

Eric Fryson

From: Woods, Monica [WOODS.MONICA@leg.state.fl.us]
Sent: Monday, December 17, 2012 2:19 PM
To: Filings@psc.state.fl.us
Subject: FW: E-filing (Dkt. No. 110200-WU)
Attachments: 110200 OPC Initial Objections to Staff's First Set of Rogs (1-3).pdf

From: Roberts, Brenda
Sent: Monday, December 17, 2012 2:16 PM
To: Woods, Monica
Subject: FW: E-filing (Dkt. No. 110200-WU)

From: Roberts, Brenda
Sent: Monday, December 17, 2012 12:14 PM
To: filings@psc.state.fl.us
Cc: Saylor, Erik; Vandiver, Denise; Gene Brown; Martha Barrera; Marty Friedman; Michael Lawson
Subject: E-filing (Dkt. No. 110200-WU)

Electronic Filing

a. Person responsible for this electronic filing:

Erik L. Saylor, Associate Public Counsel
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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 9 pages.

e. The document attached for electronic filing is 110200 OPC Initial Objections to Staff's First Set of Rogs (1-3).pdf

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
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DOCUMENT NUMBER-DATE

0818 | DEC 17 2012

FPSC-COMMISSION CLERK

12/17/2012

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-WS

Dated: December 17, 2012

**CITIZENS' INITIAL OBJECTIONS TO PUBLIC SERVICE COMMISSION
STAFF'S FIRST SET OF INTERROGATORIES TO THE OFFICE OF PUBLIC
COUNSEL (NOS. 1-3)**

Office of Public Counsel, (Citizens or OPC), by the requirements set forth in Commission Order No. PSC-12-0526-PCO-WU, Rule 1.340(a), Florida Rule of Civil Procedure, submit the following initial objections to the First Set of Interrogatories (Nos. 1-3) propounded by the Staff of the Florida Public Service Commission (Staff) on December 12, 2012.

GENERAL OBJECTIONS

With respect to the "Definitions" and "Instructions" in the requests, Citizens object to any definitions or instructions that are inconsistent with Citizens' discovery obligations under applicable rules. If some question arises as to Citizens' discovery obligations, Citizens will comply with applicable rules and not with any of Staff's definitions or instructions that are inconsistent with those rules.

Citizens object to each and every request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests. Any responses provided by Citizens are provided subject to, and without waiver of, the foregoing objection.

Citizens also object to any request that purports to require Citizens or its experts to prepare studies, analyses, or to do work for OPC that has not been done for Citizens.

Citizens generally object to any request that calls for information prepared in anticipation of litigation or hearing, for data or information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law.

Citizens reserve the right to supplement any of its responses if Citizens cannot locate the answers immediately due to their magnitude and the work required to aggregate them, or if Citizens later discover additional responsive information in the course of this proceeding. By making these general objections at this time, Citizens do not waive or relinquish its right to assert additional general and specific objections to Staff's discovery.

By making these responses herein, Citizens do not concede that any request is relevant to this action or is reasonably calculated to lead to the discovery of admissible evidence. Citizens expressly reserve the right to object to further discovery into the subject matter of any of these requests, to the introduction of evidence of any response or portion thereof, and to supplement its responses should further investigation disclose responsive information.

In responding to these Requests, Citizens have made a reasonable inquiry of those persons likely to possess information responsive thereto and has conducted a reasonable search of those records in Citizens' possession, custody, or control where the requested information would likely be maintained in the ordinary course of business. To the extent that Staff's requests ask Citizens to go to greater lengths, Citizens object because such requests are overly broad, unduly burdensome, and unreasonable.

Citizens object to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to Staff through normal procedures.

In responding to these Requests, Citizens do not waive the foregoing objections, or the specific objections that are set forth in the responses to particular requests.

ADDITIONAL SPECIFIC OBJECTIONS

In addition to the general objections which apply to every interrogatory, Citizens provide the following objections to specific interrogatories:

