the record in this rate case; thus, no discovery from the last rate can be used unless the utility will stipulate that all the discovery in the record in Docket No. 100104-WU may be used in Docket No. 110200-WU.

9. Similarly, there are new issues in this rate case which require an enlargement of the limitation of discovery beyond what the Rule 1.340 of Florida of Civil Procedure contemplates. One new issue relates to nearly \$1.175 million of utility money taken out of the utility as verified by the Commission Staff's July 2011 Cash Flow Audit and the action the Commission should take concerning those reclassified dollars. Further, it has come to light in WMSI's response to OPC's Request for Production of Documents No. 40 that WMSI still owes its counsel and consultants of record from the last rate case over \$140,000. See Attachment A. That unpaid amount is more than half of the rate case expense authorized in the last rate case. There may be more rate case expense bills outstanding from the last rate case, thus the need for additional discovery because OPC would contend that any authorized rate case expense money not paid out should be refunded to the customers with interest.

10. OPC requests "for good cause" that the discovery procedures and limits from the last rate case be instituted in this case. Given the contested nature of the last rate case and the likely to be contested issues surrounding the \$1.175 million accounts receivable noted in the Commission's cash flow audit and recent discovery indicating WMSI has yet to pay a large portion of its rate case expense from its last rate case, there is good cause to believe that some portion of the proposed agency action order in this docket may be protested. Enlarging the discovery limits now, will hopefully help narrow any issues which might be subsequently protested. Moreover, as set forth in the last docket and countless other orders establishing procedure in which the Commission has recognized that the limitations of Rule 1.340 of the Florida Rules of Civil Procedure are inadequate to address the scope and related discovery needs of a regulated utility's comprehensive revenue requirements determination, the Commission as a matter of customary practice and precedent routinely increases the numeric limitation well beyond the 30 interrogatory limitation imposed by the Florida Rules of Civil Procedures.

11. For the reasons stated above, and consistent with the Commission's past practice of enlarging the number of interrogatories allowed to be propounded on parties, OPC requests the discovery process and procedures from the last rate case be instituted in this rate case. See Order Granting Citizens Motion to Set Discovery Parameters and Motion to Compel Discovery Responses, Order No. PSC-11-0018-PCO-WS, issued January 5, 2011, in Docket No. 100330-WS.

12. In order to expedite the review of the discovery response, Citizens request that WMSI be required to provide the requested interrogatory responses and documents in electronic form with all links and formulas intact, source data used, and with an explanation of all assumptions and calculations used. Citizens would also request that the Commission require that to the extent the data requested is not available in the form requested through discovery that the information be provided in electronic form that most closely matches what has been requested. If no electronic formatting exists, WMSI should be required to provide a detailed explanation for the lack of an electronic form. Requiring the interrogatory responses and production of documents in this manner will prevent delay in a very tight schedule and should reduce the cost and burden on document production.

MOTION TO COMPEL DISCOVERY RESPONSES

13. On March 14, 2012, Citizens propounded its First Set of Interrogatories (Nos. 1-26) and First Request for Production of Documents (Nos. 1-42). On April 13, 2012, on the date WMSI should have responded to OPC's discovery, WMSI objected to the First Set of Interrogatories and responded in part to the First Request for Production of Documents. This motion will first address WMSI's objection to the First Set of Interrogatories before addressing WMSI's less than complete responses to the First Request for Production of Documents.

14. On April 13, 2012, WMSI filed its objection to OPC's First Set of Interrogatories on the grounds that OPC's discovery request exceeded the numeric limitation established by the Florida Rules of Civil Procedure. Pursuant to Rule 1.340 of the Florida Rules of Civil Procedure, "The interrogatories shall not exceed 30, including all subparts, unless the court permits a larger number on motion and notice and for good cause."

15. Instead of serving any interrogatory responses, WMSI's objection stated "WMSI should not be compelled to guess at which 25 interrogatories to respond to (sic), but OPC should be compelled to identify 25 interrogatories and subparts to which it requests responses." WMSI Objection at 1. WMSI is using the absence of a routine Order Establishing Procedure to stymie OPC's legitimate discovery needs.

16. While recognizing Rule 1.340 references a 30 interrogatory limitation, the Commission may and routinely does raise the limitation. As stated herein, OPC asserts this limitation should not apply, and due to the complexities of this case, OPC requests that the limit should be enlarged. However, while this motion is pending for decision and without waiving any rights under the Rules of Civil Procedure and in the spirit of cooperation with WMSI, in a letter dated May 4, 2012, OPC has identified less than 30 interrogatories with subparts which WMSI should answer. See Attachment B. (To be clear, OPC's letter was an interim measure designed to remove WMSI's ability to postpone answers to even the most basic pending discovery requests. OPC seeks a ruling that will require WMSI to answer all of OPC's pending interrogatories.) OPC disputes to WMSI's unreasonable assertion that the First Set of Interrogatories contained 91 interrogatories and subparts, and asserts WMSI's contention is further evidence of its intent to delay discovery. Most of the subparts are not subparts, but clarifications or suggestions on how OPC would like the utility to structure and organize its response to those identified interrogatories. OPC's May 4th letter identified which interrogatories included subparts and did not include subparts.

17. On March 14, 2012, Citizens propounded the First Request for Production of Documents (Nos. 1-42). In WMSI's April 13, 2012 response to Citizens, it failed to produce documents to OPC request numbers 3, 5, 6, 8 - 10, 15 - 30, 42. WMSI variously stated that OPC's requests were "... irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence."; "This request is overly broad, onerous, and made solely for harassment."; and "This request is overly broad, onerous, and made solely for harassment. Further, issues related to Account 123 have no impact on the ratemaking process and therefore are irrelevant, immaterial, and not calculated to lead to the discovery of admissible evidence." OPC disagrees

with each of WMSI's erroneous assertions. OPC is requesting discovery designed to lead to admissible evidence should several of the PAA issues be protested either by WMSI or OPC.

18. In support of its motion to compel, OPC asserts that its document requests, especially those that relate to Account 123, go to the heart of WMSI's request for rate relief. Without the actual documents, it will be difficult to untangle the financial web surrounding WMSI's rate request. Further, it appears that the utility owner has inextricably comingled the utility's finances with that of Brown Management Group, Inc. ("BMG") and his personal finances. See Testimony of Gene Brown at 3-8. In order to unravel the multitude of financial transactions between and among the utility and its affiliates and the owner, WMSI must be compelled to produce the financial documents per OPC request numbers 3, 5, 6, 8 - 10, 15 - 30, 42. Such a production is the only means by which to verify or challenge the truth of the owner's assertions that he has been subsidizing the utility and not the other way around. See Testimony of Gene Brown at 3-8. Further, the owner testified that he has transferred the stock of BMG to WMSI and that the value of BMG exceeds the balance of Account 123. See Testimony of Gene Brown at 7. This purported stock transfer by the owner causes all transactions surrounding Account 123 to become central and essential to the ratemaking process. Therefore, it is necessary and prudent for the utility to open the books of BMG to determine the value of BMG as it relates to Account 123. OPC asserts that documents related to BMG's finances and the owner's personal finances are properly before this Commission for review and consideration because of the owner's testimony. See Testimony of Gene Brown at 3-8. Moreover, these documents are especially critical because they concern the management decisions of the owner. Without the necessary information contained in the requested documents, OPC will be severely handicapped in its participation in the PAA process. OPC asserts the Commission will need to evaluate this discoverable information when determining whether or not the cash flow management practices of WMSI and its owner have threatened the continued viability of this utility. OPC asserts that any financial imprudence on the part of WMSI should be determined.

