

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.	DOCKET NO. 100330-WS ORDER NO. PSC-11-0544-PHO-WS ISSUED: November 23, 2011
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Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on November 8, 2011, in Tallahassee, Florida, before Commissioner Ronald A. Brisé, as Prehearing Officer.

APPEARANCES:

D. BRUCE MAY, JR., ESQUIRE, Holland & Knight, LLP, Post Office Drawer 810, Tallahassee, Florida 32302-0810
On behalf of Aqua Utilities Florida, Inc. (AUF).

PATRICIA A. CHRISTENSEN, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC)

DAVID S. BERNSTEIN, and KENNETH M. CURTIN, ESQUIRES, Adams and Reese, LLP, 150 Second Avenue North, Suite 1700, St. Petersburg, Florida, 33701
On behalf of YES Communities, Inc. d/b/a Arredondo Farms (YES).

JOSEPH D. RICHARDS, ESQUIRE, Pasco County Attorney's Office, Pasco County Board of County Commissioners, 8731 Citizens Drive, Suite 340, New Port Richey, Florida 34654
On behalf of the Citizens of Pasco County (Pasco County)

CECILIA BRADLEY, ESQUIRE, Office of the Attorney General, The Capitol – PL01, Tallahassee, Florida 32399-1050
On behalf of the Attorney General of the State of Florida (AG)

RALPH R. JAEGER, LISA C. BENNETT, and LARRY D. HARRIS, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

MARY ANNE HELTON, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

On September 1, 2010, Aqua Utilities Florida, Inc. (AUF or Utility) completed filing the minimum filing requirements (MFRs) for its Application for Increased Water and Wastewater Rates (Application). The Utility requested the Application be processed using the proposed agency action (PAA) procedures.

The Commission issued its PAA Order No. PSC-11-0256-PAA-WS (PAA Order) on June 13, 2011. However, Ms. Lucy Wambsgan¹ and the Office of Public Counsel, Intervenor, timely filed their protests of portions of the PAA Order. Also, AUF and Pasco County (another intervenor), timely filed their cross-petitions concerning portions of the PAA Order. Pursuant to Section 120.80(13)(b), Florida Statutes (F.S.), any issue not disputed is deemed stipulated.

By Order No. PSC-11-0309-PCO-WS (Order Establishing Procedure), issued July 25, 2011, the Application was scheduled for formal hearing² to be held November 29 and 30 and December 1, 7, and 8, 2011, with a Prehearing Conference scheduled for November 8, 2011. This Prehearing Order sets forth the agreements reached by the parties and the decisions reached by the Prehearing Officer for conduction of the formal hearing scheduled as set out above. This Order also lists those issues that were not disputed by the parties and are deemed stipulated pursuant to Section 120.80(13)(b), F.S.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 367, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapter 120, F.S., and Chapters 25-22, 25-30, and 28-106, F.A.C., as well as any other applicable provisions of law.

¹ Ms. Wambsgan subsequently withdrew as a party.

² Service Hearings were held in Greenacres (August 29, 2011); North Ft. Myers (August 30, 2011); Sebring (August 31, 2011); Oviedo (September 1, 2011); Gainesville (September 12, 2011); Palatka (September 13, 2011); Eustis (September 13, 2011); Chipley (September 16, 2011); New Port Richey (October 11, 2011); and Lakeland (October 12, 2011).

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 367.156, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 367.156, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and

affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests. It is noted that the Intervenors object to these provisions on "friendly cross-examination of witnesses," and they may be re-examined at the commencement of the technical portion of the hearing.

VI. ORDER OF WITNESSES

As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) will be excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified as soon as possible as to whether any such witness shall be required to be present at the hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and be admitted into the record.

The parties have agreed that several witnesses may be taken on December 1, 2011, if the Commission agrees. Each witness whose name is preceded by a plus symbol (+) may be taken on a day certain. Parties shall be notified as soon as possible as to what date any such witness shall be required to be present at the hearing.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Stan F. Szczygiel	AUF	1, 2, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24 (objected) and 25
Preston Luitweiler	AUF	1, 2, 3, 10, 39
Susan Chambers	AUF	1, 2, 39
William Troy Rendell	AUF	4, 5, 6, 7, 12, 13, 20, 24 (objected), 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38
Andrew Woodcock	OPC	1, 2, 3, 4, 5, 6, 7
Denise Vandiver	OPC	1, 2, 8, 20, 22, 24, 26, 39
Earl Poucher	OPC	1, 2, 24, 26, 39
Kimberly Dismukes	OPC	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 39
*Kim Kurz	YES	1, 2, 24
Shawn Harpin	YES	1, 2, 24
Jeremy Gray	YES	1, 2, 24
Mallory Starling	YES	1, 2, 24
Mike Green	YES	1, 2
Jack Mariano	PASCO COUNTY	1, 2, 39
Angela Chelette	STAFF	1
Jay W. Yingling	STAFF	1
+Catherine A. Walker	STAFF	1
*Stephanie Daugherty	STAFF	1
+Scott Harrison	STAFF	1

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
+Diane Loughlin	STAFF	1
*Ryan Schwarb	STAFF	1
*Richard Lott	STAFF	1
Benjamin L. Piltz	STAFF	1
+Patricia Carrico	STAFF	1
+Tom Rauth	STAFF	1
+Caitlyn Eck	STAFF	1
+Gary P. Miller	STAFF	1
+Ginny Marie Montoya	STAFF	1
+Josie Penton	STAFF	1
+Daniela Sloan	STAFF	1
Kimberly Dodson	STAFF	1
+Jeffry S. Greenwell	STAFF	1
+Blanca Rodriguez	STAFF	1
*Rhonda L. Hicks	STAFF	1
*Kathy L. Welch	STAFF	16
Paul W. Stallcup	STAFF	14, 24, 26

Rebuttal

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Denise Vandiver	OPC	1, 2, 8, 20, 22, 24, 26, 39
Earl Poucher	OPC	1, 2, 24, 26, 39

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Stan F. Szczygiel	AUF	1,2, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24 (objected) and 25
Preston Luitweiler	AUF	1, 2, 3, 10, 39
Susan Chambers	AUF	1, 2, 39
William Troy Rendell	AUF	4, 5, 6, 7, 12, 13, 20, 24 (objected), 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38
Frank Seidman	AUF	4, 5, 6, 7

Supplemental Rebuttal

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Preston Luitweiler	AUF	1, 2, 3, 10, 39
Susan Chambers	AUF	1, 2, 39
William Troy Rendell	AUF	4, 5, 6, 7, 12, 13, 20, 24 (objected), 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38

VII. BASIC POSITIONS

AUF: AUF currently operates 60 jurisdictional water utility systems and 27 jurisdictional wastewater systems in the following Florida counties: Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington. Since rates were last established in Docket No. 080121-WS, AUF has invested over 11 million dollars in capital to comply with Commission directives and applicable federal, state and local regulations. As a result of these investments and AUF's ongoing quality control initiatives, including aesthetic water quality improvement projects, AUF's overall quality of service has improved significantly since the last rate case.

At the same time, despite ongoing efforts to control and reduce expenses, AUF has continued to experience significant declining rates of return which necessitate rate relief. The decision to seek rate relief was not an easy one to make, but was

required in order for AUF to maintain its financial integrity. The rate relief requested is not excessive; rather, it is the minimum required to enable AUF to provide adequate and efficient service, and an opportunity to earn a fair rate of return on its investment as provided law.

Although AUF is not opposed to the implementation of the cap-band rate structure set forth in the PAA Order, the Commission may want to consider a state-wide uniform rate to address some of the affordability concerns expressed in this case. The Commission has previously found that uniform rate structures would address affordability and fairness.

OPC:

AUF has requested two rate increases in less than a three year period and barely a month after the last requested rate increase had been in place for a year. AUF's back to back rate increases are unfair and unreasonable, and will cause customers to pay unaffordable rates. Several issues have contributed to AUF's unsustainable rate increase cycle. These issues are: AUF's unsatisfactory quality of service, AUF's use of higher used and useful percentages than the systems require, AUF's inclusion of pro forma plant adjustments in the test year for projects that have not been started, and AUF's requested increases in operating expenses that are too high and not justifiable.

On the Commission's website, the Commission's mission statement states that it is committed to making sure that Florida's consumers receive some of their most essential services -- electric, natural gas, telephone, water, and wastewater -- in a safe, **affordable**, and reliable manner. The Commission should exercise its regulatory authority over AUF in the key areas of rate base/economic regulation and service issues by finding that it provides unsatisfactory service at unaffordable rates.

AUF's customers have consistently testified at the customer meetings held in October and November 2010 and the Service Hearings held in August, September and October 2011 regarding their dissatisfaction with AUF's quality of product and service. But for AUF providing a monopolistic service, based on the testimony received customers, would be choosing another water and wastewater provider and AUF would be going out of business. In fact, customers have testified to installing wells to avoid paying AUF's high costs. AUF customers have reported problems with the water quality and AUF has had interactions with the Department of Environmental Protection (DEP) for 45% of its systems in the last three years. AUF customers have testified to numerous billing problems including high bills, back billing and malfunctioning meters. AUF has been under a monitoring plan since its last rate case, yet analysis of the customers' testimony from the last two years show no marked improvement. Based on AUF's persistent quality of service problems, the company's return on equity should be decreased by 100 basis points, which is consistent with past Commission practice.

Next, AUF has requested higher used and useful percentages than are justified by the amount of plant that it has in service for the current customer base. Higher used and useful percentages result in rates that are higher than they should be. Given that AUF's rates are some of the highest rates in Florida, the Commission should apply the correct used and useful percentages. In addition, all the pro forma adjustments for Lake Josephine Leisure Lakes, Peace River, and Sunny Hills should be denied if AUF cannot demonstrate it has started construction or provide other relevant documentation.

Moreover, AUF has requested operating expenditures that are too high and unjustified. AUF's affiliated allocation methodology, revenues, costs, and charges are significantly overstated. First, AUF's methodology has failed to charge its non-regulated affiliates appropriately, thereby causing AUF Florida's customers to pay higher than fair costs. Second, AUF's affiliated costs are significantly higher than Florida's average costs for equivalent services. The PAA Order included adjustments for affiliated IT costs, incentive compensation, and salaries and wages that should continue to be made. Based on Citizens' affiliate costs analysis, AUF's requested increase in affiliated costs should be denied in almost its entirety for a reduction of \$976,845.

AUF's requested rate case expense is also too high. While AUF has the right to hire any attorney they want to represent them, AUF customers should not have to contribute more than the average cost for engaging such an attorney in Florida. In addition, AUF has failed to justify all of its rate case expense. Even though customers may receive some benefits from having periodic rate cases to ensure rates are based on current costs, AUF's "pancaked" rate cases are too frequent to justify the customers' bearing all of the rate case expenses. Therefore, the Commission should make Citizens' adjustments to rate case expense.

AUF has used billing determinants that are too low. Due to customers' installing wells the projected revenue from the last rate case was 16% less than expected. Given that the revenue shortfall was due to AUF's actions and its poor quality of service and product, the current customers should not be penalized. Therefore, the billing determinants should be adjusted higher. Similarly, AUF's actions have caused higher costs that have resulted in increased bad debt expense. Thus, AUF's requested bad debt expense is too high. The Commission should use the appropriate three year average and exclude the test year period which is being tested. This will result in a reduction in bad debt expense of \$310,816.

Based upon Citizens' analysis of AUF's requested increases, AUF's requested used and useful percentages, pro forma plant increases and operating expenditure increases will result in rates that are not affordable within the meaning and intent of fair, just, or reasonable rates pursuant to Sections 367.081 and 367.121, Florida Statutes. These statutes require the ratemaking process to produce rates that are fair, just, and reasonable. Even if the individual components would

otherwise be reasonable when reviewed in isolation, if the end result unaffordable rates, then further cost reductions must be made under the statutory constraint that rates must be fair, just, and reasonable. The Commission should make all of Citizens' recommended adjustments resulting in further reductions of approximately \$2.3 million from the PAA Order which approved a \$2.6 million increase.

YES: AUF is entirely undeserving of any rate increase. AUF's quality of service, as defined in Section 367.081, Florida Statutes, is unacceptable. AUF provides poor quality water and wastewater service; commits predatory metering and billing practices against its customers resulting in exaggerated and inaccurate bills; employs rude and condescending customer service representatives; and fails to provide affordable service. AUF exemplifies everything a utility provider should not be. AUF's application for rate increase should be denied and the Monitoring Program (the "Monitoring Program") imposed by this Commission in Order No. PSC-09-0385-FOF-WS, Order No. PSC-10-0218-PAA-WS, and Order No. PSC-10-0297-PAA-WS should be continued.

**Pasco
County:**

Pasco County contends that the rate base, the net operating income (NOI), and the revenue requirement approved in Order No. PSC-11-0256-PAA-WS are overstated. Since the rate base, NOI, and the revenue requirement are overstated, the resulting rates are unjust and unreasonable. Moreover, the PAA Order approved rates are unaffordable. Pasco County protests the portions of the PAA Order relating to rate base, NOI, and revenue requirement areas and quality of service and the other issues listed in the Office of Public Counsel's Petition and Pre-hearing Statement.

The Commission's finding of marginal quality of service provided by Aqua to its customers in the PAA Order should be set aside. Aqua's quality of service should be found to be unsatisfactory. The Commission should lower Aqua's return on equity (ROE) by 100 basis points based on its less than satisfactory quality of service. Pursuant to Sections 367.081 and 367.121, Florida Statutes, the Commission has the authority and duty to prescribe and fix just and reasonable rates and charges. Adjustment should be made to rate base, NOI, and revenue requirement to make the rates and charges just and reasonable for the customers of Aqua.