Interrogatory 1. Net Gain on Sales. On page 38 of Order No. PSC-11-0010-SC-WU, issued January 3, 2011, the Commission found the following: “[b]ased on the above, the net capital gains (net of capital losses) on the sale of specific assets shall be recognized and amortized over five years. Our calculations do not include those assets that would otherwise be fully amortized within a year of when the rates would go into effect. . . . Based on the above, we calculate a net gain of \$242,040, which shall be amortized over five years, for an annual amortization amount of \$48,408.” (Emphasis added). If OPC does not agree with the Commission methodology underlined above, please provide a detailed explanation of why it does not agree, the specific facts in support of OPC’s contentions and cite the legal authority, including statutes, rules, Commission orders and case law, in support of OPC’s claim.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it conflates and confuses OPC’s factual basis for protesting this issue with a position on this issue, and requests that OPC do legal research for a party (or non-party) of record. OPC objects to this interrogatory because it

misapprehends OPC's protest of this issue, OPC's testimony presented concerning this issue, and OPC's position on this issue. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(a). OPC takes the position that the Commission, in the PAA Order being protested, "did not take proactive steps to repatriate the funds in Account 123 to Utility operations (i.e., did not order the liquidation of the so-called investments in associated companies)." Please cite the specific authority, statute, rules, Commission order or case law OPC relies upon to support this claim.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it conflates and confuses OPC's factual basis for protesting the Commission's PAA decision relating to Account 123 with a position on this issue. Moreover, this interrogatory requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(b). State whether, to OPC's knowledge, the Commission has ever taken this type of action. If "yes," state the date, order number and docket number.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. Moreover, this interrogatory requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(c). OPC takes the position that the Commission, in the PAA order being protested, did not “ensure that the Utility does not continue to increase investments in Account 123.” Please cite the specific authority, statute, Commission order, rules or case law OPC relies upon to support this claim.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it conflates and confuses OPC’s factual basis for protesting the Commission’s PAA decision relating to Account 123 with a position on this issue. Moreover, this interrogatory requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(d). OPC takes the position that the Commission, in the PAA order being protested, did not “address adequately the harm to customers resulting from the Utility’s cash management practices (i.e., the nearly \$1.2 million in additional interest added to the DEP loan which customers will have to pay).” Please state the factual basis for OPC’s claim specifically addressing harm to customers which refute the Commission’s finding.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it conflates and confuses OPC’s factual basis for protesting the Commission’s PAA decision relating to Account 123 with a position on this issue. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(e). Please define the term “adequately” and explain the context in which it is used in OPC’s claim in this case.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. Moreover, this interrogatory requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(f). Please define the term “managerial negligence,” state its source and explain the context in which it is used in this case.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because “managerial negligence” is not addressed in testimony by any witness. Moreover, this interrogatory requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(g). State whether, to OPC’s knowledge, the Commission ever made a finding of “managerial negligence” and state the date, order number and docket number.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in

anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because this interrogatory requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(h). Please define the term “proactive steps,” state its source and explain the context in which it is used in this case.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 2(i). Please define the term “repatriate funds,” state its source, explain the context in which it is used in this case and cite the authority including case law, Commission orders, rules, and statutes in support of OPC’s claim that the Commission failed to take “proactive steps to repatriate the funds.”

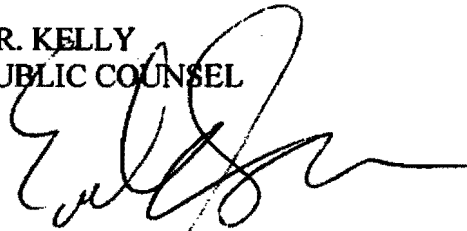
Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it conflates and confuses OPC’s factual basis for protesting the Commission’s PAA decision relating to Account 123 with a position on this issue. Moreover, this interrogatory requests OPC to perform legal research for a party (or

non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

Interrogatory 3. Previously-Approved Rate Case Expense. With regard to OPC's proposal to reduce rate case expense previously approved in Order No. PSC-11-0010-SC-WU, please cite Commission orders, statutes, rules, and other case law supporting OPC's proposed reduction.

Objection: The general objections stated above are hereby incorporated herein by reference. Without waiving such objections, Citizens specifically objects to the request since it asks for disclosure of work product, attorney/client privilege, accountant/client privilege and/or information developed in anticipation of litigation. Further, OPC objects to the extent that this interrogatory is beyond the scope of the testimony and exhibits presented by any of the parties in this case and/or calls for a legal opinion by non-attorney witnesses. OPC objects to this interrogatory because it requests OPC to perform legal research for a party (or non-party) of record. To the extent that OPC can respond to this interrogatory, OPC will respond.

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Attorneys for the Citizens of the
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **CITIZENS' RESPONSE TO FLORIDA PUBLIC SERVICE COMMISSION STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-3)** has been furnished electronically and/or by U.S. Mail on this 17th day of December, 2012, to the following:

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