19. Instead of addressing each individual objection in this motion to compel and in support of OPC's motion to compel production of document responses, OPC has attached a matrix of documents which WMSI has failed to produce. See Attachment C. This matrix identifies the

OPC document request number, the type of documents requested, a summary of the utility's objection, and OPC's rationale why the utility should be compelled to produce these documents. This discovery is reasonably designed and intended to lead to the discovery of admissible material related to the issues in the case.

20. Since WMSI has had nearly 60 days to consider its responses to OPC's interrogatories and requests for production of documents, OPC respectfully requests that WMSI be compelled to respond to the First Set of Interrogatories and First Request for Production of Documents in an expeditious manner. Given the extremely limited time period over which OPC has to prepare before the PAA decision, OPC requests that WMSI be compelled to produce any outstanding discovery from the First Set within 10 days of the issuance of any Order setting the discovery procedures in this case.

21. Further, in accordance with Rule 28-106.204(3), Florida Administrative Code, OPC consulted with Counsel for WMSI prior to the filing of this combined motion and WMSI opposes the relief sought herein.

WHEREFORE, the Office of Public Counsel, on behalf of the customers of WMSI, respectfully requests this Motion to Establish Discovery Procedures and Motion to Compel Discovery Responses be granted.

J.R. KELLY
PUBLIC COUNSEL



Erik L. Saylor
Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Office of Public Counsel Motion to Establish Discovery Procedure and Motion to Compel Discovery Responses has been furnished by electronic mail and U.S. Mail to the following parties on this 14th day of May, 2012, to the following:

Ralph Jaeger / Martha Barrera
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Mr. Gene D. Brown
Water Management Service, Inc.
250 John Knox Road, #4
Tallahassee, FL 32303-4234

Martin S. Friedman
Sundstrom, Friedman & Fumero, LLP
766 North Sun Drive, Suite 4030
Lake Mary, Florida 32746



Erik L. Saylor
Associate Public Counsel

Attachment A

MIKE HARIDOPOLOS
PRESIDENT OF THE SENATE



J.R. Kelly
Public Counsel

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OFFICE OF PUBLIC COUNSEL

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SPEAKER OF THE
HOUSE OF REPRESENTATIVES



Denise N. Vandiver, C.P.A.
Legislative Analyst
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May 4, 2012

Ann Cole, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 110200-WU; Application for increase in water rates in Franklin County by Water Management Services, Inc.

Dear Ms. Cole:

Attached is a list of issues that the Office of Public Counsel has prepared to identify concerns we have with the MFRs and other information filed by Water Management Services, Inc. to support its requested rate increase. We are submitting this letter in an effort to be up front with our concerns and allow the staff and utility sufficient time to review our concerns and ask for any additional information that might be needed. If you should have any questions, please feel free to call or e-mail me.

Respectfully submitted,

s/ Denise N. Vandiver

Denise N. Vandiver
Legislative Analyst

Office of Public Counsel
c/o The Florida Legislature
(850) 487-8239

c: Division of Economic Regulation (Maurey, Fletcher)
Office of the General Counsel (Barrera, Jaeger)

Rose Law Firm (LakeMary11a)
Mr. Martin Friedman

Water Management Services, Inc.
Mr. Gene D. Brown

Office of Public Counsel (Saylor)

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Account No. 123

1. In the testimony provided by Gene Brown, he states that the balance of Account No. 123 is \$1,175,075 and now represents 100% of the stock ownership of Brown Management Group, Inc. his primary affiliate. We are concerned about several aspects of this transaction that appears to be an attempt to make the utility whole for the amounts that the owner has removed from utility funds.
 - a. We are concerned about whether this should be considered a reasonable and prudent business decision for the utility. What benefit do the ratepayers receive for this transaction? "Benefit to the ratepayers" should be a primary deciding factor for any transaction the utility makes. Should the Commission encourage regulated utilities to "invest" in other business activities?
 - b. In Docket No. 100104-WU, the Commission ordered that the Commission staff should initiate a cash flow audit and stated that "if it is determined that the activity recorded in the account has impaired the utility's ability to meet its financial and operating responsibilities, our staff shall recommend an appropriate adjustment for imprudence."
 - i. We are concerned that this investment in an affiliate is proving to be imprudent and is impairing the utility's ability to meet its financial obligations. The fact that the utility has filed two separate dockets to request that the Commission allow it to pay its Regulatory Assessment Fees on a payment plan (Docket Nos. 110237-WU and 120031-WU) seems to indicate the impairment to the utility's financial stability.
 - ii. If the Commission determines the withdrawal of \$1,175,075 in funds as shown in Account No. 123 was imprudent, we would ask that this amount be refunded with interest to the customers. Alternatively, this amount could be refunded with interest over the next 10 years and imputed against the utility's return on its investment (e.g., the utility's calculated return on its investment should be reduced by approximately \$120,000 annually over the next 10 years).
2. In this rate case, what is the appropriate regulatory treatment of the net balance of \$1.175 million of account receivable owed to WMSI that the audit staff determined in its July 2011 cash flow audit? The account receivable was created by the utility president transferring cash out of WMSI to unregulated entities such as Brown Management Group (BGM).
 - a. For regulatory purposes, the Commission should reject the apparent effort of WMSI's president's attempt to "satisfy" the \$1.175 million account receivable through a transfer of the stock BGM, his personal unregulated entity, to WMSI. Because the president owns or controls a 95% interest of WMSI and is the 100% owner of BMG, the notion that he has satisfied this \$1.175 million account receivable (debt payable to the utility) and has "made the utility whole" by transferring the stock he owns in BGM to the utility that he owns or controls is highly suspect. In addition to the circumstances surrounding this transaction, which standing alone compels the Commission to reject it for regulatory and ratemaking purposes, there is no showing either that the value of the BMG stock and assets transferred to WMSI exceed the debt owed to WMSI nor whether WMSI's ownership of shares in BMG, which

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

- engages in an unknown assortment of unregulated activities, is in the prudent interests of the utility. The utility needs the cash now to fund major improvements to its regulated plant not stock in BMG. There should be an independent appraisal of the assets and shares of BMG transferred to WMSI and/or an accounting for the benefit of the owners of WMSI.
- b. Further, the fact that the utility has been compelled by its weak financial situation to restructure a favorable loan and has since been unable to pay its regulatory assessment fees (RAFs) timely proves the transfer of cash out of the utility by its president has detrimentally affected WMSI's ability to operate efficiently and pay its bills.
 - c. During the period when cash was being transferred out of WMSI, WMSI was not accruing any interest or any return on the \$1.175 million account receivable. In other words, this account receivable can be likened to an interest free loan made by the utility for the benefit of non-regulated entities owned or controlled by the president. The Commission should consider whether it is prudent for a small water utility to provide an interest-free loan of \$1.175 million at a time when it now unable to pay its RAFs and needs to replace critical infrastructure costing more than that amount.
 - d. At a minimum, the Commission should impute interest on the outstanding balance and offset any claimed revenue deficiency by that amount. The Commission should also indicate its view that prudent utility management would require the president and/or BMG to restore the cash to the utility. If the stock of BMG is worth as much as the president contends, he can sell the stock and return the cash to WMSI.