AG: The AG believes that the citizens of Florida deserve clean, healthy water at a fair and reasonable rate. The testimony offered at the Public Hearings demonstrates that Aqua has failed to meet these requirements. The testimony of its customers show that Aqua has not met the water quality standards, with numerous customers testifying that they cannot drink the water or use the water to shower, wash clothes and dishes or give to their pets.

Those who can afford the cost have put in filters or use bottled water. The customers who cannot afford these costs use as little water as possible, sometimes bathing infrequently and only flushing the toilet when they have to. There was testimony from customers who collected bath water to flush the toilet and couples who used the toilet at the same time so they would only need to flush once. Some persons testified about having sewage back up in their toilets and tubs and one person testified that his plumbers traced the sewage block to the Aqua pipes. Many customers testified of the problems with rude customer service and the hardships they endured when Aqua finally billed them for several months of service totaling hundreds or thousands of dollars. Many of these customers testified that they were told they must pay the bill in full immediately or enter into a payment plan with the repeated warning that if they were a “day late or a dime short, [Aqua] would turn off their water.”

Other customers testified that they could not afford the rates but when they tried to rent or sell their homes, the fact that Aqua furnished their water prevented them from getting any interest from those looking to rent or buy. Some small business persons testified that they were having trouble with their rental properties because the renters were unable to afford the Aqua bills despite the fact that they were trying to use as little water as possible. Many customers testified to the number of water heaters, coffee pots and other appliances that had to be replaced because of the water. In summary, many customers cannot afford or otherwise decide not to use the Aqua water.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: What is AUF's quality of service?

POSITIONS

AUF: The quality of service provided by AUF is good and has significantly improved since the last rate case. In 2009, the Commission granted AUF rate relief and found that the quality of service was marginal for AUF's systems that are part of the current rate case. Since that time, the Commission and its Staff have closely monitored AUF's quality of service. At no time during this two-year monitoring period has the Commission or its Staff found AUF's quality of service to be unsatisfactory. In fact, the Commission has found that “preliminary results show substantial improvement in AUF's customer service.” See Order No. PSC-10-0218-PAA-WS (emphasis added). AUF is committed to providing quality service

to its customers and has made substantial investment in order to improve service quality, including ongoing water quality improvement projects that have improved the aesthetic quality of the water. (Luitweiler, Chambers, Rendell)

OPC:

AUF's overall quality of service is unsatisfactory. AUF has on-going poor water quality issues, billing problems, and poor customer service. Despite an on-going monitoring program, AUF still has persistent, deeply embedded poor quality of service issues in Florida. As testified to by AUF's customers at the service hearings and summarized by OPC's witnesses, water quality, billing problems and poor customer service are the main problems. And the testimony confirms that no significant improvements have been made.

AUF's quality of service problems affect all of its systems, which were found to have "marginal" quality of service in the last rate case (Docket No. 080121-WS) with the exception of the Chuluota system. In the previous rate case (Docket No. 080121-WS), the Chuluota system's quality of service was found to be unsatisfactory and remains unsatisfactory today. However, since the Chuluota system is not part of Aqua's Petition for rate increase in the current docket (100330-WS), it should not be included in the Commission's decision in this docket on the quality of service.

Customers at the customer meetings held in October and November 2010 complained about the poor quality of the plant maintenance, including unkempt property, odors from plant facilities, line breaks, and malfunctioning lift station alarms. They also complained about poor customer service relating to rude customer service representatives, billing problems, and difficulties in reaching a Company representative in an emergency situation. Despite the Company being under a Monitoring Plan during the historic test year, the customer complaints did not decrease significantly in 2010, only 19% when compared to the previous year.

During the Service Hearings held in August, September and October 2011, the customers still complained about the poor quality of plant maintenance, water quality, and customer service. Based on the customers' testimony at these hearings billing issues (including back billing, high bills, and malfunctioning meters) are a significant problem. Customers should be able to rely on accurate and timely billing. AUF has failed to have any meaningful plan or procedure to deal with the high bill issues. According to the Commission's complaint records, 16 customers were back billed for over one year of service in violation of Rule 25-30.340, F.A.C. AUF's back billing procedures are noncompliant with the applicable regulations, and AUF should be required to implement procedures that fully comply with the Commission's rules.

While some of AUF's systems offer water that is usable for its intended purposes, many systems provide water that is of such poor quality that customers have to purchase bottled water for drinking and cooking. Specially, customers at the

Eustis, Oviedo, Palatka Gainesville, Sebring, and New Port Richey service hearings testified that the water is unusable. They testified that their water smelled, tasted bad, and left residue. Of particular concern are the customer's complaints regarding the lack of timely boiled water notices and timely response to leak hazards which increase the potential for health problems.

Moreover, AUF's systems have on-going issues with DEP. Over the last three year years, AUF has had multiple DEP compliance issues. The overall view of AUF's systems related to DEP show persistent water quality problems. Since 2007, AUF has had 26 primary water quality violations, 20 total coliform violations, 15 secondary violations and 15 violations for late or not reported parameters. Over the last 18 months (January 2010 through July 2011), AUF has continued to have DEP violations: 3 primary water violations, 6 total coliform violations, 2 secondary violations, and 1 violation for late or not report parameters. The AUF wastewater systems have been out of significant compliance 39 times since 2007. And over the last 18 months (January 2010 through July 2011), AUF has been out of significant compliance 11 times. Over the last three years, DEP has identified 183 instances where the Company issued boil water notices. Contrary to the Company's self reporting that customers received timely notice of these boil water incidence, multiple customers testified that they never saw nor received a notice from the utility. Many customers testified that they only received a stop boil water notice, and never realized that a potential health hazard event had even occurred. (Woodcock, Vandiver, Poucher, Dismukes)

YES: Unsatisfactory. (Kurz, Harpin, Gray, Starling, Green)

**Pasco
County:**

Aqua's quality of service is unsatisfactory. Over the last few years, the County has received numerous complaints from Aqua customers regarding poor quality service, poor water quality and exorbitant rates. Aqua has failed repeatedly to properly and fully inform its customers of required boil water orders in the Jasmine Lakes and Palm Terrace service areas. A survey completed by 340 customers from the Palm Terrace and Jasmine Lakes service indicate that Aqua has been inconsistent in notifying customers of the need to boil water. According to the surveys, 137 customers stated that they never received any form of boil water notice; 78 received notice via letter size piece of paper and 92 received a door hanger. Only 17 received a phone call from Aqua. (Mariano)

AG: Aqua's quality of service is unsatisfactory. The AG agrees with the other interveners that Aqua has not met the standard on this issue. See the AG's position statement.

STAFF: No position pending further development of the record. (All Staff Witnesses except Welch and Stallcup)

ISSUE 2: What, if any, additional actions should be taken by the Commission based on AUF's quality of service?

POSITIONS

AUF: The quality of service provided by AUF is good and has significantly improved since the last case. No further action should be taken by the Commission. For over two years now, AUF's service quality has been the focus of a rigorous and unprecedented review by the Commission, its Staff, the OPC, and other parties. AUF has timely complied in all respects with the monitoring reporting requirements imposed by the Commission and, in so doing, has incurred significant costs. The results of that monitoring clearly show that AUF has good customer service and consistently complies with environmental requirements. The evidence also shows that AUF has been proactive in establishing quality of service performance goals to ensure that its good customer service will be maintained into the future. Additional monitoring is unnecessary and would not be cost-effective. Moreover, OPC's recommendation to penalize AUF with a return on equity reduction is unwarranted, and if adopted, would result in confiscatory rates. (Luitweiler, Chambers, Rendell)

OPC: The Commission should reduce AUF's ROE 100 basis points for its unsatisfactory service. Also, a Monitoring Plan should be reinstated to address the quality of service problems regarding water quality, billing problems, and customer service.

Based on the testimony at the Service Hearings in August, September and October 2011, comments received at the customer meetings in October and November 2010, customer correspondence, and DEP reports, Florida customers are not getting an adequate quality water product or service that they are paying for even though they pay some of the highest water rates in the state. Not only is the water quality for many systems unsatisfactory, the customer service and billing is also unsatisfactory. The Commission should reduce AUF's ROE 100 basis points for its unsatisfactory product and service.

Section 367.111(2), Florida Statutes, provides that a public utility shall provide service and:

. . .such service shall not be less safe, less efficient, or less sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest. If the Commission finds that a utility has failed to provide its customers with water or wastewater service that meets the standards promulgated by the Department of Environmental Protection or the water management districts, the

commission may reduce the utility's return on equity until the standards are met.

While the Commission is not limited to only situations where the Company has failed to meet DEP standards, there is sufficient evidence in this case to find that AUF has failed to provide over the course of many years quality water that consistently meets the DEP standards.

In AUF's last rate case, the Commission reduced AUF's ROE by 25 basis points for its marginal service for all systems, except the Chuluota system which was reduced 100 basis points for its unsatisfactory service. Based on the Commission's concerns, a Quality of Service Monitoring Plan was implemented. The Commission has a history of reducing ROE for poor customer service including a 1% or 100 basis point reduction for Pine Island Utility and Consolidated Utilities Company, 50 basis points for Aloha Utilities and Ocean Reef Club, and a 25 basis point reduction for Southern States Utilities (the predecessor for most of the AUF systems). Given AUF's on-going, and persistent poor quality of service in both product and customer service, AUF's ROE should be reduced by 100 basis points.

In a competitive market, the Company would have lost customers due to its poor customer service. In fact, some customers have testified that they have installed wells, significantly reduced their usage and in extreme circumstances sold or abandoned their homes, all because of the poor quality of product and service provided by AUF. Other customers testified that they cannot sell homes in part due to the Company's reputation for poor water quality, high bills and poor customer service. Many AUF customers have done everything they can to signal to the company their dissatisfaction short of not buying AUF's product or service which they cannot do since this is a monopoly service. Despite the customers' overall dissatisfaction with its service, AUF has not done enough to improve its product or service to change their customer's opinion. Unfortunately a 25 basis point deduction to its ROE for most of its system was not sufficient to get the Company to significantly improve its product and quality of service such that they would be acceptable to the customers.

A reduction of 25 basis points amounts to a reduction in revenue of less than \$90,000 on a combined basis, which is less than .01 percent of AUF America's 2010 total revenue and .6 percent of AUF Florida's 2010 total revenue. In contrast, a 100 basis point reduction would be approximately 2.6 percent of AUF Florida's total revenues, but would still be only .05 percent of Aqua America's total revenue. The reduction of a 100 basis point is necessary to effect the change in AUF's behavior that is long overdue without creating financial jeopardy. (Woodcock, Vandiver, Poucher, Dismukes)

YES: AUF should be denied any rate increase. Further, the Monitoring Program should be continued. (Kurz, Harpin, Gray, Starling, Green)

Pasco

County: The Commission should lower Aqua's return on equity (ROE) by 100 basis points because of its less than satisfactory quality of service. (Mariano)

AG: The Commission should lower Aqua's return on equity (ROE) by 100 basis points because of its less than satisfactory quality of service.

STAFF: No position pending further development of the record.

RATE BASE

ISSUE 3: What is the appropriate amount of pro forma plant, and related depreciation and property taxes, for the following specific protested pro forma plant projects; Breeze Hill Wastewater I&I Project, Lake Josephine and Sebring Lakes AdEdge Water Treatment Project; Leisure Lakes AdEdge Water Treatment Project; Peace River Water Treatment Project; Tomoka View Twin Rivers Water Treatment Plant Tank Lining Project; Sunny Hills Water System Water Tank Replacement Project?

POSITIONS

AUF: The appropriate amount of pro forma plant, and related depreciation and property taxes, for the following specific protested pro forma plant projects: Breeze Hill Wastewater I&I Project, Lake Josephine and Sebring Lakes AdEdge Water Treatment Project; Leisure Lakes AdEdge Water Treatment Project; Peace River Water Treatment Project; Tomoka Twin Rivers Water Treatment Plant Tank Lining Project; Sunny Hills Water System Water Tank Replacement Project are set forth below:

Funding Project Description	Pro Forma Additions	Depr Exp	Prop Tax Exp Incs
I & I study & improvement, collection system - Breeze Hill	78,165	1,737	1,239
New tank liners - Tomoka & Twin Rivers	48,066	1,375	1,095
Secondary water treat - Sebring Lakes - Lake Josephine	373,354	16,988	5,703
Secondary water quality - Leisure Lakes	105,799	4,814	1,616
Gross alpha treatment - Peace River	235,392	10,710	4,076
Additional Storage - Sunny Hills W	267,885	7,662	4,487
Protested Pro Forma Plant Total	<u>1,108,661</u>	<u>43,285</u>	<u>18,216</u>

(Luitweiler)

OPC: A proforma plant project should not be included in this rate proceeding if the physical construction of the project has not begun. Even though a project has been planned and equipment purchased, the project for any number of reasons might not be constructed as planned or even constructed at all and placed into service. To date, construction has not begun on the Lake Josephine/Sebring Lakes Water Treatment Project and the Leisure Lakes Water Treatment Project. Construction has begun on the other protested proforma projects, and therefore, the proper documented costs should be included for recovery in this proceeding. These projects include: Breeze Hill Wastewater I&I Project, Peace River Water Treatment Project, Tomoka Twin Rivers Water Treatment Plant Tank Lining Project and the Sunny Hills Water Systems Tank Replacement Project. (Woodcock, Dismukes)

YES: Yes defers to the Office of Public Counsel’s position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: For non-testifying Staff, the following table reflects staff’s recommended plant amounts for AUF’s protested pro forma plant projects.

<u>System</u>	<u>System or Rate Band</u>	<u>Project</u>	<u>MFR Amount</u>	<u>Supported Amount</u>	<u>Plant Adjustments</u>
Breeze Hill	Breeze Hill	Wastewater I&I	\$100,000	\$78,165	(\$21,835)
Lake Josephine & Sebring Lakes	Water 4	AdEdge Water Treatment	300,000	309,139	9,139
Leisure Lakes	Water 4	AdEdge Water Treatment	150,000	102,909	(47,091)
Peace River	Peace River	Water Treatment	50,000	15,216	(34,784)
Tomoka Twin Rivers	Water 4	Tank Lining	70,000	48,066	(21,934)
Sunny Hills	Water 2	Tank Replacement	120,000	36,809	(83,191)
Total			<u>\$790,000</u>	<u>\$509,304</u>	<u>(\$199,697)</u>

In addition, for non-testifying Staff, the following table reflects staff's corresponding adjustments to accumulated depreciation, depreciation expense, and property taxes.

<u>System</u>	<u>System or Rate Band</u>	<u>Project</u>	<u>Accum. Depr.</u>	<u>Depr. Exp.</u>	<u>Prop. Tax</u>
Breeze Hill	Breeze Hill	Wastewater I&I	(\$4,455)	(\$268)	(\$2,144)
Lake Josephine & Sebring Lakes	Water 4	AdEdge Water Treatment	(27,702)	402	(5,428)
Leisure Lakes	Water 4	AdEdge Water Treatment	(11,503)	(2,147)	(3,503)
Peace River	Peace River	Water Treatment	(2,710)	(1,583)	(1,429)
Tomoka Twin Rivers	Water 4	Tank Lining	(3,925)	(79)	(1,273)
Sunny Hills	Water 2	Tank Replacement	(4,352)	(2,512)	(1,692)
Total			<u>(\$54,646)</u>	<u>(\$6,188)</u>	<u>(\$15,468)</u>

ISSUE 4: What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested water treatment and related facilities of Arredondo Estates, Arredondo Farms, Breeze Hill, Carlton Village, East Lake Harris/Friendly Center, Fern Terrace, Hobby Hills, Interlachen/Park Manor, Lake Josephine/Sebring Lakes, Picciola Island, Rosalie Oaks, Silver Lake Estates/Western Shores, Tomoka View, Twin Rivers, Venetian Village, Welaka, and Zephyr Shores?

POSITIONS

AUF: The appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested water treatment and related facilities are as follows:

Arredondo Estates	100.00
Arredondo Farms	100.00
Breeze Hill	100.00
Carlton Village	95.00
East Lake Harris/Friendly Center	100.00
Fairways	100.00

Fern Terrace	100.00
Hobby Hills	100.00
Interlachen/Park Manor	100.00
Lake Josephine/Sebring Lakes	85.00
Picciola Island	75.00
Rosalie Oaks	100.00
Silver Lake Estates/Western Shores	94.00
Tomoka View	100.00
Twin Rivers	100.00
Venetian Village	74.00
Welaka	80.00
Zephyr Shores	100.00

(Rendell, Seidman)

OPC:

The proper calculation of the U&U percentages for water treatment and storage plant should be based upon the requirements of Section 367.081(2)(a), Florida Statutes, and Commission Rule 25-30.4325, F.A.C.

The U&U percentage of utility plant should be re-evaluated in each rate proceeding in order to account for changes to utility plant and changes to customer growth and usage of utility facilities. Over time there can be material changes in the growth of the service area, how the system is operated, and the usage patterns of the customer base. There also may be new or different information submitted in the MFR's that corrects inaccurate information from a prior case.

The growth allowance in the U&U calculations relies upon some projection of historical five year data. Since the five year historical data will change, it is not unreasonable to expect that this growth allowance will change from rate case to rate case. This will sometimes increase the U&U percentage, and sometimes decrease the U&U percentage. However, the change in system growth should be evaluated in every rate case and incorporated into the U&U calculations, whether or not the change increases or decreases the U&U percentage.

Commission Rule 25-30.4325 (2), F.A.C., requires the Commission's U&U evaluation of water treatment and storage facilities to consider whether flows have decreased due to conservation or to reduction in the number of customers. Staff has relied upon this rule to justify not adjusting flows down, which would produce a U&U percentage lower than the previous order. Ignoring a decrease in system flow data does not effectively capture the portion of the system that is actually serving customers. Capacity that is not used as result of a decline in customer usage should not be considered U&U, because it is no longer providing service to customers.

Commission Rule 25-30.4325 (4), F.A.C., provides that water treatment plants should be considered 100% U&U if the service territory the system was **designed** to serve is **built out** and there is **no apparent potential for expansion** of the service territory. Staff has stretched the interpretation of this rule beyond its reasonable limits in determining systems to be 100% U&U which are not built out and where a potential does exist for expansion of the service territory.

If a system is served by a single well that is greater than 150 gpm, and the calculated U&U percentage is less than 75%, the Commission should utilize an alternative calculation, as permitted by Commission Rule 25-30.4325 (3), F.A.C. For these few systems (four), the Commission should recognize the actual U&U of the treatment facilities, so that the cost of the significant stranded treatment capacity is not borne by the ratepayers.

For two systems, Silver Lake Oaks and Lake Josephine/Sebring Lakes, OPC does not recommend a fire flow allowance because there are insufficient hydrants in the system to provide complete coverage or the lines are undersized to provide fire flow.

Consistent with the requirements of Section 367.081(2)(a), Florida Statutes, and Commission Rule 25-30.4325 (3), F.A.C., the calculated U&U should be used for systems that are built out but have a calculated U&U percentage of less than 75%. This gives recognition to the fact that there is a large amount of stranded capacity in these systems that will never provide service to the customers.

Properly applying the requirements of Section 367.081 (2) (a), Florida Statutes, and Commission Rule 25-30.4325, F.A.C., results in the following U&U percentages for the protested systems:

- a. Arredondo Estates -80%
- b. Arredondo Farms -61%
- c. Breeze Hill – 26%
- d. Carlton Village – 91%
- e. East Lake Harris/Friendly Center – 41%
- f. Fern Terrace -68%
- g. Hobby Hills -41%
- h. Interlachen/Park Manor – 76%
- i. Lake Josephine/Sebring Lakes – 25%
- j. Picciola Island – 56%
- k. Rosalie Oaks – 12%
- l. Silver Lake Estates/ Western Shores – 74%
- m. Tomoka View – 43%
- n. Twin Rivers –24%

- o. Venetian Village – 63%
- p. Welaka – 74%
- q. Zephyr Shores – 26%

(Woodcock, Dismukes)

YES: Yes defers to the Office of Public Counsel’s position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending further development of the record.

ISSUE 5: What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested water distribution systems of Arredondo Estates, Beecher's Point, Breeze Hill, Gibsonia Estates, Interlachen/Park Manor, Kingswood, Oakwood, Orange Hill/Sugar Creek, Palm Port, Palms Mobile Home Park, Peace River, Piney Woods, Ravenswood, River Grove, Rosalie Oaks, Silver Lake Estates/Western Shores, Silver Lake Oaks, Skycrest, Stone Mountain, Sunny Hills, The Woods, Twin Rivers, Venetian Village, Village Water, Welaka, and Wootens?

POSITIONS

AUF: The appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested water distribution systems are as follows:

Arredondo Estates	100.00
Beecher's Point	100.00
Breeze Hill	100.00
Gibsonia Estates	100.00
Interlachen/Park Manor	83.00
Kingswood	100.00
Oakwood	100.00
Orange Hill/Sugar Creek	100.00
Palm Port	100.00
Palms Mobile Home Park	88.00
Peace River	100.00
Piney Woods	100.00
Ravenswood	100.00

River Grove	100.00
Rosalie Oaks	100.00
Silver Lake Estates/Western Shores	100.00
Silver Lake Oaks	87.00
Skycrest	100.00
Stone Mountain	54.00
Sunny Hills	13.00
The Woods	76.00
Twin Rivers	100.00
Venetian Village	85.00
Village Water	100.00
Welaka	52.00
Wootens	66.00

(Rendell, Seidman)

OPC:

The U&U percentage of water distribution systems should be calculated according to the concepts presented in Issue 4, and should be re-evaluated for each new rate case to produce the most accurate percentage. The percentage should not be inappropriately rounded up, but only rounded to the nearest full single percentage point. This level of accuracy avoids overstating, and in some cases, grossly overstating the U&U percentage of treatment facilities.

Generally, the U&U percentage should be the fraction of the total number of lots with active customers over the total number of lots served by the water distribution system. If the service territory includes commercial or multi-family customers, a comparison should be made of the active number of customers to the total number of customers to be served by the water distribution system at buildout, based upon the service area maps provided in the MFR's.

The proper U&U percentages for water distribution plant for the protested systems are as follows:

- a. Arredondo Estates – 90%
- b. Beecher's Point – 58%
- c. Breeze Hill – 92%
- d. Gibsonia Estates – 84%
- e. Interlachen/Park Manor – 79%
- f. Kingswood – 98%
- g. Oakwood -98%
- h. Orange Hill/Sugar Creek -94%
- i. Palms Mobile Home Park – 79%
- j. Palm Port – 94%
- k. Peace River – 79%
- l. Piney Woods – 89%

- m. Ravenswood – 88%
- n. River Grove – 99%
- o. Rosalie Oaks – 80%
- p. Silver Lake Estates/Western Shores – 88%
- q. Silver Lake Oaks – 83%
- r. Skycrest – 93%
- s. Stone Mountain – 48%
- t. Sunny Hills – 11%
- u. Twin Rivers – 98%
- v. Venetian Village – 81%
- w. Village Water – 68%
- x. Welaka -51%
- y. Wootens – 43%
- z. The Woods – 70%

(Woodcock, Dismukes)

YES: Yes defers to the Office of Public Counsel’s position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending further development of the record.

ISSUE 6: What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested wastewater treatment and related facilities of Arredondo Farms, Breeze Hill, Fairways, Florida Central Commerce Park, Holiday Haven, Jungle Den, Kings Cove, Leisure Lakes, Morningview, Palm Port, Peace River, Rosalie Oaks, Silver Lake Oaks, South Seas, Summit Chase, Sunny Hills, The Woods, Valencia Terrace, Venetian Village, and Village Water?

POSITIONS

AUF: The appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested wastewater treatment and related facilities are as follows:

Arredondo Farms	100.00
Breeze Hill	56.00
Fairways	100.00
Florida Central Commerce Park	100.00

Holiday Haven	75.00
Jungle Den	100.00
Kings Cove	100.00
Leisure Lakes	39.00
Morningview	100.00
Palm Port	58.00
Peace River	100.00
Rosalie Oaks	100.00
Silver Lake Oaks	42.00
South Seas	100.00
Summit Chase	100.00
Sunny Hills	49.00
The Woods	100.00
Valencia Terrace	100.00
Venetian Village	100.00
Village Water	79.00

(Rendell, Seidman)

OPC:

The proper calculation of the U&U percentage for wastewater treatment plant should be based upon the requirements of Section 367.081(2) (a), Florida Statutes, and Commission Rule 25-30.432, F.A.C. The U&U percentage should be calculated in accordance with the concepts presented in Issue 4, and should be updated and re-evaluated to account for any changes to the plant, or its operation, and for customer growth or usage. These changes should be incorporated into the U&U calculation whether they result in an increase or decrease in the U&U percentage.

When the collection system is not built out it is not proper to deem the wastewater treatment plant to be 100% U&U, especially when the actual U&U percentage of the wastewater treatment plant is significantly less than 100% U&U. Even for systems that are built out with no potential for expansion, if the actual U&U percentage is less than 75%, the actual calculated U&U percentage should be used. To do otherwise would force the customers to bear the full cost of the significant stranded wastewater treatment capacity, not used and useful in providing service to customers, contrary to the requirements of Section 367.081(2)(a), Florida Statutes.

The proper U&U percentages for the protested wastewater treatment facilities are as follows:

- a. Arredondo Farms – 66%
- b. Breeze Hill – 24%
- c. Fairways – 42%
- d. Florida Central Commerce Park – 41%

- e. Holiday Haven – 62%
- f. Jungle Den – 37%
- g. Kings Cove – 46%
- h. Leisure Lakes – 32%
- i. Morningview – 33%
- j. Palm Port – 51%
- k. Peace River – 56%
- l. Rosalie Oaks – 50%
- m. Silver Lake Oaks – 34%
- n. South Seas – 40%
- o. Summit Chase – 36%
- p. Sunny Hills – 23%
- q. Valencia Terrace – 40%
- r. Venetian Village – 49%
- s. Village Water – 64%
- t. The Woods – 62%

(Woodcock, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending further development of the record.

ISSUE 7: What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested wastewater collection systems of Beecher's Point, Breeze Hill, Fairways, Holiday Haven, Jungle Den, Peace River, Rosalie Oaks, Silver Lake Oaks, Sunny Hills, The Woods, and Village Water?

POSITIONS

AUF: The appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested wastewater collection systems are as follows:

Beecher's Point	100.00
Breeze Hill	100.00
Fairways	100.00
Holiday Haven	75.00

Jungle Den	100.00
Peace River	100.00
Rosalie Oaks	100.00
Silver Lake Oaks	87.00
Sunny Hills	55.00
The Woods	71.00
Village Water	58.00

(Rendell, Seidman)

OPC: Utilizing the same concepts presented in Issue 4, the U&U percentage for wastewater collection plant should be calculated in the same manner as calculating the U&U percentage for water distribution plant.

The proper U&U percentages for the wastewater collection systems of the protested systems are as follows:

- a. Beecher's Point – 45%
- b. Breeze Hill – 94%
- c. Fairways – 99%
- d. Holiday Haven – 69%
- e. Jungle Den – 87%
- f. Peace River – 79%
- g. Rosalie Oaks – 93%
- h. Silver Lake Oaks – 83%
- i. Sunny Hills – 36%
- j. Village Water – 42%
- k. The Woods – 61%

(Woodcock, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending further development of the record.