Prior Rate Case Expense

3. In documents produced in response to OPC POD No. 40, there is an invoice from the law firm Radey Thomas Yon & Clark, dated March 7, 2012, indicating that the total balance due was \$146,399.78. (See attached Exhibit 3-A or Page 180 of the Response to POD No. 40.) The invoice dates back to May 7, 2010, and appears to be billing for legal services rendered to the utility during the last rate case. By Order No. PSC-11-0010-SC-WU, issued January 3, 2011, the Commission approved nearly \$230,000 in rate case expense and \$57,295 of that approved amount is currently embedded in customer rates through the annual amortization. The prior order included \$150,423 (or 66% of the total) for amounts billed by this law firm. We are concerned that the utility is collecting rate case expense from customers for legal and consulting services from the last rate case, but withholding payment for amounts approved by the Commission. If this is the case, this money belongs to the customers. We ask that the Commission protect the customers and investigate whether this is in fact occurring, and if so determine the amount of prior approved rate case expense to be refunded with interest to the customers. Based upon this invoice alone, at least \$146,399.78 in approved rate case expense for legal services should be refunded, and after further investigation, perhaps more.

Escrow Accounts

4. The utility has had a history of non-compliance with Commission orders as evidenced by the Commission's past requirements that the utility escrow money.

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

From 1989 until 2000, the Commission required escrow accounts variously for service availability charges, CIAC, an elevated storage tank, and RAFs.¹ The Commission discontinued this practice of requiring escrow accounts by Order No. PSC-00-2227-PAA-WU, issued November 21, 2000. However, as evidenced by the Commission's cash-flow audit of Account 123 and the recent cash flow issues facing the utility which resulted in two requests for payment plans for regulatory assessment fees (RAFs), the Commission should consider returning to its prior practice of requiring that the utility escrow its money in order to protect the health and general welfare of the customers and ensure the continued viability of the utility.

- a. If the Commission grants any rate increase for pro forma plant and expenses, we believe the Commission should, at a minimum, consider requiring the utility to escrow funds related to the pro forma plant and expenses. For instance, if the Commission grants any rate increase related to pro forma plant, engineering services, capital projects, contractual services, rate case expense, etc., those moneys should be escrowed until the utility provides sufficient documentation that it has actually used the funds according to its current rate increase request. The Commission should deny any utility request to use the escrowed money for other purposes than for which the increase was granted. Any money left in the escrow account including all accrued interest at the end of 5 years or until all costs have been reviewed by the Commission should be refunded to the customers. The utility should pay for the costs of maintaining the escrow account.
- b. Alternatively, we believe that any rate increase related to pro forma plant and expenses should be phased-in but only after the installed plant costs have been verified by staff and approved by the Commission.
- c. While either alternative requires more than the usual regulatory oversight, it is apparent this utility needs the proactive regulatory oversight in order to protect the health and general welfare of the customers and ensure the continued viability of the utility.

Utility Plant In Service

5. The Accumulated Depreciation balances shown on Schedule A-9 appear to reflect fluctuations in the depreciation rates applied to the Utility Plant in Service. Exhibit 5-A reflects the four accounts we are especially concerned about.

¹ See Order No. 21122, issued April 24, 1989, Requiring first escrow account for service availability funds, in Docket No. 871177-WU, In Re: Application of St. George Island Utility Company, Ltd., for an Increase in Water Rates in Franklin County; Order No. 22779, issued April 4, 1990, Requiring second escrow account for the construction of an elevated storage tank, in Docket No. 871177-WU; Order No. 23258, issued July 27, 1990, Approving a third escrow account for holding contributions in aid of construction ("CIAC"); Order Nos. PSC-92-0478-FOF-WU, issued June 9, 1992, PSC-94-0088-FOF-WU, issued January 25, 1994, and PSC-94-1264-FOF-WU, issued October 12, 1994, Requiring an escrow account for failure to pay RAFs, in Docket No. 920318-WU, In Re: Initiation of Proceeding by Florida Public Service Commission to Require St. George Island Utility Company, Ltd. in Franklin County to Escrow Funds for Payment of Regulatory Assessment Fees; Order No. 94-1383-FOF-WU, issued November 14, 1994, Maintaining an escrow account requirement for service availability charges, in Docket No. 940109-WU, In Re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company, Ltd.

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

- a. Three accounts show reductions in the accumulated depreciation balances without a related reduction to the utility plant in service account.
 - b. Two accounts show unexplained changes in the depreciation rate at the end of the year. In addition, the Transportation Equipment account appears to use at least three different rates during the year.
6. The Utility's Response to Staff's First Data Request includes Exhibit A which lists \$186,191.95 for plant retirements. This total does not agree with the total retirements shown on Schedule A-3 of \$147,379. The difference appears to be in the Pumping Equipment. Exhibit A shows three Pumping Equipment Retirements for a total of \$150,796.94, but Schedule A-3 shows Pumping Equipment retirements of \$111,984.

Used and Useful

7. The Commission order in the prior rate case established that the distribution mains in the area known as the Plantation were 60.9% used and useful. The order based its decision on the testimony of the utility witness as well as the methodology in a prior stipulated settlement. However, in this case, the utility is advocating a 100% used and useful percentage for these distribution lines. We are concerned with the following issues raised regarding this calculation.
- a. Page 15 of the testimony provided by Gene Brown states that these distribution lines were constructed by a separate utility company that was not Water Management Services, Inc. However, these companies are all affiliated companies and have had common ownership interests.
 - b. Page 13 of the testimony provide by Les Thomas as well as Page 15 of the testimony provided by Gene Brown makes reference to the age of the distribution system as a factor in determining the 100% used and useful factor. However, we do not believe there is any statute, rule, or Commission policy that considers the age of the plant investment in determining the used and useful amount to be included in setting rates. In fact, in the last order, the Commission Order clearly quoted a statement by the utility witness that the "lines inside the plantation were constructed for the benefit of the developer." Therefore, the utility customers should not bear the burden of the cost of the excess capacity of the distribution system.
8. On page 14 of the testimony provided by Gene Brown, he states that the utility is requesting the addition of a new well to meet the demands of the St. George Island Volunteer Fire Department and a new rule adopted by DEP since the last case was filed. We are concerned that the utility has not identified the DEP requirement and what it specifically says, nor has it provided any documentation supporting the requirements of the fire department.

Pro Forma Plant

9. The utility has included a total of \$3,565,436 in requested pro forma plant. We have several concerns regarding the amounts requested.
- a. In the last rate case, the utility provided in discovery a PBS&J report that included four options for the plant (Part 2, Technical Memorandum 5, and

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Page 2 of 16). It appears that the utility is now pursuing the most expensive of the four options. We are concerned with why this option was chosen, especially when it was not recommended as the highest value ranking in the report.