ISSUE 8: Should any adjustments be made to Deferred Rate Case expense? (Fallout Issue)

POSITIONS

AUF: The appropriate amount of deferred rate case expense should be updated to include the revised rate case expense addressed in the Rebuttal Testimony of Stan Szczygiel. (Szczygiel)

OPC: Deferred Rate Case expense should be reduced by \$132,500. (Vandiver, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: Yes. Consistent with Commission practice, the simple average balance during the 4-year statutory amortization period of the Commission approved rate case expense amount for the instant case should be included in the working capital allowance.

ISSUE 9: What is the appropriate Working Capital allowance? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this proceeding. (Szczygiel)

OPC: Working capital allowance should be reduced consistent with OPC's recommended adjustments. This results in a reduction of \$733,753 to water working capital and \$205,108 to wastewater, for a total adjustment of \$938,861. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 10: What is the appropriate rate base for the April 30, 2010, test year? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this proceeding. (Szczygiel, Luitweiler)

OPC: Rate base should be reduced consistent with OPC's recommended adjustments to Used and Useful and Pro Forma Plant Adjustments. This results in a reduction of \$1,882,840 to water rate base and \$3,541,976 to wastewater rate base for a total reduction of \$5,424,816. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount is subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 11: What is the appropriate amount of accumulated deferred taxes to include in the capital structure? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this proceeding. (Szczygiel)

OPC: Accumulated deferred taxes should be reduced consistent with OPC's recommended adjustments. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount of accumulated deferred taxes is dependent on further development of the record and is subject to the resolution of other issues.

ISSUE 12: What is the appropriate Commission-approved leverage formula to use in the case?

TYPE B STIPULATION:³ AUF and Staff agree that the appropriate leverage formula to use is the leverage formula in effect when the Commission makes its final decision.

ISSUE 13: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this case. (Rendell)

OPC: The appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure should reflect OPC's recommended adjustments.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate weighted average cost of capital, and proper components, is dependent on further development of the record and is subject to the resolution of other issues.

NET OPERATING INCOME

ISSUE 14: What are the appropriate billing determinants for the test year?

POSITIONS

AUF: The appropriate test year billing determinants to be used are those contained in the MFRs and billing analysis filed in this rate case. Thus, no adjustments to annualized test year revenues are appropriate. (Szczygiel)

OPC: Test year revenue should be increased to reverse the test year impact of reduced usage that is either due to the Company's high rates, poor customer service, or

³ A Type B Stipulation is one where the Utility and Staff agree, and the Intervenors take no position.

factors beyond the control of the customers. The test year revenue should be increased by \$372,925.

Test year revenues have decreased by 16 percent below the Commission's repressed consumption calculations in the last rate case. According to the Company, the majority of the reduced consumption was due to the unanticipated installation of a large number of private irrigation wells in its service areas. Only in a monopoly situation would it be unanticipated that customers would stop using a service when the pricing got beyond the ability of the customer to pay.

Moreover, the reduction in consumption due to customer financial hardship, the unreasonably high rates, and poor quality of service are factors largely beyond the control of the customers and are more in the control of the Company. Inherent risk for any company is the loss of revenue due to reasons like economic downturns, competition, conservation, and alternative suppliers. The ROE includes a component to compensate the stockholders for risk. It would be unfair to the customers to make the Company whole for lost revenue due to reduced sales, under the current circumstances. If the Commission requires the customers to bear the risk of lost revenue, then this shift in risk should be reflected in a reduction to the ROE.

Since the increased reduction in consumption has been caused by the direct actions of the Company which have resulted in the high rates and poor customer service, the customers should be held harmless. Test year revenues should be increased by \$372,925. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing. (Stallcup)

ISSUE 15: What is the appropriate amount of test year revenues? (Fallout Issue)

POSITIONS

AUF: The appropriate test year billing determinants to be used are those contained in the MFRs and billing analysis filed in this rate case. This is a fall out calculation subject to the resolution of Issue No. 14. (Szczygiel)

OPC: The amount of test year revenues should be consistent with OPC's recommended adjustments. This results in water test year revenues of \$8,756,984 and wastewater test year revenues of \$4,784,757. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount is subject to the resolution of another issue.

ISSUE 16: Should adjustments be made to the allocation methodology used to allocate costs and charges to AUF by Aqua America, Inc. and its affiliates?

POSITIONS

AUF: No. The allocation methodology is a fair, reasonable and accurate method to allocate costs and charges to AUF by Aqua America, Inc. and its affiliates. In this case, AUF uses the same allocation methodology that was thoroughly analyzed, reviewed, and approved by the Commission in AUF's last rate case in Docket No. 080121-WS. Furthermore, no witness appears to have challenged AUF's allocation methodology in this case. (Szczygiel)

OPC: Yes, Aqua America should be required to allocate common costs to its non-regulated operations so that its regulated operations including AUF do not subsidize the non-regulated operations.

Given that affiliate transactions are not arms length dealings, the Commission has an obligation to closely scrutinize cost allocation techniques and methods of charging affiliates to ensure that the company's regulated operations are not subsidizing the non-regulated operations. The standard for reviewing affiliate transactions is stated in GTE Florida, Inc. v. Deason, 642 So. 2d 545 (Fla. 1994). In the GTE case, the standard the Court established was whether affiliate transactions exceed the going market rate or are otherwise inherently unfair.

Aqua America, Inc. (AAI) is the parent company of AUF and is a publically traded company with both regulated and non-regulated subsidiaries operating in 13 states. AAI has nine non-regulated subsidiaries. AUF has contracted with one of the non-regulated subsidiaries, Aqua Services, Inc. (ASI) to provide managerial, operational, and regulatory support. The costs allocated to AUF from AAI and ASI are approximately 20% of the total operations and maintenance and

Administrative and General expense included in the test year. AUF allocated some of its common costs to its Florida systems in the amount of \$1.2 million.

ASI and AUF have a service contract that governs the charges to be allocated to AUF. There is a Corporate Charges Allocations Manual that describes the allocation methodology. ASI has a combined method for determining the costs charged to the affiliates. "Service expenses" are the labor and overhead of the employees of AAI and ASI charged to an affiliate or a group of affiliates based on the time related directly to work done for them. "Sundry expenses" are the remaining expenses that are direct or indirect charges and identified by activity codes. Despite the stated allocation methodology, it appears that it has not been uniformly applied between AUF and its affiliated sister companies.

First, ASI performs services for non-regulated affiliates; however, it does not consistently allocate costs to them. There are four affiliates that do not receive allocations from ASI. In the last rate case, the Company acknowledged the need to allocate costs to at least one of its non-regulated affiliates. However, all non-regulated affiliates should be consistently allocated ASI costs.

Second, certain operating companies provide contract operator services; however, no common costs are allocated for these services. Although several AAI subsidiaries provide operator and management services to non-regulated companies, neither AAI nor ASI allocates costs to these client companies. While the Company claims it does not allocate costs because no corporate services are provided directly, the Company failed to take into account that the indirect costs increase due to the additional oversight and management of the affiliates that provide these services. The failure to take these additional costs into account and allocate them accordingly, results in an over-allocation of costs to the regulated companies without similar allocations to the non-regulated operations.

Third, there is no allocation of costs made to non-regulated affiliates, even when they have common officers and directors. The Company has failed to demonstrate that the salaries and benefits of these common officers are allocated to the non-regulated companies.

The failure to allocate common costs to AAI non-regulated operations causes AAI regulated operations to subsidize the non-regulated operations. Therefore, the costs charged to AUF from AAI and ASI are overstated. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: Staff witness Welch's position is addressed in the stipulated affiliate audit findings. For non-testifying Staff, no position pending evidence adduced at the hearing. (Welch)

ISSUE 17: Should any adjustments be made to affiliate revenues, costs and charges allocated to AUF's systems?

POSITIONS

AUF: No. No adjustments should be made to affiliate revenues, costs and charges allocated to AUF's systems. AUF's affiliated charges are reasonable and fully supported by the evidence in the record. In fact, the total charges from affiliates to AUF have actually decreased since the last rate case. See Exhibit SS-4. Moreover, the evidence shows that (i) AUF's customers benefit by having centralized services provided by Aqua America, Inc. and affiliates, and (ii) AUF's affiliate charges do not exceed the going market rate, but in fact are below market. See Exhibits SS-2 and SS-5. OPC has not provided any credible evidence to support its recommended adjustments. The comparative analysis that OPC tries to use to set rates is impermissible under Florida law. Furthermore, OPC's comparative analysis is fundamentally flawed from an analytical perspective. (Szczygiel)

OPC: Yes. Affiliate costs and charges allocated to AUF's systems should be reduced by \$976,845.

Affiliate costs and charges allocated to AUF are overstated. In the GTE case, the Florida Supreme Court established the standard for evaluating affiliate transactions as whether affiliate transactions exceed the going market rate or are otherwise inherently unfair. In the current case, AUF offered a seriously flawed market analysis to supports its position that its affiliate costs do not exceed market rates. First, the analysis does not take into account the likely discount a nonaffiliated company would offer. Second, the analysis assumes that every hour the ASI personnel work each day could be billed at a rate comparable to a skilled lawyer, consultant, certified public accountant, or professional engineer regardless of the level of expertise of the ASI employee. This is not a realistic comparison. Third, companies typically use outside counsel or consultants for specialized areas of law or professional services, not day to day operations.

Moreover, the Company's market analysis merely provided a view of the various stand alone billing rates for various professional services such as legal, engineering, accounting, and management. The analysis includes rates that are overstated, a sample that is under representative, and a failure to differentiate between levels of skills. Moreover, the comparison of professional management rates excluded normal travel and computer costs associated with day to day

operations without good cause. Correcting for just these inherent flaws in the Company's market analysis reduces the management charges included in the test year amount by \$79,968.

In addition, comparing similarly situated Class A, B, and C water/wastewater utilities' management fees further demonstrates that AUF's management costs are inherently unfair. Based on this analysis, similar to a comparison of companies for purposes of establishing ROE, AUF's Administrative and General (A&G) expenses on a per customer or equivalent residential connection (ERC) basis are significantly higher than the peer group. Reviewing the typical monthly bill for AUF as compared to systems operating in the same counties shows that AUF's systems rates are 116% higher than average. Given that the layers of management associated with ownership by AAI have not produced any cost savings for customers, and, in fact, have resulted in excessive costs, test year expenses should be lowered to be consistent with costs that other water and wastewater systems incur. Using the peer group analysis, AUF's test year expense for ASI management fees should be reduced by \$664,023 for water operations and \$312,822 for wastewater.

Even when the peer group analysis is not used, adjusting affiliate expenses to the level consistent with customer growth and inflation would result in a reduction of \$882,388 for water operations and \$348,674 for wastewater operations. The Company has provided no documentation on the increases in management fees and customer operations allocations since the previous rate case. AUF has not demonstrated any economies of scale or other commensurate benefits for customers to support that Aqua's business plan of buying small, troubled systems and then seeking rate increases is viable in the long term. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 18: What is the appropriate amount of Corporate Information Technology ("IT") charges allocated to AUF by its parent, Aqua America, Inc.?

POSITIONS

AUF: The appropriate amount of Corporate IT charges allocated to AUF by its parent, Aqua America, Inc. are \$2,053,657, as appropriately reflected in the MFRs. (Szczygiel)

OPC: Corporate Information Technology charges allocated to AUF by its parent, Aqua America, is included in the analysis of affiliate costs, and thus, are part of the \$976,845 reduction to affiliate costs recommended by OPC.

Corporate Information Technology charges are allocated to AUF from AAI as part of its affiliated costs. Based on the peer group analysis, AUF's allocated affiliate costs are significantly overstated and have not resulted in savings for customers. Based on the peer group analysis, AUF's test year expense for ASI management fees, including IT costs, should be reduced by \$664,023 for water operations and \$312,822 for wastewater. Even when the peer group analysis is not used, adjusting affiliate expenses to the level consistent with customer growth and inflation would result in a reduction of \$882,388 for water operations and \$348,674 for wastewater operations. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 19: Should any adjustments be made to Incentive Compensation?

POSITIONS

AUF: No. No adjustments should be made to Incentive Compensation. The appropriate incentive compensation amount is set forth in the MFRs and reflects a pay-for-performance compensation structure that drives quality and efficiency thus benefiting customers. Moreover, AUF's pay-for-performance compensation structure is consistent with past Commission precedent. (Szczygiel)

OPC: The incentive compensation of \$22,623 in bonus and dividend compensation for AAI's corporate management aligns the interest of management with shareholders, and therefore should be borne by shareholders. Thus, O&M expense should be reduced by \$22,623.

AUF included in its MFR's incentive compensation for \$22,623 in bonus and dividend compensation for its affiliate management at AAI. This type of incentive compensation aligns the interest of the executives with the shareholders. Moreover, the Company has not justified the amount of affiliate charges in this case. Incentive compensation charges are allocated to AUF from AAI as part of its affiliated costs. Based on the peer group analysis, AUF's allocated affiliate costs are significantly overstated and have not resulted in savings for customers. Based on the peer group analysis, AUF's test year expense for ASI management fees, including incentive compensation costs, should be reduced by \$664,023 for water operations and \$312,822 for wastewater. Even when the peer group analysis is not used, adjusting affiliate expenses to the level consistent with customer growth and inflation would result in a reduction of \$882,388 for water operations and \$348,674 for wastewater operations. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 20: Should any adjustments be made to Salaries and Wages - Employees expense?

POSITIONS

AUF: No adjustments should be made to salary and wages. The appropriate salary expense amount is contained in the MFRs and is consistent with past Commission precedent. (Rendell)

OPC: Yes, the Commission should deny any increase in compensation in light of the economic climate in Florida and throughout the U.S. Denying the requested increase would result in a total adjustment of \$220,410 for salaries and wages and \$16,861 for the related payroll taxes.