- b. The utility requested \$2,202,481 in the last rate case and now the utility has increased this amount to \$3,565,436, an increase of 62%. We are concerned with why these costs have increased so much and why they are substantially higher than the estimated cost of \$2,028,990 in the PBS&J report.
- c. A major component of the utility's request utility is an increase to replace the ground water storage tank. We are concerned that the utility has not explained why it is choosing the most expensive option based on the PBS&J report from the last rate case and why the utility is seeking to acquire additional land costing approximately \$450,000 of land when the utility can construct the tank on land it already owns as a significant savings to the customers.
- d. The utility is requesting to relocate and elevate the high service pumps on the island. As pointed out at the customer meeting, the pumps already are located on the highest point on the island and are high enough that no federal flood insurance is required. If those pumps are knocked out by a storm, then there may be no customers remaining on the island to be serviced. We believe that the utility has not demonstrated the need for this project.
- e. The utility is also planning for a new well on the mainland at a cost of \$302,292, plus associated supply mains and power and pumping equipment costs. We are concerned that the utility has not provided adequate technical or cost justification for this request.

Contributions In Aid Of Construction

10. The Accumulated Amortization balances shown on Schedule A-14 appear to reflect fluctuations in the amortization rates applied to the Contributions In Aid of Construction (CIAC). Exhibit 10-A reflects the months we are especially concerned about.
- a. In February, June, and October, there are decreases to the balances of Accumulated Amortization with no corresponding decrease to the CIAC balances.
 - b. In February and October, there are significant increases to the Accumulated Amortization for Contributed Fire Hydrants. While there is also a significant increase to the CIAC account, the increase to the Accumulated Amortization appears to be an inflated amount.
 - c. In April, there is a significant increase to the Accumulated Amortization for Contributed Fire Sprinkler Systems. While there is also a significant increase to the CIAC account, the increase to the Accumulated Amortization appears to be an inflated amount.

Working Capital Allowance

11. The Working Capital Allowance shown on Schedule A-17 includes two amounts that appear to include \$229,180, the total amount of rate case expense approved

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

by the Commission in the prior rate case. Commission practice is to include only one-half of the 13-month average of the deferred rate case expense at the time the rates go into effect. Therefore, assuming the rates in this case are expected to go into effect in September 2012, the average deferred rate case expense should be approximately \$157,561 and one-half of that balance is \$78,781. We believe that the working capital allowance should be reduced by \$150,399 to reduce the deferred rate case expense included by the utility.

Deferred Prior Rate Case Expense, per books	85,399
Correcting entry to reflect PSC approved rate case expense (\$229,180 PSC approved)	<u>143,781</u>
Total	<u>229,180</u>

Salaries and Wages

12. On Pages 10 and 11 of the testimony provided by Gene Brown, he states that the utility has reduced the test year salaries by 5% for Mr. Mitchell, Ms. Chase, and Mr. Brown to account for affiliate operations. However, the Commission Order issued January 3, 2011 reduced these salaries by 12.5%. We do not believe that the utility has submitted sufficient evidence to show why this allocation should be changed.
13. The last order reduced Salaries for Ms. Chase and Ms. Molsbee to allow only a 3% increase for 2009. MFR Schedule B-7: Benchmark Analysis shows an 8.36% increase in salaries over the prior case. The utility explanation is that the "Utility did not reduce salaries to match the 2009 test year numbers." We believe that the test year should be adjusted to the levels approved in the last order.

Employee Pensions & Benefits

14. The Commission approved an Employee Pensions & Benefits expense of \$52,492 for the test year ended December 31, 2009. The utility has included an expense of \$110,694 for the current test year ended December 31, 2010. This is an increase of \$58,202 (111%) in a one year period. Schedule B-7 states that the increase to this account is to reflect a 2010 increase to 401(k). The prior order disallowed \$80,000 for an executive deferred compensation plan and commented that there is a 401(k) plan included in test year expenses. We are concerned whether the test year expense reflects a reasonable change in the 401(k) plan, whether it reflects an annual amount that is expected to be paid each year, whether it is a "catch-up" amount that will not be paid each year, or whether it is attempting to pass through similar charges as disallowed in the last order.

Contractual Services – Engineering

15. The utility has included \$27,600 in Contractual Services – Engineering expense. This amount includes \$24,000 for an engineering services contract and \$3,600 for the amortization of a hydraulic analysis and capacity study.
 - a. The prior order discussed the engineering contract and determined that most of the engineering services should be capitalized as they are incurred and should not be included in the test year expenses. We believe that the utility

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

has not shown how the situation is any different than in the last order and we believe that this amount should be substantially reduced to reflect the fact these costs should be capitalized as projects are completed.

- b. According to the utility's response to OPC discovery, it does not have an Engineering Service Contract as referenced in MFR Schedule B-3, page 2 of 4 in Adjustment 6. See utility's response to OPC's Request for Production of Documents No. 35.

Contractual Services – Accounting

16. The utility has included \$9,550 in Contractual Services – Accounting. The Commission Order in the last case approved an expense of \$3,667 based on the average of the five previous years. The current test year is \$5,883 more than the last rate case. The previous order discussed the accounting duties that are performed by the Controller and the Office Administrator as well as the outside CPA. The Order pointed out that many of the identified duties of the CPA were duplicated by the Controller and the Office Administrator. Schedule B-7 states the "utility's accounting expense in 2010 was greater than the PSC approved 2009 test year." It further states that the increase is for "accounting services required by the utility's accounting procedures and maintaining accounting records for regulatory purposes and tax reporting." However, the utility did not identify anything new that was not considered in the last case. We believe that the requested level of Contractual Services – Accounting is excessive and should be reduced to a comparable level as approved in the prior rate case.

Contractual Services – Other

17. In response to Staff's First Data Request, the utility submitted four invoices from January for a part-time operator. These totaled \$825 for January and are shown in Exhibit 17-A. There were no similar invoices provided for any of the other months questioned by staff. We are concerned why there are additional operator expenses when there are two licensed operators on the payroll. We also would want to make sure whether there are any additional charges for other months.
18. The response to Staff's Second Data Request provides full copies of the Comcast bills for 4 months. The utility states that the full amount is charged to WMSI as no one else at the address uses the Comcast services or desires the services. The bills include cable TV and Internet. We have two concerns with these charges to the expenses. First, why does the utility need cable TV? Second, why doesn't the Internet benefit the affiliates operated out of the same office?
19. The Commission order from the last rate case allowed a pro forma expense of \$36,000 for a Bridge Maintenance Contract. In response to the First Staff Data Request, the utility submitted copies of checks for the period June 2010 through October 2011. These checks reflect irregular payments and the most recent 12 months reflects total payments of \$21,000. The average of all the checks submitted totals \$3,250 per payment, but this appears skewed by what appears to be "catch-up" payments in June through August of 2010. We fully support payments for the maintenance, but we are concerned whether the projected

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

expense is reasonable and will be paid in full. Perhaps this expense should be escrowed as discussed above in Item No. 3.

20. The Commission order from the last rate case allowed a pro forma expense of \$17,380 for a Tank Maintenance Contract. In response to the First Staff Data Request, the utility submitted copies of checks for the period February 2010 through August 2010. These checks reflect a total payment of \$14,220 and payments that were not made monthly. One check was written for a five month period and appears to be "catch-up" payments. We fully support payments for the maintenance, but we are concerned whether the projected expense is reasonable and will be paid in full. Perhaps this expense should be escrowed as discussed above in Item No. 3.

Rent Expense

21. Schedule B-7: Benchmark Analysis shows that the current rent expense is higher than the prior rate case because the lease was amended to include payment by WMSI of condo dues. We are concerned why the lease was amended and how this amendment benefits the utility ratepayers. The ratepayers should not be required to pay expenses that are not reasonable in providing utility service. If the condo dues are considered reasonable, they should also be allocated to the affiliated businesses that operate in the same office.
22. On Page 10 of the testimony provided by Gene Brown, he states that the utility has reduced the rent expense and other costs related to the Tallahassee office by 5% to account for affiliate operations. However, the Commission Order issued January 3, 2011 reduced these salaries by 12.5%. We do not believe that the utility has submitted sufficient evidence to show why this allocation should be changed.

Rate Case Expense

23. Staff requested detailed information regarding the amounts paid for rate case expense. The utility response included only charges through December 31, 2010. The utility filed revisions to the MFRs in response to two staff letters regarding deficiencies. There are no invoices provided that can be reviewed to determine whether rate case expense covers the cost to correct the deficiencies. It is a long standing Commission policy that these costs should not be included in rate case expense.

Miscellaneous Expense:

24. In response to the First Staff Data Request, the utility submitted copies of invoices to document increases in the miscellaneous expense. These copies included 5 invoices that appear to be for meters. These invoices are listed below and we believe that the utility should document why these are included in expense and are not capitalized.

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Lewis Smith Supply	3/22/10	6 meters	486.54
Lewis Smith Supply	3/10/10	6 meters	486.54
Lewis Smith Supply	11/18/10	18 meters	801.36
Lewis Smith Supply	11/11/10	4 meters	324.36
Lewis Smith Supply	11/24/10	6 meters	486.54

25. In response to the First Staff Data Request, the utility submitted copies of invoices to document increases in the miscellaneous expense. One of these copies was an invoice to Graybar that was dated November 22, 2010 for \$6,734.80. The description was "drive well #4, drive plant". Unless further documentation is provided, we believe that this appears to be an item that should be capitalized.

Amortization Expense

26. Schedule B-3, page 4 of 4 shows the utility calculation of a 3 year amortization of accumulated depreciation on prudently retired plant. We are concerned about why there are assets that have not reached 50% of their expected life that are included in this retirement. Our calculations show that 64% of the net loss is attributable to assets that are less than 10 years old. We also calculate that 44% of the total is attributed to the retirement of an aerator pan that was installed September 29, 2003 with a depreciable life of 22 years. We believe that more documentation is needed to show that these are prudent and reasonable retirements.
27. The NOI schedule includes a test year amortization expense of \$14,616 and a pro forma increase of \$9,784 for the "prudently retired" plant. The total included in the NOI schedule is an amortization expense of \$24,400. While the utility has included the amortization of retirements included in the prior order it has failed to include the \$48,408 amortization of gain on sale of land and other assets that was also included in the prior order.

Service Availability

28. Schedule E-10 reflects the utility's proposed increase in Plant Capacity Charges from \$845 to \$9,079.47 and the proposed increase in Meter Installation Charges from \$250 to \$400. While the Commission rule identifies a 75% level for Contributions in Aid of Construction, we believe that the rule establishes this level as the goal for new systems when establishing new rates and charges. We believe that the 75% goal is a maximum that customers should pay toward their share of the plant investment. We do not believe that the rule contemplated that a utility with new construction to serve existing and future customers would charge 75% of that construction to all future customers in an effort to increase the amount of CIAC to 75%. In fact, as a system matures, and there is little growth, a utility is required to invest its own funds, at 100%, in order to maintain and upgrade facilities. These costs are then recovered through depreciation and the utility is also allowed an opportunity to recover a return on its investment. In testimony provided by Gene Brown, the utility appears to argue against this philosophy by stating that CIAC is the way to recover capital improvements or replacements.

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Fire Flows

29. In his testimony on pages 14 and 17, Gene Brown discusses the need for fire flows in response to a new DEP rule and the demands of the SGI volunteer fire department. Les Thomas also mentions the FDEP and NFWFMD in his testimony on pages 10-11 and discusses the fire flows and fire protection on pages 9, 13, and 16 of his testimony. Contrast this with page 20 of Les Thomas' testimony which states fire protection is not required by law. Similarly, Section 3.1.6.2 of his "Water System Hydraulic Analysis and Capacity Study" attached to his testimony states fire protection is not required by any agency, county, state, or federal governmental body.
- a. We believe that the utility has not proven its request as it has not provided a copy of the DEP regulations which purport to require these increased costs or a letter or notice from the DEP stating that the utility would be in violation of DEP requirements if it does not comply.
 - b. We also believe that the company has not shown evidence such as a copy of the written request from the volunteer fire department for these increased flows.
 - c. We also believe there has been no evidence such as a fire flow study commissioned by the utility or the volunteer fire department showing that the current level of fire flows is not adequate.

Attachment A
 OPC Issues and Concerns
 Water Management Services, Inc.
 Docket No. 110200-WU

Exhibit 3-A
 Page 180 of .PDF Document
 Response to PGO No. 40

RADEY THOMAS YON & CLARK
 PROFESSIONAL ASSOCIATION
 ATTORNEYS AND COUNSELORS AT LAW
 POST OFFICE BOX 10867
 TALLAHASSEE, FL 32302
 (850) 423-8654
 Federal Tax ID # 75-3101245

Bill Number 18963
 Invoice Date March 7, 2012
 Activity Billed through 02/29/2012

Osceola D. Brown
 Water Management Services, Inc.
 250 John Kooze Road
 #4
 Tallahassee, FL 32303

Period for Rate Increase:
 738 01 TD

PAYMENT DUE UPON RECEIPT

BILLING SUMMARY

TOTAL CHARGES FOR THIS BILL	\$0.00
PLUS NET BALANCE FOR WARD	\$146,399.78
TOTAL BALANCE NOW DUE	\$146,399.78

BALANCE FORWARD SUMMARY

Bill Date	Bill Number	Billed Amount	Amount Due
05/07/2010	15584	\$9,605.45	\$4,007.33
06/07/2010	15822	\$11,357.06	\$11,357.06
07/07/2010	15948	\$7,583.79	\$7,583.79
08/05/2010	16137	\$19,679.00	\$19,679.00
09/17/2010	16266	\$21,534.87	\$21,534.87
10/04/2010	16334	\$33,475.96	\$33,475.96
01/07/2011	16937	\$45,594.02	\$45,594.02
02/07/2011	17086	\$3,147.75	\$3,147.75

WHITE - CUSTOMER YELLOW - REMITTANCE

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Water Management Services, Inc.
 Plant and Accumulated Depreciation