AUF requested an increase in salaries and wages totaling \$220,410 and \$16,861 for related payroll taxes. These requested increases included five adjustments: two for normalization of the 4% increases for direct salaries and "admin" salaries; two for the pro forma effects of the 4% direct and "admin" salaries; and pro forma increases to salaries based on a utility market study.

CPI for 2010 over 2009 has been less than 2%. Numerous customers at the service hearings testified that they have had trouble paying their current bills,

much less any increases. They also testified that due to the economy they have to work more than one job to pay their bills or have had their hours cut. When ratepayers are suffering in these difficult economic times, they should not be forced to pay for Aqua's salary increases. The Commission should deny any increase in compensation in light of the economic climate in Florida and throughout the U.S. Denying the requested increase would result in a total adjustment of \$220,410 for salaries and wages and \$16,861 for the related payroll taxes. (Vandiver, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 21: Should any adjustments be made to Bad Debt expense?

POSITIONS

AUF: Yes. To be consistent with Commission precedent, AUF agrees that an adjustment of \$3,199 should be made to reflect the appropriate three year average for AUF's bad debt expense. OPC has not provided any credible evidence to support its recommended adjustments. OPC's attempts at using a comparative analysis to set rates are impermissible under Florida law. Furthermore, OPC's comparative analysis is fundamentally flawed from an analytical perspective. (Szczygiel)

OPC: The bad debt allowance should be reduced to \$78,605 resulting in a \$310,816 adjustment which is consistent with good billing, customer service, and meter reading practices. AUF's requested test year bad debt level is \$389,421, significantly greater than the average for comparable water utilities and results from its poor service and billing practices.

AUF's requested test year bad debt level is \$389,421. Using a three-year average of the Company's bad debt, the Commission made a reduction to the requested bad debt of \$3,199. However, this methodology does not account for the Company's significant contribution to the reason bad debt is so high due to its unsatisfactory customer service, poor billing practices, and meter reading practices. Considering these specific circumstances, the three year average unjustly penalizes customers for AUF's bad service by imposing higher bad debt.

Moreover, the three year average used in the PAA Order to test the reasonableness of the bad debt level was flawed. The average included the full test year period and a second period which included six months of the test year, thereby double counting six months of the test year. In addition, the inclusion of the test year includes test year expenses that inappropriately distort the average. If the test year is abnormally high or low, it will raise or lower the comparative average. It is incorrect to include in the average the data that is being tested for reasonableness (i.e. the test year bad debt). In addition, the average used in the PAA Order included some outliers that should not have been included, such as the bad debt of \$172,880 for the year ending April 2009 for wastewater Rate band 2, which is 45% of the total system bad debt for that period. The bad debt for prior and post April 2009 period was significantly less (\$27,979 for 2008 and \$8,746 for 2010). Correcting for the inherent problems with the time periods used in the PAA Order, the test year bad debt would be reduced by \$81,633.

However, the three year average still includes the impacts of AUF's poor customer service and billing practices that have been on-going since 2007. The testimony overwhelming demonstrates that customers are still experiencing billing problems associated with untimely or inadequate information, meter reading inconsistencies, and estimated bills which undoubtedly have lead to higher bad debt expenses in the test year as compared to companies with good billing practices. In fact, comparing AUF's test year bad debt expense to the average for comparable companies' results in a reduction of bad debt of \$310,816 to a level of \$78,605. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 22: What is the appropriate amount of rate case expense?

POSITIONS

AUF: The appropriate amount of rate case expense is \$1,422,607. AUF has attempted to use the Commission's PAA process to minimize rate case expense in this rate case. OPC, however, has turned the PAA process on its head by propounding excessive discovery, ignoring precedent, and attempting to re-litigate a number of settled issues, including but not limited to Used and Useful calculations, corporate

allocations, bad debt expense calculations, and cost-of-service rate-making principles. (Szczygiel)

OPC: Rate case expense is overstated and should be reduced by \$265,000. Ratepayers should not have to pay any more than those costs that are reasonable and necessary. The MFRs included \$670,268 for rate case expense and further increased this amount to \$1,249,320, as of July 31, 2011. This expense requested by the utility is inflated with costs that the ratepayers should not have to bear. Further, while a rate case benefits the ratepayers through the continuation of safe, adequate and proper utility service, it also benefits shareholders, because the Company has a renewed opportunity to earn a fair return on equity. Therefore, the Company should be required to share rate case expense 50/50 between ratepayers and stockholders, the same as in a 2007 case for an AUF affiliate in New Jersey.

The specific expenses that the company included in rate case expense included expenses to correct MFR deficiencies, prepare for issues that are not in the current case, and expenses that did not have any supporting documentation. These costs should be removed.

The Company also included excessive rate case expense associated with bringing unnecessary Aqua persons to the service hearings. To the extent that Aqua believes that it is necessary to have 5 or more employees attend these service hearings that is a cost the Company should bear, not the ratepayers.

The Company also frustrated the discovery process and caused unnecessary delay and costs because it produced hard copies of documents. Most if not all of these documents were available electronically. The inefficiency and intentional obfuscation should not be permitted and the Commission should disallow all costs included in the rate case associated with producing unnecessary hard copies of documents that are available electronically during the discovery process. This would include the costs of printing and compiling the documents as well as the persons that monitored the on-site reviews at the law office of Holland and Knight.

The company also included inflated costs in rate case expense due to the fact that it keeps its books and records out-of-state. The Commission has maintained in prior dockets that rate case expense should be disallowed when it is incurred due to the books and records being maintained out-of-state. The Commission has stated "We do not believe that the ratepayers should bear the related costs of having the records located out of state. This is a decision of the shareholders of the Utility, and therefore, they shall bear the related costs. Therefore, all of these costs should be removed from rate case expense." See Order No. PSC-10-0400-PAA-WS, p. 23.

Rate case expense also includes \$51,817 for corporate capital charges. This includes time spent by in-house staff, which also charged time to Operation and Maintenance expenses. Without proof as to where their time was charged during the test year to verify that these are not double counting salary expense, these charges should be removed from rate case expense.

Rate case expense also included charges related to the Quality of Service issues from the last rate case. Because the commission found in the last case that the quality of service was marginal, it required a monitoring program. The Company should not be allowed to recover charges related to this monitoring program that was a result of its marginal service provided. Therefore, these costs should be removed.

Approximately 42% of the rate case expense was attributable to legal fees. These legal fees included some of the higher rates in the state based on a survey published by the Florida Bar. If a Utility chooses to hire a law firm that charges some of the higher rates in the state, the shareholders should bear some of the burden. Customers should not have to bear any unreasonable costs. If the full amount of all reasonable or unreasonable expense is passed through to the ratepayers as rate case expense, the utility has no incentive to hold costs to a reasonable level. Therefore, these excessive costs should be removed from rate case expense.

These adjustments bring the revised requested rate case expense of \$1,249,320 to \$809,275. If this adjusted amount is split 50/50 between the ratepayers and shareholders, the amount that should be allowed in expenses is \$404,638.

The Commission should also defer the rate case expense approved in this proceeding until the rate case expense from the prior proceeding has been fully amortized. The Commission should not encourage utilities to file rate cases one on top of another with little time in between. The burden of "pancaking" rate cases is placed squarely on the shoulders of ratepayers. Yet, again, it is the stockholder that benefits the most from rate cases. (Vandiver, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount of rate case expense is subject to the evidence adduced at the hearing. However, only prudently incurred rate case expense should be allowed and amortized over four years.

ISSUE 23: What is the test year pre-repression water and wastewater operating income or loss before any revenue increase? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the protested issues in this case. (Szczygiel)

OPC: The test year pre-repression water and wastewater operating income or loss before any revenue increase should reflect OPC's recommended adjustments.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 24: Are the total operating expenses prudently incurred such that the resulting rates are affordable within the meaning and intent of fair, just, and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?

As stated in the Rulings Section of this Order, this issue is excluded and stricken, and a new issue, Issue 31A is added. The positions of the parties set out below were the positions the parties took at the Prehearing Conference on the Proposed Issue 24.

POSITIONS

AUF: AUF objects to the inclusion of this issue in this rate case. OPC improperly seeks to introduce a new rate setting criteria - "affordability" - as a backdoor attempt to reduce AUF's revenue requirement. This novel criteria is found nowhere in relevant statutes or the rules, and is not supported by Commission precedent. The courts have made it clear that this issue has no place in setting a water or wastewater utility's revenue requirement.

OPC: No. AUF has overstated its operating expenses such that the resulting rates are not affordable within the meaning and intent of fair, just, and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes. The Commission should adopt the Citizens' recommended adjustments resulting in a total reduction of \$2.3 Million from the PAA Order. (Vandiver, Poucher, Dismukes)

Sections 367.081 and 367.121, Florida Statutes, require that rates are fair, just and reasonable, as well as compensatory and nondiscriminatory. The language of Sections 367.081 and 367.121, Florida Statutes, includes the concepts that the resulting rates be affordable. Rates are the end product of the ratemaking process. The construction of the statutory language requires that the Commission evaluate whether the end result of the ratemaking process produces a fair, just and reasonable result. Embedded into the language is the implicit acknowledgement that, while an individual cost on its own may be prudently incurred, that same cost may not be considered prudently incurred when evaluated as part of a group of costs. Simply reviewing the individual inputs for prudence and assuming that if the individual inputs are prudent the end result therefore must be prudent is a false assumption. As with any budgets like the state budget, if the end result would cause the rates (or in the state example - taxes) to go higher than Floridians can afford and stifles economic activity, then cuts must be made to individual expenditures that may have been considered reasonable on their own. Therefore, the Commission has an obligation to determine if the end results, i.e. final rates approved, are fair, just, and reasonable such that the rates are affordable to customers and will not cause undue hardship. In fact, the Commission already recognizes this concept in describing its mission on its webpage what it states that it “is committed to making sure that Florida’s consumers receive some of their most essential services – electric, natural gas, telephone, water and wastewater – in a safe, affordable and reliable manner”. (Emphasis added.)

Almost all of Aqua’s customers testified that Aqua’s rates are unaffordable. Customers testified that their neighbors are moving out of Aqua developments. Others testified that they or their neighbors have been unable to sell their existing properties because of the high Aqua rates. In addition, customers indicated that AUF’s rates are contributing to a downward spiral in the number of occupied homes in developments served by AUF due to their high rates and poor quality of service. In fact, the combination of AUF’s poor service and high rates have caused AUF customers to organize against them.

As indicated in previous issues, AUF has overstated its rate base and net operating expenses which is leading to some of the highest rates in the state. While AUF’s business model has been to buy small, troubled systems and supposedly bring better management and economies of scales, the peer group analysis of comparable Class A, B, and C water and wastewater companies demonstrates that AUF has not delivered these benefits to its customers. Therefore, the Commission should make the Citizens’ recommended adjustments resulting in a total reduction of \$2.3 Million from the PAA Order. (Vandiver, Poucher, Dismukes)

YES: No. AUF’s water and wastewater rates are unaffordable to its customers. Accordingly, AUF should be denied any rate increase. (Kurz, Harpin, Gray, Starling)

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: Staff does not believe that this issue as worded is proper. The prudence of all expenses will already have been determined in prior issues. Once an expense is found to be prudently incurred, the applicable statutes and case law require that rates be set so as to allow the utility to recover those expenses plus an opportunity to earn a fair rate of return on its used and useful investment. Staff believes that this issue could be included as a proper legal issue if reworded. Staff would suggest that the issue be reworded as follows: "Are the resulting rates affordable within the meaning of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?" Staff's final position on this issue will be taken after reviewing the memorandums filed by the parties. (Stallcup)

REVENUE REQUIREMENT

ISSUE 25: What is the appropriate pre-repression revenue requirement for the April 30, 2010, test year? (Fallout Issue)

POSITIONS

AUF: The appropriate pre-repression revenue requirement for the test year is a fallout calculation issue subject to the resolution of the other protested issues in this case. (Szczygiel)

OPC: Consistent with OPC's recommended adjustments, the total water revenue requirement should be \$8,933,855 and wastewater revenues requirement should be \$5,185,208. (Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate amount is subject to the resolution of other issues.

RATES AND CHARGES

ISSUE 26: What are the appropriate rate cap thresholds to be used to cap residential customer bills for the water and wastewater systems? (Fallout Issue)

POSITIONS

AUF: The appropriate rate cap thresholds to be used to cap residential customer bills for the water and wastewater systems are those contained in the Commission's PAA Order and set forth in the direct testimony of Staff Witness Stallcup. The only entity that protested this issue in this case was Ms. Lucy Wambsgan. Ms. Wambsgan has formally withdrawn as a party from this proceeding. Therefore, this issue is deemed stipulated pursuant to Section 120.80(13)(b), Florida Statutes.

OPC: Rate cap residential customer bills should be capped at an affordable level. In the last rate case, the Commission found it appropriate to cap the rates. In Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, the Commission stated on page 127:

Implicit in the rates approved by this Commission in all cases is the determination that the resulting bills are affordable. An analysis of the results in the table based on our prior decisions reveals that the average water bill from the cases presented is \$33.39, while the corresponding wastewater bill is \$44.60. In the Affordability Table, the calculated standard deviation is \$16.26 for the water systems and \$19.16 for the wastewater systems. The standard deviation measures the spread of the data on either side of the average. Based on the respective system averages plus 1.96 standard deviations (which captures approximately 95 percent of the variation), the affordability limits are \$65.26 for the water system and \$82.15 for the wastewater system. Rounding each of these values to the nearest \$0.25 results in affordability values of \$65.25 for the water system and \$82.25 for the wastewater system. All other factors being equal, we find these values, based on our historical decisions, are reasonable.