Exhibit 5-A

Acct No	Account Name	December	January	February	March	April	May	June	July	August	September	October	November	December
Utility Plant in Service														
310.2	Power Gen Equipment	113,061	113,061	113,061	113,061	113,061	113,061	113,061	113,061	113,061	113,061	113,061	113,061	113,061
331.4	Trans & Distr Mains	2,524,926	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852	2,425,852
340.5	Office Furniture & Equip	76,667	76,667	76,667	76,667	76,842	78,330	78,713	80,496	80,496	80,496	80,496	81,550	81,550
341.5	Transportation Equip	103,927	103,927	103,927	103,305	103,305	103,305	103,305	103,305	103,305	103,305	103,305	103,305	60,725
Accumulated Depreciation														
310.2	Power Gen Equipment	82,567	83,089	83,610	84,131	84,652	85,174	83,729	84,250	84,771	85,292	84,503	84,696	84,873
331.4	Trans & Distr Mains	1,200,241	1,056,308	1,061,248	1,066,188	1,071,127	1,076,067	1,081,006	1,085,946	1,090,886	1,095,825	1,100,765	1,105,704	1,043,581
340.5	Office Furniture & Equip	26,579	26,999	27,419	27,839	28,260	28,680	29,100	29,520	29,941	30,361	30,781	31,201	45,685
341.5	Transportation Equip	33,070	35,114	37,157	16,511	17,946	19,381	21,964	23,999	26,034	28,068	30,103	32,138	25,285
Calculated Rate														
310.2	Power Gen Equipment		0.5%	0.5%	0.5%	0.5%	0.5%	-1.3%	0.5%	0.5%	0.5%	-0.7%	0.2%	0.2%
331.4	Trans & Distr Mains		-5.9%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	-2.6%
340.5	Office Furniture & Equip		0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	17.8%
341.5	Transportation Equip		2.0%	2.0%	-20.0%	1.4%	1.4%	2.5%	2.0%	2.0%	2.0%	2.0%	2.0%	-11.3%

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Water Management Services, Inc.
 CIAC and Accumulated Amortization

Exhibit 10-A

CIAC Type	December	January	February	March	April	May	June	July	August	September	October	November	December
Plant Capacity Fees	1,262,657	1,266,293	1,267,742	1,267,742	1,269,737	1,269,737	1,301,122	1,302,330	1,302,330	1,303,537	1,304,985	1,304,985	1,302,998
Line/Main Ext Fees	964,980	967,283	968,183	968,183	971,394	971,394	990,894	991,644	991,644	992,394	993,294	993,294	991,891
Meter Installation Fees	554,664	554,914	554,832	554,832	554,832	554,832	555,832	556,971	556,971	557,221	557,471	557,471	557,471
Contributed Property	375,659	375,659	375,659	375,659	375,659	375,659	375,659	375,659	375,659	375,659	375,659	375,659	375,659
Contributed Services	9,497	9,497	9,497	9,497	9,497	9,497	9,497	9,497	9,497	9,497	9,497	9,497	9,497
Contrib Fire Hydrants	68,556	68,556	102,656	102,656	106,256	106,256	106,256	106,256	106,256	106,256	145,856	145,856	145,856
Contrib Fire Sprink Sys	3,500	3,500	3,500	3,500	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250
	3,239,513	3,245,702	3,282,069	3,282,069	3,292,625	3,292,625	3,344,510	3,347,607	3,347,607	3,349,814	3,392,012	3,392,012	3,388,622

Acc Amort of CIAC

Plant Capacity Fees	535,426	538,956	536,610	539,609	541,738	544,737	552,712	555,773	558,823	562,033	558,694	561,730	564,632
Line/Main Ext Fees	409,197	411,692	409,813	412,103	414,449	416,744	420,928	423,187	425,509	427,881	425,252	427,563	429,819
Meter Installation Fees	235,204	236,181	234,849	236,162	236,721	238,032	236,115	237,689	238,993	240,251	238,666	239,963	241,570
Contributed Property	159,297	159,887	159,009	159,898	160,277	161,164	169,579	160,314	161,193	161,969	160,828	161,702	162,785
Contributed Services	4,027	4,042	4,020	4,043	4,052	4,075	4,034	4,053	4,075	4,095	4,066	4,088	4,116
Contrib Fire Hydrants	29,071	29,179	43,452	43,695	45,335	45,586	45,137	45,345	45,594	45,813	62,444	62,784	63,204
Contrib Fire Sprink Sys	1,484	1,490	1,481	1,490	2,240	2,252	2,230	2,240	2,253	2,264	2,248	2,260	2,275
	1,373,706	1,381,427	1,389,234	1,397,000	1,404,812	1,412,590	1,420,735	1,428,601	1,436,440	1,444,306	1,452,198	1,460,090	1,468,401

Amortization Rate

Plant Capacity Fees	0.28%	-0.19%	0.24%	0.17%	0.24%	0.61%	0.24%	0.23%	0.25%	-0.26%	0.23%	0.22%
Line/Main Ext Fees	0.26%	-0.19%	0.24%	0.24%	0.24%	0.42%	0.23%	0.23%	0.24%	-0.26%	0.23%	0.23%
Meter Installation Fees	0.18%	-0.24%	0.24%	0.10%	0.24%	-0.34%	0.28%	0.23%	0.23%	-0.28%	0.23%	0.29%
Contributed Property	0.16%	-0.23%	0.24%	0.10%	0.24%	-0.42%	0.20%	0.23%	0.21%	-0.30%	0.23%	0.29%
Contributed Services	0.16%	-0.23%	0.24%	0.09%	0.24%	-0.43%	0.20%	0.23%	0.21%	-0.31%	0.23%	0.29%
Contrib Fire Hydrants	0.16%	13.90%	0.24%	1.54%	0.24%	-0.42%	0.20%	0.23%	0.21%	11.40%	0.23%	0.29%
Contrib Fire Sprink Sys	0.17%	-0.26%	0.26%	14.29%	0.23%	-0.42%	0.19%	0.25%	0.21%	-0.30%	0.23%	0.29%

Attachment A
OPC Issues and Concerns
Water Management Services, Inc.
Docket No. 110200-WU

Water Management Services, Inc.

Docket No. 110200-WU

Exhibit 17-A

Contractual Services - Other

Charlie Painter Hours

January 8, 2010 Invoice

Thursday	1/7/10	100
Friday	1/8/10	100
Saturday	1/1/10	25
Sunday	1/3/10	25
		<u>250</u>

January 14, 2010 Invoice

Thursday	1/14/10	100
Sunday	1/10/10	25
		<u>125</u>

January 22, 2010 Invoice

Thursday	1/21/10	100
Friday	1/22/10	100
Sunday	1/17/10	25
		<u>225</u>

January 29, 2010 Invoice

Thursday	1/28/10	100
Friday	1/29/10	100
Sunday	1/23/10	25
		<u>225</u>

Attachement B

MIKE HARIDOPOLOS
PRESIDENT OF THE SENATE



J.R. Kelly
Public Counsel

STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

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DEAN CANNON
SPEAKER OF THE
HOUSE OF REPRESENTATIVES



Erik L. Saylor
Associate Public Counsel
saylor.erik@leg.state.fl.us

May 4, 2012

Martin S. Friedman
Sundstrom, Friedman & Furnero, LLP
766 North Sun Drive, Suite 4030
Lake Mary, Florida 32746

Re: Docket No. 110200-WU; In Re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

Dear Mr. Friedman:

Pursuant to Water Management Services, Inc.'s (Utility's) request, dated April 13, 2012, that the Office of Public Counsel (OPC) indicate which of the First Set of Interrogatories served by OPC that the Utility should answer, the short answer is all interrogatories, eventually. In the near future, OPC will be filing a motion with the Commission requesting an enlargement of the number of discovery questions which may be propounded upon parties similar to the number authorized in the prior rate case.