Id. at p. 127. Given that AUF's requested rate increase is less than two years later, the comparative analysis of the average water and wastewater rates are applicable in the present rate case. If less than two years ago the "affordability limits" for water was \$65.25 for water and \$82.25 for wastewater, it is unreasonable to conclude that AUF's current increase request will not result in rates that exceed these limits.

Irrespective of staff's previous analysis, Citizens' analysis of AUF's current rates shows that they have some of the highest rates in the state without any increases.

As indicated in previous issues, AUF has overstated its rate base and net operating expenses that is leading to some of the highest rates in the state. While AUF's business model has been to buy small, troubled systems and supposedly bring better management and economies of scales, the peer group analysis of comparable Class A, B, and C water and wastewater companies demonstrates that AUF has not delivered these benefits to its customers. Citizens contend that the overall rates requested by AUF are overstated. Therefore, the Commission should make the Citizens' recommended adjustments resulting in a total reduction of \$2.3 million from the PAA Order. (Vandiver, Poucher, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate rate cap thresholds are subject to the resolution of other issues. (Stallcup)

ISSUE 27: What are the appropriate rate structures for the Utility's water and wastewater systems? (Fallout Issue)

POSITIONS

AUF: AUF is not opposed to the implementation of the cap band rate structure set forth in the PAA Order. However, in designing the rate structure, the Commission may want to consider a state-wide consolidated rate structure to address some of the affordability concerns expressed in this case. The Commission has previously found that uniform rate structures would address affordability and fairness. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate rate structures are subject to the resolution of other issues.

ISSUE 28: What is the appropriate level of rate consolidation for the water systems in this case? (Fallout Issue)

POSITIONS

AUF: AUF is not opposed to the implementation of the cap band rate structure set forth in the PAA Order. However, the Commission may want to consider a state-wide consolidated rate structure to address some of the affordability concerns expressed in this case. The Commission has previously found that uniform rate structures would address affordability and fairness. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate level of consolidation is subject to the resolution of other issues.

ISSUE 29: What is the appropriate level of rate consolidation for the wastewater systems in this case? (Fallout Issue)

POSITIONS

AUF: AUF is not opposed to the implementation of the cap band rate structure set forth in the PAA Order. However, in designing rate structure, the Commission may want to consider a state-wide consolidated rate structure to address some of the affordability concerns expressed in this case. The Commission has previously found that uniform rate structures would address affordability and fairness. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate level of consolidation is subject to the resolution of other issues.

ISSUE 30: What are the appropriate resulting repression adjustments for this Utility? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate repression adjustments are subject to the resolution of other issues.

ISSUE 31: What are the appropriate monthly rates for the water and wastewater systems for the Utility? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The appropriate monthly rates are subject to the resolution of other issues.

ISSUE 31A: Are the resulting rates affordable within the meaning of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?"

POSITIONS (This issue was added subsequent to the Prehearing Conference and the parties have not yet had a chance to state their position.)

OTHER ISSUES

ISSUE 32: What are the appropriate allowance for funds prudently invested charges for the Utility's Breeze Hill wastewater treatment plant? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 33: What are the appropriate customer deposits for the Utility? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. The customer deposits should be established based on an average two month billing consistent with past Commission practice. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: This issue is subject to the resolution of other issues.

ISSUE 34: What is the appropriate four-year rate case expense reduction for Docket No. 080121-WS? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: No position pending evidence adduced at the hearing.

ISSUE 35: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: This issue is subject to the resolution of other issues.

ISSUE 36: In determining whether any portion of the implemented PAA rates should be refunded, how should the refund be calculated, and what is the amount of the refund, if any? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: This issue is subject to the resolution of other issues.

ISSUE 37: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense for the instant case as required by Section 367.0816, F.S.? (Fallout Issue)

POSITIONS

AUF: This is a fall out calculation issue subject to the resolution of the other protested issues in this rate case. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco

County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: The amount of the rate reduction is subject to the resolution of other issues.

ISSUE 38: In accordance with Order No. PSC-10-0707-FOF-WS, what is the amount and who would have to pay the regulatory asset (or deferred interim revenues), if it is

ultimately determined by the Commission that the Utility was entitled to those revenues when it first applied for interim rates?

POSITIONS

AUF: Agrees with staff. (Rendell)

OPC: No Position.

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County adopts and incorporates by reference the position statement of the Office of Public Counsel for this issue.

AG: The AG concurs with the Office of Public Counsel.

STAFF: Using the August 1, 2011-effective date of the implemented-PAA rates, a 245-day period is appropriate for the calculation of any regulatory asset. However, the amount of any regulatory asset is subject to the resolution of other issues.

ISSUE 39: Should this docket be closed?

POSITIONS

AUF: Yes. This Docket should be closed. AUF's has demonstrated that its quality of service is satisfactory, that it has made significant improvements, and no further monitoring should be required. Furthermore, additional monitoring would not be cost effective or productive. (Chambers, Luitweiler)

OPC: No. The docket should remain open to continue the monitoring of AUF's quality of service. (Vandiver, Poucher, Dismukes)

YES: Yes defers to the Office of Public Counsel's position on this issue.

Pasco County: Pasco County defers to Office of Public Counsel.

AG: The AG concurs with the Office of Public Counsel.

STAFF: If the Commission's final order is not appealed and if another phase of monitoring is not required, this docket should be closed upon the expiration of the time for filing an appeal, the completion of the refund(s), if any, of the interim rates and the implemented rates, and the Utility providing proof, within 90 days of the Final Order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
			<u>Direct</u>
Stan F. Szczygiel	AUF	SS-1	AAI Corporate Charges Allocations Manual
Stan F. Szczygiel	AUF	SS-2	Florida-Specific Analysis
Stan F. Szczygiel	AUF	SS-3	AUF 3-year average calculation bad debt expense
Preston Luitweiler	AUF	PL-1	List of W&WW systems included in this case
Preston Luitweiler	AUF	PL-2	Final Phase II QSM Report
Preston Luitweiler	AUF	PL-3	Pro-forma support for Lake Josephine and Sebring Lakes Project
Preston Luitweiler	AUF	PL-4	Pro-forma support for Breeze Hill Project
Preston Luitweiler	AUF	PL-5	Pro-forma support for Tomoka Twin Rivers Project
Preston Luitweiler	AUF	PL-6	Pro-forma support for Leisure Lakes Project
Preston Luitweiler	AUF	PL-7	Pro forma support for Peace River Heights Project
Preston Luitweiler	AUF	PL-8	Pro-forma support for Sunny Hills Project
Susan Chambers	AUF	SC-1	Compilation of AUF actions/customer comments

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Susan Chambers	AUF	SC-2	AUF responses/issues from Arredondo Farms System customers
Susan Chambers	AUF	SC-3	Final Phase II QSM Report
Susan Chambers	AUF	SC-4	AUF's report on complaints to Commission - 2011
Susan Chambers	AUF	SC-5	AUF's report on complaints to Commission – 2009-2010
William Troy Rendell	AUF	TR-1	Composite Schedule of U&U percentages approved by Commission
William Troy Rendell	AUF	TR-2	Schedule comparing U&U percentages
William Troy Rendell	AUF	TR-3	Confidential – Updated marked-based salary study
Andrew Woodcock	OPC	ATW-1	Resume of Andrew T. Woodcock
Andrew Woodcock	OPC	ATW-2	List of protested systems
Andrew Woodcock	OPC	ATW-3	Comparison of U&U Calculations and PAA Order Recommendations
Andrew Woodcock	OPC	ATW-4	Comparison of U&U Growth Factors 2008 Rate Case To PAA Order
Andrew Woodcock	OPC	ATW-5	Water Treatment U&U Calculations
Andrew Woodcock	OPC	ATW-6	Aerial Photograph East Lake Harris/Friendly Estates Service Area
Andrew Woodcock	OPC	ATW-7	Arial Photograph Hobby Hills Service Area
Andrew Woodcock	OPC	ATW-8	Wastewater Treatment U&U Calculations

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Andrew Woodcock	OPC	ATW-9	Water Distribution And Wastewater Collection U&U Calculations
Andrew Woodcock	OPC	ATW-10	Summary Of FDEP Compliance Databases
Denise Vandiver	OPC	DNV-1	Resume of Denise N. Vandiver
Denise Vandiver	OPC	DNV-2	Citizens Response to Aqua's Summary Report and Current Status of Aqua's Quality of Service
Denise Vandiver	OPC	DNV-3	Salary and Wages Expense and Payroll Taxes
Denise Vandiver	OPC	DNV-4	Rate Case Expense
Denise Vandiver	OPC	DNV-5	Florida Bar Survey: Results of the 2010 Economics and law Office Management Survey
Denise Vandiver	OPC	DNV-6	Listing of All Invoices Provided in Response to Staff Date Requests and OPC Discovery for Rate Case Expense
Denise Vandiver	OPC	DNV-7	AUF's Original and Supplemental Responses to Staff Date Request
Denise Vandiver	OPC	DNV-8	AUF's Response to OPC Production of Document Request No. 123
Earl Poucher	OPC	REP-1	Vitae of Earl Poucher
Earl Poucher	OPC	REP-2	Filed Testimony of Earl Poucher
Earl Poucher	OPC	REP-3	Aqua PSC Complaint Summary
Earl Poucher	OPC	REP-4	PSC Complaints Pages 1-100

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Earl Poucher	OPC	REP-5	PSC Complaints Pages 101-201
Earl Poucher	OPC	REP-6	PSC Complaints - Pages 202-303
Earl Poucher	OPC	REP-7	PSC Complaints - Pages 304-401
Earl Poucher	OPC	REP-8	PSC Complaints - Pages 402-502
Earl Poucher	OPC	REP-9	PSC Complaints - Pages 503-604
Earl Poucher	OPC	REP-10	PSC Complaints - Pages 605-700
Earl Poucher	OPC	REP-11	PSC Complaints - Pages 701-770
Earl Poucher	OPC	REP-12	OPC POD 131: AUF Back-Billed Info
Earl Poucher	OPC	REP-13	City of Atlanta Meter and Billing Accuracy Assessment
Kimberly Dismukes	OPC	Appendix 1	Kimberly H. Dismukes Qualifications
Kimberly Dismukes	OPC	KHD-1	Table of Contents
Kimberly Dismukes	OPC	KHD-1 Schedule 1	OPC's Recommended Revenue Requirement
Kimberly Dismukes	OPC	KHD-1 Schedule 2	Summary of Operating Revenues by Rate Band and System
Kimberly Dismukes	OPC	KHD-1 Schedule 3	Customer Correspondence as of September 8, 2011
Kimberly Dismukes	OPC	KHD-1 Schedule 4	Sample of Customer Bills
Kimberly Dismukes	OPC	KHD-1 Schedule 5	Customer Service Call Center Metrics

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Kimberly Dismukes	OPC	KHD-1 Schedule 6	Aqua America Organizational Chart
Kimberly Dismukes	OPC	KHD-1 Schedule 7	Affiliate Charges to AUF
Kimberly Dismukes	OPC	KHD-1 Schedule 8	List of Aqua contract Operator Contracts
Kimberly Dismukes	OPC	KHD-1 Schedule 9	Management and Consulting Services
Kimberly Dismukes	OPC	KHD-1 Schedule 10	Common Officers and Directors
Kimberly Dismukes	OPC	KHD-1 Schedule 11	Company Rates for Outside Services
Kimberly Dismukes	OPC	KHD-1 Schedule 12	Market-Based Comparison Recalculation of Company's Hourly Rates
Kimberly Dismukes	OPC	KHD-1 Schedule 13	Market-Based Comparison Adjustment of Hourly Rates for Outside Services
Kimberly Dismukes	OPC	KHD-1 Schedule 14	Market-Based Comparison Adjustment for Market Rate Difference
Kimberly Dismukes	OPC	KHD-1 Schedule 15	Company Explanation for Increase in Affiliate Expenses Over CPI
Kimberly Dismukes	OPC	KHD-1 Schedule 16	Aqua Services Management Fees – Comparison of Costs from Prior to Current Test Year
Kimberly Dismukes	OPC	KHD-1 Schedule 17	Adjustment for Unjustified Increase in Management Fees (Growth in Customers and Change in CPI)
Kimberly Dismukes	OPC	KHD-1 Schedule 18	Comparative Analysis – List of Companies Examined

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Kimberly Dismukes	OPC	KHD-1 Schedule 19	Comparative Analysis – Map of Florida
Kimberly Dismukes	OPC	KHD-1 Schedule 20	Comparative Analysis – Weighting of Classes
Kimberly Dismukes	OPC	KHD-1 Schedule 21	Comparative Analysis – Cost per Customer and Cost per ERC
Kimberly Dismukes	OPC	KHD-1 Schedule 22	Comparison of Typical Monthly Bills – FPSC Report
Kimberly Dismukes	OPC	KHD-1 Schedule 23	Bad Debt Expense Comparison
Kimberly Dismukes	OPC	KHD-1 Schedule 24	Bad Debt Expense – Alternate Adjustment
Kimberly Dismukes	OPC	KHD-1 Schedule 25	Adjustments to Billing Determinants
Kimberly Dismukes	OPC	KHD-1 Schedule 26	Rate Case Expense
Kimberly Dismukes	OPC	KHD-1 Schedule 27	Historic Florida Rate Cases with Disallowed Rate Case Expense
Kimberly Dismukes	OPC	KHD-1 Schedule 28	Documents Referenced in Testimony
Kim Kurz	YES	KK-1	Yes Water/Wastewater rate comparisons spreadsheet
Kim Kurz	YES	KK-2	Aqua rate increase analysis
Kim Kurz	YES	KK-3	Resident Complaint forms with statements and copies of bills
Kim Kurz	YES	KK-4	Photos of plumbing parts and sediment damage
Shawn Harpin	YES	SH-1	Gainesville Apartment Market Trends
Shawn Harpin	YES	SH-2	Gainesville Stick Built Market Trends

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Shawn Harpin	YES	SH-3	Arredondo Farms Repo/Lease Turn Report August 2011
Shawn Harpin	YES	SH-4	Arredondo Farms 2011 Move Out Report
Mallory Starling	YES	(14)	“Customer complaints and pictures,” as introduced at the Customer Service Hearing in Gainesville, Florida on September 12, 2011, and subsequently filed on September 20, 2011
Jack Mariano	Pasco County	JM-1	Collection of Boil Water Notice Surveys completed by Aqua customers in the Jasmine Lakes and Palm Terrace service areas
Jack Mariano	Pasco County	JM-2	Collection of e-mails and letters received from Aqua customers
Jack Mariano	Pasco County	JM-3	Collection of pictures of the repaired effluent pipe, discarded pipe and location map
Jack Mariano	Pasco County	JM-4	June 23, 2011, Department of Environmental Protection (DEP) Warning Letter
Jack Mariano	Pasco County	JM-5	Collection of pictures of an overflow pipe and plan sheet showing the location of the pipe
Jack Mariano	Pasco County	JM-6	Copy of Mike Garrett letter to Aqua regarding overflow pipe.
Jay W. Yingling	STAFF	JWY-1	Water Use Permit Table for AUF Systems in DeSoto, Highlands, Pasco and Polk County

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Catherine A. Walker	STAFF	CAW-1	Compliance Status of each AUF water system in St. Johns River Water Management District
Catherine A. Walker	STAFF	CAW-2	April 2010 CUP General Consent Order No. 935441
Gary P. Miller	STAFF	GM-1	Jungle Den November 5, 2010 Noncompliance Letter
Ginny Marie Montoya	STAFF	GMM-1	Interlachen Lake Estates August 9, 2011 Warning Letter
Josie Penton	STAFF	JP-1	Sunny Hills December 2010 Consent Order
Josie Penton	STAFF	JP-2	Precautionary Boil Water Notices (PBWNs) for Sunny Hills Utilities
Daniela Sloan	STAFF	DS-1	Orange Hill - Sugar Creek; Rosalie Oaks; and Gibsonia Estates Warning Notices
Daniela Sloan	STAFF	DS-2	List of 23 Boil Water Notices for Six Systems
Kimberly Dodson	STAFF	KD-1	PBWNs for 40 Systems From 2009 Forward
Jeffrey S. Greenwell	STAFF	JSG-1	Peace River Heights June 2010 Consent Order
Jeffrey S. Greenwell	STAFF	JSG-2	Jasmine Lakes June 2011 Warning Letter
Jeffrey S. Greenwell	STAFF	JSG-3	Village Water August 2007 Consent Order With the Second and Third Amendments
Rhonda L. Hicks	STAFF	RLH-1	Summary Listing of 2009 Complaints Filed With the Commission

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Rhonda L. Hicks	STAFF	RLH-2	Summary Listing of 2010 Complaints Filed With the Commission
Rhonda L. Hicks	STAFF	RLH-3	Summary Listing of 2011 Complaints Filed With the Commission (Thru 9/30/11)
Rhonda L. Hicks	STAFF	RLH-4	Listing of Complaint Close-Out Codes
Kathy L. Welch	STAFF	KLW-1	History of Testimony
Kathy L. Welch	STAFF	KLW-2	Affiliated Transactions Audit Report
Kathy L. Welch	STAFF	KLW-3	Summary of Aqua Corporate Allocations by Rate Band
Kathy L. Welch	STAFF	KLW-4	Audit Workpaper 48-4 (Detail of Aqua Corporate Charges by Rate Band)
Kathy L. Welch	STAFF	KLW-5	Volume 5 of 5 of the AUF Affiliate Audit No. 10-181-4-1 (Confidential)

Rebuttal

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Denise Vandiver	OPC	DNV-9	Systems Quality Issues 2009-2011
Denise Vandiver	OPC	DNV-10	Summary of Quality Issues
Denise Vandiver	OPC	DNV-11	Summary of Boil Water Notices
Denise Vandiver	OPC	DNV-12	Summary of Service Hearings
Stan F. Szczygiel	AUF	SS-4	Affiliated Costs
Stan F. Szczygiel	AUF	SS-5	Updated Market Study

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Stan F. Szczygiel	AUF	SS-6	Comparative Analysis of Administrative and General Costs per ERC
Stan F. Szczygiel	AUF	SS-7	Customer Service Cost Schedules
Stan F. Szczygiel	AUF	SS-8	AUF's Second Supplemental Response to OPC Areas of Concern
Stan F. Szczygiel	AUF	SS-9	Rate "Peer Group" Deficiencies
Stan F. Szczygiel	AUF	SS-10	Average consumption per customer
Stan F. Szczygiel	AUF	SS-11	Rate Case Expense
Preston Luitweiler	AUF	PL-9	Additional support for Lake Josephine and Sebring Lakes Project (primarily Lake Josephine)
Preston Luitweiler	AUF	PL-10	Additional support for Lake Josephine and Sebring Lakes Project (primarily Sebring Lakes)
Preston Luitweiler	AUF	PL-11	Additional support for Sunny Hills Project
Preston Luitweiler	AUF	PL-12	Additional support for the Peace River Heights Project
Preston Luitweiler	AUF	PL-13	Additional support for the Leisure Lakes Project
Preston Luitweiler	AUF	PL-14	Cost projections for Village Water/Wastewater "Solutions"
Preston Luitweiler	AUF	PL-15	South Seas Compliance
Susan Chambers	AUF	SC-6	July 12, 2010 Letter and attachments

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
William Troy Rendell	AUF	TR-4	U&U Water Treatment, Distribution, and Collection
William Troy Rendell	AUF	TR-5	Staff Recommendation on Water U&U
William Troy Rendell	AUF	TR-6	Senate Presentation on Florida Foreclosures
Frank Seidman	AUF	FS-1	Frank Seidman Curriculum Vitae

Supplemental Rebuttal

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
William Troy Rendell	AUF	TR-7	Composite Exhibit—FGUA Rates
William Troy Rendell	AUF	TR-8	FGUA Resolution No. 2012-02
William Troy Rendell	AUF	TR-9	AUF Rate Comparison
William Troy Rendell	AUF	TR-10	Customer Complaint and Response
William Troy Rendell	AUF	TR-11	AUF 9-8-10 Letter to Ms. Schoegel

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

A. Issues Not in Dispute Deemed Stipulated Pursuant to S. 120.80(13)(b), Florida Statutes

(The issues are numbered as designated in the staff proposed agency action recommendation dated May 12, 2011, and approved by the Commission at the May 24, 2011 Commission Conference – See Order No. PSC-11-0256-PAA-WS).

RATE BASE

PAA ISSUE 2: Should the audit adjustments to rate base and operating expenses to which the Utility agrees, be made?

STIPULATION: Based on audit adjustments agreed to by the Utility, land and working capital be increased by \$160,093 and \$79,006, respectively, and operation & maintenance (O&M) expenses shall be decreased by \$255,390. Specifically, the following adjustments to rate base and O&M expenses shall be made.

<u>Rate Band/System</u>	<u>Land</u>	<u>Working Capital</u>	<u>O&M Expense</u>
Water Band 1	\$0	\$0	(\$47,877)
Wastewater Band 1	0	0	(6,382)
Water Band 2	0	0	(25,905)
Wastewater Band 2	160,093	79,006	(84,541)
Water Band 3	0	0	(14,060)
Wastewater Band 3	0	0	(21,043)
Water Band 4	0	0	(52,994)
Wastewater Band 4	0	0	988
Breeze Hill- Water	0	0	(942)
Breeze Hill- Wastewater	0	0	(298)
Fairways- Water	0	0	(515)
Fairways- Wastewater	0	0	(1,314)
Peace River- Water	0	0	(436)
Peace River- Wastewater	0	0	(72)
Total Adjustments	<u>\$160,093</u>	<u>\$79,006</u>	<u>(\$255,390)</u>

PAA ISSUE 3: Should adjustments be made to the Utility's pro forma plant additions?

STIPULATION: The Utility's requested PAA-pro forma plant additions should be decreased by \$137,060 for water and by \$565,288 for wastewater. Accordingly, accumulated depreciation should be increased by \$102,867 for water and \$85,016 for wastewater, and depreciation expense should be decreased by \$21,698 for water and \$36,524 for wastewater. Moreover, the Utility's property taxes should be decreased by \$6,399 for water and \$11,972 for wastewater. The specific rate band and system adjustments are set forth below.

Trucks			
Rate Band/System	MFR Amount	Documented Amount	Adjustment
Water Band 1	\$47,081	\$41,840	(\$5,241)
Wastewater Band 1	8,830	7,811	(1,019)
Water Band 2	21,475	19,027	(2,448)
Wastewater Band 2	36,735	32,621	(4,114)
Water Band 3	13,241	11,773	(1,468)
Wastewater Band 3	4,760	4,227	(533)
Water Band 4	57,657	51,207	(6,450)
Wastewater Band 4	800	674	(126)
Breeze Hill-Water	1,064	939	(125)
Breeze Hill-Wastewater	1,039	939	(100)
Fairways- Water	3,977	1,792	(2,185)
Fairways- Wastewater	2,027	2,378	351
Peace River- Water	817	705	(112)
Peace River- Wastewater	775	734	(41)
Total Adjustments	<u>\$200,278</u>	<u>\$176,667</u>	<u>(\$23,611)</u>

Allocated Corporate IT			
Rate Band/System	MFR Amount	Documented Amount	Adjustment
Water Band 1	\$62,197	\$40,957	(\$21,240)
Wastewater Band 1	11,666	7,646	(4,020)
Water Band 2	28,371	18,625	(9,746)
Wastewater Band 2	48,529	31,932	(16,597)
Water Band 3	17,493	11,525	(5,968)
Wastewater Band 3	6,288	4,138	(2,150)
Water Band 4	76,169	50,126	(26,043)
Wastewater Band 4	1,057	660	(397)
Breeze Hill-Water	1,406	919	(487)
Breeze Hill-Wastewater	1,372	919	(453)
Fairways- Water	5,253	1,754	(3,499)
Fairways- Wastewater	2,677	2,328	(349)
Peace River- Water	1,080	690	(390)
Peace River- Wastewater	1,024	718	(306)
Total Adjustments	<u>\$264,582</u>	<u>\$172,938</u>	<u>(\$91,644)</u>

Projects Requested in the MFRs			
<u>System</u>	<u>Pro Forma Plant Improvement</u>	<u>Utility Requested Amount</u>	<u>Documented Amount</u>
Arredondo Farms & Estates/ The Woods	Hydro Tank Replacement	\$32,866	\$73,287
Arredondo Farms	WWTP Upgrade	240,000	414,240
48 Estates/ Ravenswood	Hydro Tank Replacement	25,506	42,691
Jasmine Lakes	Disinfection Contact Time	180,000	9,250
Jasmine Lakes	Generator for Lift Station #5	50,000	46,905
Jasmine Lakes	weir and walkways	65,000	0
Jasmine Lakes	WWTP Security Upgrades	10,754	10,300
Jungle Den	I&I Study and Improvements	60,000	0
Lake Gibson/Piney Woods	Hydro Tank Replacement	67,623	86,790
Lake Suzy	Fire Flow Upgrades	65,000	9,675
Lake Suzy	New Air Headers and Surge Tank	35,200	135,028
Leisure Lakes	Water Chlorine Conversion	30,000	24,840
Ocala Oaks/Rosalie Oaks	Hydro Tank Replacement	77,801	59,391
Park Manor	I&I Study and Improvements	40,000	0
Rosalie Oaks	Lift Station Relocation to Plant Site	80,000	0
Silver Lake Estates	Water Chlorine Conversion	42,969	36,880
Skycrest	Water Well #1 Pump Replacement	2,769	0
South Seas	Replacement of Reject Tank	334,906	323,395
South Seas	Wet Weather Storage	350,000	0
South Seas	WWTP Upgrades and New Diffusers	9,982	0
Summit Chase	Water Sand Strainer Project	20,000	13,073
Sunny Hills	Connect Wells 1&4 to Storage Tanks	50,000	34,500
Tangerine	Water Hardness Sequestering	9,500	5,859
Tangerine	Looping Project on Scott St.	90,000	103,429
The Woods	Wastewater Perc Pond Rehab	10,733	21,935
Tomoka/Twin Rivers	Chloramine Project	13,610	14,283
Tomoka/Twin Rivers	Water Main Relocation	3,367	13,578
Valencia Terrace	WWTP Improvements	82,071	79,830
Village Water	Effluent Reuse Solution	250,000	33,645
Western Shores	Water Chlorine Conversion	21,069	20,746
Zephyr Shores	Water Quality Project	36,217	33,209
	Total:	\$2,386,943	\$1,646,759

Additional Projects not in the MFRs		
System	Pro Forma Plant Improvement	Documented Amt.
East Lake Harris	Chlorine Conversion	\$18,254
Haines Creek	Hydropneumatic Tank Replacement	13,800
Jungle Den	WWTP upgrades	11,900
Imperial Mobile Terrace	Stormwater project	23,698
Lake Gibson Estates	Replacement of lift station pump #2	6,035
Tomoka/Twin Rivers	Water Flushing Upgrades	32,560
Valencia Terrace	Chlorine Conversion	46,847
	Total:	\$153,094

Summary of Pro Forma Plant Adjustments					
Rate Band/System	Plant	Retirements	Accumulated Depreciation	Depreciation Expense	Property Taxes
Water Band 1	(\$212,265)	(\$27,607)	(\$24,174)	(\$13,756)	(\$4,275)
Wastewater Band 1	(7,280)	(1,944)	(12,936)	(1,074)	(174)
Water Band 2	38,319	(21,725)	46,180	(424)	(855)
Wastewater Band 2	(215,484)	(144,056)	125,161	(19,609)	(6,171)
Water Band 3	9,749	(7,839)	4,947	(973)	(261)
Wastewater Band 3	(124,748)	0	(8,097)	(3,585)	(2,021)
Water Band 4	\$33,934	(62,985)	79,314	(5,413)	(1,008)
Wastewater Band 4	(216,878)	0	(16,290)	(12,106)	(3,606)
Breeze Hill-Water	(612)	0	(721)	(101)	0
Breeze Hill-Wastewater	(553)	0	(712)	(92)	0
Fairways- Water	(5,684)	0	(2,130)	(948)	0
Fairways- Wastewater	2	0	(1,568)	0	0
Peace River- Water	(501)	0	(549)	(83)	0
Peace River- Wastewater	(347)	0	(542)	(58)	0
Total Adjustments	(\$702,348)	(\$266,157)	187,885	(\$58,222)	(18,369)

PAA ISSUE 4: Do any water systems have excessive unaccounted for water, and, if so, what adjustments are necessary?