In the meantime, by this letter, OPC is supplying a list of interrogatories, totaling less than 30 interrogatories, which it requests be answered within 20 days of the date of this request. The 20-day timeframe is consistent with the procedural order issued in the last rate case. Further, the Utility has had more than 45 days to consider its potential responses to OPC's First Set of Interrogatories served on or about March 14, 2012. Thus, 20 days or less to respond to this abbreviated list of interrogatories should not be onerous or otherwise a hardship for the Utility. OPC is willing to work with Counsel for the Utility in satisfying this request.

OPC disagrees with the Utility's assertion that OPC served 91 interrogatories with subparts. While some interrogatories do contain subparts (i.e., seeking separate answers for each of the subparts identified), many do not. Please note that some of the interrogatories with "subparts" should be considered one interrogatory because the "subparts" merely indicate the *scope of the response* OPC is seeking and/or suggest a manner in which the response should be organized to supply a complete response. For these interrogatories, OPC is not seeking separate responses for each subpart but a "global response" which contains a full and meaningful response answered in the most efficient manner possible. If the Utility has a better way to organize its global response to these interrogatories and believes it can fully answer the substance of the global interrogatory request by some other means, OPC asks the Utility to respond in such manner. Otherwise, please consider the subparts in those interrogatories as a template for providing a global response.

Below is the list of interrogatories from OPC's First Set of Interrogatories to which OPC asks the Utility to respond. Under the "Subpart Explanation" in the list below, OPC identifies the interrogatories with

Attachement B

Letter to Martin S. Friedman
 May 4, 2012
 Page 2

subparts that fit this description of "global response" and also identifies the interrogatories which truly are seeking separate answers for each subpart.

OPC Interrogatory No.	Subpart Explanation	No. of Interrogatories Responses
1.	No subparts	1
2.	b. and c.	2
3.	No subparts	1
5.	No subparts	1
6.	No subparts	1
9.	a. and c. – 2 subparts	2
10.	c. and d. – 2 subparts	2
11.	a. – g. – OPC is seeking a global response; not separate individual responses.	1
12.	a. – i. – OPC is seeking a global response; not separate individual responses.	1
13.	c. – f. – 4 subparts	4
14.	a. – g. – OPC is seeking a global response; not separate individual responses.	1
15.	a. – f. – 6 subparts	6
16.	b. and c. – 2 subparts	2
22.	No subparts	1
15 of 26 Interrogatories from OPC First Set		26 of 30 Interrogatories with subparts

This interrogatory matrix for requested responses is keyed to OPC's First Set of Interrogatories served on or about March 14, 2012.

Please let me know if you have any questions regarding this letter, the interrogatory matrix for responses OPC is seeking, or the explanation of the "global response" interrogatory discussed above.

Sincerely,

/s/ Erik L. Sayler

Erik L. Sayler
 Associate Public Counsel

CC: Ann Cole, Director, Office of Commission Clerk (via e-file)
 Gene Brown, President, Water Management Services, Inc. (via email)
 Todd Brown, Div. Economic Regulation (via email)
 Ralph Jaeger, Office of General Counsel (via email)
 Martha Barrera, Office of General Counsel (via email)

Attachment C

OPC POD	Document Request	WMSI Objection	OPC Response
3	WMSI General Ledgers 2008 through 2012, to date	Objects to producing WMSI General Ledgers for 2008 and 2009 as being "irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence."	Non-responsive. OPC asserts these documents are necessary since they are not in the record of this docket. These documents will help provide a complete picture of the financial health of the utility which is at issue in this docket.
5	WMSI Federal tax returns 2008 through 2011	Objects to producing WMSI Tax Returns for 2008 and 2009 as being "irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence."	Non-responsive. OPC asserts these documents are necessary since they are not in the record of this docket. These documents will help provide a complete picture of the financial health of the utility which is at issue in this docket.
6	WMSI state tax returns 2008 through 2011	Objects to producing WMSI Tax Returns for 2008 and 2009 as being "irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence."	Non-responsive. OPC asserts these documents are necessary since they are not in the record of this docket. These documents will help provide a complete picture of the financial health of the utility which is at issue in this docket.
8	copy of all bank statements for each of WMSI's bank accounts for the period January 1, 2008 through the most recent date available	This request is overly broad, onerous, and made solely for harassment.	Non-responsive. WMSI has placed its financial health and continued viability at the center of its rate request. Producing its bank statements will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. WMSI should be compelled to produce these documents.
9	copy of any bank reconciliations done by or for WMSI for the period January 1, 2008 through the most recent date available	No such documents exist	Non-responsive. It stretches the bounds of credulity that WMSI has not done any bank reconciliations. Any reasonable business or viable going concern reconciles its bank balances as a prudent business practice. WMSI should be compelled to produce these documents.
10	Please provide all documents that pertain to the sale or transfer	This request is overly broad, onerous, and made solely	Non-responsive. WMSI has placed its financial health and continued viability at the center of its rate request. Producing these

Attachment C

OPC POD	Document Request	WMSI Objection	OPC Response
	of any and all assets that have been owned by WMSI that have been sold or transferred to other entities, affiliates, persons or parties since December 31, 1992.	for harassment.	documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. However, OPC clarifies that it is seeking documents related to assets valued at or above \$1,000. WMSI should be compelled to produce these documents.
15	Please provide an itemized listing of all loans Mr. Brown has personally endorsed in order to keep the Utility in operation and provide water service to St. George Island. . . . please provide a copy of the debt agreement.	This request is overly broad, onerous, and made solely for harassment.	Non-responsive. WMSI has placed its financial health and continued viability at the center of its rate request. Mr. Brown has testified that he is personally subsidizing WMSI. Producing these documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. However, OPC clarifies that it is seeking documents related to loans valued at or above \$1,000. WMSI should be compelled to produce these documents.
16	This POD requested documents related to the valuation of Brown Management Group, Inc.	This request is overly broad, onerous, and made solely for harassment. Further, issues related to Account 123 have no impact on the ratemaking process and therefore are irrelevant, immaterial, and not calculated to lead to the discovery of admissible evidence.	Non-responsive. WMSI has placed its financial health and continued viability at the center of its rate request. As such, Account 123 and the approximately \$1.175 million accounts receivable owed to WMSI cannot be ignored. Mr. Brown has stated that WMSI now owns the stock of Brown Management Group, Inc. (BGM), and the valuation of BGM exceeds the \$1.175 million owed to WMSI. However, there is no independent way to verify the value of BGM without all these documents. Producing these documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. WMSI should be compelled to produce these documents.
17	Please provide copy of Brown Management Group, Inc.'s detailed General Ledgers for each of the years ended December 31, 2008, 2009, 2010, and 2011 and for 2012 year-to-date.	This request is overly broad, onerous, and made solely for harassment. Further, issues related to Account 123 have no impact on the ratemaking process and therefore are irrelevant, immaterial, and not calculated to lead to the	Non-responsive. Prior to WMSI owning all the stock of BMG, this assertion might have had some validity. However, this assertion that issues related to Account 123 having no impact on this rate case stretch the bounds of reasonableness. WMSI has placed its financial health and continued viability at the center of its rate request. Since WMSI purportedly owns all the stock of this allegedly valuable going concern, it is right and necessary for WMSI to produce the General Ledgers of BGM. For the reasons stated above, there is no independent way to verify the value of BGM without all these

Attachment C

OPC POD	Document Request	WMSI Objection	OPC Response
		discovery of admissible evidence.	documents. Producing these documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. WMSI should be compelled to produce these documents. Further, the Commission has the right to look deep into the financial books of affiliates. The General Ledgers provide a wealth of information about the true value of a going concern, such as BMG. If BMG's value truly exceeds the \$1.175 million owed to WMSI, then these documents will help verify this assertion.
18	Please provide a complete copy of Brown Management Group, Inc.'s Annual Reports and financial statements for the five most recent fiscal years.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17 above. Further, annual reports provide a wealth of information about the true value of a going concern, such as BMG. If BMG's value truly exceeds the \$1.175 million owed to WMSI, then these documents will help verify this assertion.
19	Please provide a complete copy of all existing vehicle leases for Brown Management Group, Inc.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17 above. Further, WMSI produced these vehicle leases in the last rate case, and there was nothing onerous, overly broad, or harassing in that request.
20	Please provide a copy of the W-2s for each of Brown Management Group, Inc.'s employees for 2009, 2010 and 2011.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17 above. Since WMSI owns all the stock in BMG, it is important that WMSI prudently manage this "asset" and this Commission ensure that the employees of BMG receive reasonable salaries.
21	Please provide a complete copy of all federal income tax returns filed by Brown Management Group, Inc. for the 2007, 2008, 2009, 2010 and 2011 tax years.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17 above. Further, federal tax returns provide a wealth of information about the true value of a going concern, such as BMG. If BMG's value

Attachment C

OPC POD	Document Request	WMSI Objection	OPC Response
			truly exceeds the \$1.175 million owed to WMSI, then these documents will help verify this assertion.
22	Please provide a complete copy of all state income tax returns filed by Brown Management Group, Inc. for the 2007, 2008, 2009, 2010 and 2011 tax years.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17 and 21 above.
23	Please provide a complete copy of all local income tax returns filed by Brown Management Group, Inc. for the 2007, 2008, 2009, 2010 and 2011 tax years, if any.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17 and 21 above.
24	Please provide a copy of all bank statements for each of Brown Management Group, Inc.'s bank accounts for the period January 1, 2007 through the most recent date available.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17. Further, bank statements provide a wealth of information about the true value of a going concern, such as BMG. If BMG's value truly exceeds the \$1.175 million owed to WMSI, then these documents will help verify this assertion. OPC exercised discretion when limiting its requests to the identified period.
25	Please provide a copy of any bank reconciliations done by or for Brown Management Group, Inc. for the period January 1, 2008 through the most recent date available.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI should be compelled to produce these documents for the reasons stated in Nos. 16 and 17. Further, bank reconciliations provide a wealth of information about the true value of a going concern, such as BMG. If BMG's value truly exceeds the \$1.175 million owed to WMSI, then these documents will help verify this assertion. OPC exercised discretion when limiting its requests to the identified period.
26	Please provide a complete copy of all federal personal income tax returns filed by Gene Brown	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI has placed its financial health and continued viability at the center of its rate request. As such, Account 123 and the approximately \$1.175 million accounts

Attachment C

OPC POD	Document Request	WMSI Objection	OPC Response
	for the 2007, 2008, 2009, 2010 and 2011 tax years.		receivable owed to WMSI cannot be ignored. According to the utility's annual report and a review of the Florida Division of Corporations website (www.sunbiz.org), Mr. Brown owns or controls entities which own 95% of WMSI. On page 5 of Mr. Brown's testimony he stated that he has liquidated personal resources and personally endorsed substantial loans to keep the Utility in operation and provide water service to St. George Island. Mr. Brown's personal tax information is necessary to verify these statements. Absent the production of these documents, there is no independent way to verify these statements he has made under oath in the form of pre-filed testimony. Producing these documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. WMSI should be compelled to produce these documents
27	Please provide a complete copy of all personal state income tax returns filed by Gene Brown for the 2007, 2008, 2009, 2010 and 2011 tax years.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. Unless Mr. Brown is filing personal state income tax returns in other states, the response should have been different. If these documents exist, they should be produced for the reason below. Since WMSI has placed its financial health at the center of its rate request and since on page 5 of Mr. Brown's testimony he stated that he has liquidated personal resources and personally endorsed substantial loans to keep the Utility in operation and provide water service to St. George Island, Mr. Brown's personal tax information is necessary verify these statements.
28	Please provide a complete copy of all local personal income tax returns filed by Gene Brown for the 2007, 2008, 2009, 2010 and 2011 tax years, if any.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. Unless Mr. Brown is filing personal local income tax returns in other states, the response should have been different. If these documents exist, they should be produced for the reason below. Since WMSI has placed its financial health at the center of its rate request and since on page 5 of Mr. Brown's testimony he stated that he has liquidated personal resources and personally endorsed substantial loans to keep the Utility in operation and provide water service to St. George Island, Mr. Brown's personal tax information is necessary verify these statements.

Attachment C

OPC POD	Document Request	WMSI Objection	OPC Response
29	Please provide a copy of all bank statements for each of Gene Brown's personal bank accounts for the period January 1, 2007 through the most recent date available.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. WMSI has placed its financial health and continued viability at the center of its rate request. As such, Account 123 and the approximately \$1.175 million accounts receivable owed to WMSI cannot be ignored. On page 5 of Mr. Brown's testimony he stated that he has liquidated personal resources and personally endorsed substantial loans to keep the Utility in operation and provide water service to St. George Island. As such, Mr. Brown appears to have comingled his personal finances with that of the utility. Mr. Brown's personal bank statements are necessary to verify these statements. Absent the production of these documents, there is no independent way to verify these statements he has made under oath in the form of pre-filed testimony. Producing these documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. WMSI should be compelled to produce these documents
30	Please provide a copy of any bank reconciliations done by or for Gene Brown for the period January 1, 2008 through the most recent date available.	Same response as Nos. 16 & 17 why these documents not produced.	Non-responsive. Mr. Brown has apparently comingled his personal finances with that of WMSI. As such, he should produce these documents if he performs bank reconciliations. Absent the production of these documents, if any exist, there is no independent way to verify these statements he has made in testimony. Producing these documents will verify the truth of these assertions. There is nothing onerous, overly broad, or harassing in this request. WMSI should be compelled to produce these documents
42	Please provide a copy of all documents that support the statement referenced on page 8, lines 13 through 14, of the direct testimony of Gene Brown that states that a water utility should be allowed to collect 75% of the net cost of its plant investment.	See Rule 25-30.580(1), F.A.C.	Non-responsive. There should be responsive documents and/or cost studies that justify the 75% amount, unless the only basis for the utility requesting 75% is that that is the maximum allowed under the rule.