STIPULATION: The percentages for excessive unaccounted for water (EUW) for each water rate band and stand-alone system are shown below.

Rate Band/System	Composite EUW %
Rate Band 1	1.05
Rate Band 2	2.10
Rate Band 3	0.09
Rate Band 4	2.94
Breeze Hill	6.09
Peace River	11.47

The adjustment to Purchased Power, Chemicals, and Purchased Water expenses for Rate Band 4 is \$96.

PAA ISSUE 5: What are the appropriate used and useful percentages for water treatment and related facilities of each water system?

STIPULATION: The following table reflects the U&U percentages for the stipulated water treatment and related facilities of each system listed below:

System	WTP%
48 Estates	100
Fairways	100
Gibsonia	61
Grand Terrace	100
Haines Creek	100
Harmony Homes	100
Hermits Cove/St. Johns Highlands	31
Imperial Mobile	100
Jasmine Lakes	100
Kings Cove	100
Lake Gibson Estates	100
Leisure Lakes	100
Morningview	100
Ocala Oaks	100
Orange Hill/Sugar Creek	100
Palm Port	100
Palms MHP	100
Peace River	100
Piney Woods	100
Pomona Park	100
Quail Ridge	100
Ravenswood	100
River Grove	100
Silver Lake Oaks	100
Skycrest	100
Stone Mountain	100
Summit Chase	100
Sunny Hills	91
Tangerine	100
The Woods	100
Valencia Terrace	100
Wootens	100

PAA ISSUE 6: What are the appropriate used and useful percentages for the storage tanks?

STIPULATION: All of the AUF storage tanks shall be considered 100 percent U&U.

ISSUE 7: What are the appropriate used and useful percentages for water distribution systems?

STIPULATION: The following table reflects the U&U percentages for the stipulated water distribution of each system list below:

System	W Dist. System %
Arredondo Farms	88
48 Estates	85
Carlton Village	47
East Lake Harris/Friendly Center	100
Fairways	100
Fern Terrace	100
Grand Terrace	100
Haines Creek	100
Harmony Homes	100
Hermits Cove/St. Johns Highlands	80
Hobby Hills	100
Holiday Haven	76
Imperial Mobile	100
Jasmine Lakes	100
Jungle Den	100
Kings Cove	100
Lake Gibson Estates	100
Lake Josephine/Sebring Lakes	55
Lake Osborne	100
Lake Suzy	100
Leisure Lakes	84
Morningview	100
Ocala Oaks	100
Palm Terrace	100
Picciola Island	80
Pomona Park	51
Quail Ridge	100
Summit Chase	100
Tangerine	60
Tomoka View	100
Valencia Terrace	100
Zephyr Shores	100

PAA ISSUE 8: Do any wastewater systems have excessive infiltration and inflow and, if so, what adjustments are necessary?

STIPULATION: The appropriate percentages for excessive Infiltration and Inflow (I&I) for each wastewater rate band and stand-alone system are shown below:

<u>Rate Band/System</u>	<u>Composite Excessive I&I %</u>
Rate Band 1	0.00
Rate Band 2	2.18
Rate Band 3	25.72
Rate Band 4	4.53
Breeze Hill	65.40
Peace River	19.73

The adjustments to Purchased Power, Chemicals, and Purchased Wastewater expenses for Rate Band 2, Rate Band 3, and Breeze Hill are (\$994), (\$22,606), and (\$5,098), respectively.

PAA ISSUE 9: What are the appropriate used and useful percentages for wastewater treatment and related facilities of each wastewater system?

STIPULATION: The following table reflects the U&U percentages for the stipulated wastewater treatment and related facilities of each system listed below:

<u>System</u>	<u>WWTP %</u>
Jasmine Lakes	100
Lake Suzy	100
Palm Terrace	100
Park Manor	100

PAA ISSUE 10: What are the appropriate used and useful percentages for wastewater collection systems?

STIPULATION: The following table reflects the U&U percentages for the stipulated wastewater collection of each system listed below:

System	WW Coll. System %
Arredondo Farms	100
Florida Central Commerce Park	100
Jasmine Lakes	100
Kings Cove	100
Lake Gibson Estates	100
Lake Suzy	100
Leisure Lakes	85
Morningview	100
Palm Port	91
Palm Terrace	100
Park Manor	100
South Seas	100
Summit Chase	100
Valencia Terrace	100
Venetian Village	100
Zephyr Shores	100

PAA ISSUE 11: Should any further adjustment be made to Other Deferred Debits?

STIPULATION: Other Deferred Debits shall be increased further by \$14,042 for the jurisdictional systems to reflect the appropriate 13-month average balance as shown in the table below:

<u>Band</u>	<u>Adjustment</u>
Band 1-Water	\$3,326
Band 1 -Wastewater	621
Band 2 -Water	1,512
Band 2 – Wastewater	2,592
Band 3 -Water	936
Band 3 - Wastewater	336
Band 4 -Water	4,070
Band 4 - Wastewater	54
Breeze -Water	75
Breeze - Wastewater	75
Fairways -Water	142
Fairways - Wastewater	189
Peace -Water	56
Peace - Wastewater	58
Total:	<u>\$14,042</u>

PAA ISSUE 12: Should any adjustments be made to Accrued Taxes?

STIPULATION: Consistent with the Commission's decision in the Utility's last rate case, Accrued Taxes shall be reduced by \$1,917,134 on a total company basis to normalize the test year Accrued Tax balance for purposes of setting rates. The reduction of \$1,917,134 represents the total for AUF. The Commission only has jurisdiction over 60.17 percent of the total AUF systems. This represents a reduction of \$1,153,548 for the jurisdictional systems as shown in table below:

<u>Band</u>	<u>Adjustment</u>
Band 1-Water	(\$273,194)
Band 1 -Wastewater	(51,002)
Band 2 -Water	(124,236)
Band 2 - Wastewater	(212,998)
Band 3 -Water	(76,875)
Band 3 - Wastewater	(27,600)
Band 4 -Water	(334,355)
Band 4 - Wastewater	(4,403)
Breeze -Water	(6,130)
Breeze - Wastewater	(6,130)
Fairways -Water	(11,701)
Fairways - Wastewater	(15,527)
Peace -Water	(4,606)
Peace - Wastewater	(4,792)
Total:	<u>(\$1,153,548)</u>

COST OF CAPITAL

PAA ISSUE 16: What is the appropriate capital structure to use for rate setting purposes?

STIPULATION: The appropriate capital structure to use for rate setting purposes is based on the capital structure of AUF.

PAA ISSUE 18: What are the appropriate cost rates for short and long-term debt for the test year?

STIPULATION: There is no short-term debt in AUF's capital structure. The appropriate cost rate for long-term debt for the test year is 5.10 percent.

PAA ISSUE 19: What is the appropriate return on equity (ROE) for the test year?

STIPULATION: The appropriate ROE should be as set out in the Commission-approved leverage formula.

NET OPERATING INCOME

PAA ISSUE 21: Should any adjustments be made to disallow fines and penalties assessed to the Utility?

STIPULATION: O&M expenses shall be reduced by \$12,767 to remove expenses related to fines and penalties. The specific adjustments to each rate band and system are shown in the table below:

<u>Rate Band/System</u>	<u>O&M Expense</u>
Water Band 1	(\$2,136)
Wastewater Band 1	(10)
Water Band 2	(25)
Wastewater Band 2	(139)
Water Band 3	(15)
Wastewater Band 3	(5)
Water Band 4	(10,426)
Wastewater Band 4	(1)
Breeze Hill- Water	(1)
Breeze Hill- Wastewater	(1)
Fairways- Water	(2)
Fairways- Wastewater	(3)
Peace River- Water	(1)
Peace River- Wastewater	(1)
Total Adjustments	(\$12,767)

PAA ISSUE 23: Should any adjustments be made to Sludge Hauling, Contractual Services – Accounting, and Contractual Services - Legal expenses?

STIPULATION: O&M expenses shall be reduced by \$29,949 to reflect the appropriate Sludge Hauling, Contractual Services – Accounting, and Contractual Services – Legal expenses. The specific adjustments to each rate band and system are shown in the table below:

System	Sludge	Accounting	Legal
Water 1	N/A	(\$713)	(\$3,794)
Water 2	N/A	(133)	(708)
Water 3	N/A	(324)	(1,725)
Water 4	N/A	(556)	(2,958)
Wastewater 1	(985)	(201)	(1,068)
Wastewater 2	(8,313)	(72)	(383)
Wastewater 3	(102)	(872)	(4,644)
Wastewater 4	(744)	(12)	(61)
Breeze W	N/A	(16)	(85)
Breeze WW	(59)	(16)	(85)
Fairways W	N/A	(41)	(216)
Fairways WW	(534)	(31)	(162)
Peace W	N/A	(13)	(67)
Peace WW	(183)	(12)	(64)
Total	(\$10,919)	(\$3,009)	(\$16,021)

PAA ISSUE 25: Should any adjustments be made for Director and Officers Liability insurance?

STIPULATION: Consistent with Commission practice, O&M expenses shall be reduced by \$5,289 for its jurisdictional systems to reflect a sharing of the cost of Director and Officers Liability (DOL) insurance between ratepayers and the Utility, as shown in the table below:

Rate Bands/Systems	O&M Exp.
Water Rate Band 1	(\$1,253)
Water Rate Band 2	(234)
Water Rate Band 3	(570)
Water Rate Band 4	(977)
Wastewater Rate Band 1	(352)
Wastewater Rate Band 2	(127)
Wastewater Rate Band 3	(1,533)
Wastewater Rate Band 4	(20)
Breeze Hill - Water	(28)
Breeze Hill - Wastewater	(28)
Fairways - Water	(71)
Fairways - Wastewater	(54)
Peace River - Water	(22)
Peace River - Wastewater	(21)
	(\$5,289)

PAA ISSUE 29: Should an adjustment be made to the Utility's normalization adjustments?

STIPULATION: O&M expenses shall be decreased by \$33,748 for water and increased by \$1,768 for wastewater. The specific adjustments for each rate band and stand-alone system are shown in table below:

System	Health Insurance	Purchased Water	Sludge Hauling
Water 1	\$2,185	\$0	N/A
Water 2	791	0	N/A
Water 3	442	0	N/A
Water 4	2,867	(40,121)	N/A
Wastewater 1	236	N/A	0
Wastewater 2	2,325	N/A	0
Wastewater 3	203	N/A	0
Wastewater 4	615	N/A	0
Breeze W	22	0	N/A
Breeze WW	30	N/A	(1,688)
Fairways W	48	0	N/A
Fairways WW	33	N/A	0
Peace W	19	0	N/A
Peace WW	14	N/A	0
Total	<u>\$9,831</u>	<u>(\$40,121)</u>	<u>(\$1,688)</u>

PAA ISSUE 30: Should an adjustment be made to the Utility's pro forma expense adjustments?

STIPULATION: O&M expenses shall be increased by \$83,790 for water and decreased by \$431 for wastewater, as shown in the table below. In addition, AUF shall file a report with the Commission detailing the outcome of the dispute with the City of Lake Worth Utilities, within 30 days of the resolution of the dispute.

	Health	Purchased	Insurance		
System	Insurance	Water	Vehicle	Other	Total
Water 1	\$219	\$0	(\$280)	(\$386)	(\$447)
Water 2	79	0	(128)	(176)	(225)
Water 3	44	125,329	(79)	(109)	125,186
Water 4	287	(40,121)	(343)	(473)	(40,650)
Wastewater 1	24	N/A	(53)	(72)	(101)
Wastewater 2	232	N/A	(218)	(301)	(287)
Wastewater 3	20	N/A	(28)	(39)	(47)
Wastewater 4	62	N/A	(5)	(7)	51
Breeze Water	2	0	(6)	(9)	(13)
Breeze Wastewater	3	N/A	(6)	(9)	(11)
Fairways Water	5	0	(24)	(33)	(51)
Fairways Wastewater	3	N/A	(12)	(17)	(25)
Peace Water	2	0	(5)	(7)	(10)
Peace Wastewater	1	N/A	(5)	(6)	(10)
Total	\$983	\$85,208	(\$1,191)	(\$1,642)	\$83,359

PAA ISSUE 31: Should an adjustment be made to O&M expense to remove the additional cost of mailing multiple bills to the same customers who have more than one class of service?

STIPULATION: The costs of mailing 2,892 duplicate bills in the amount of \$14,142 shall be removed from O&M expense for the Fairways water system.

PAA ISSUE 34: What, if any, limit should be imposed on the subsidies that could result if the Utility's rate bands and stand-alone systems are partially or fully consolidated?

STIPULATION: The appropriate subsidy limit for the water systems and the wastewater systems should be \$12.50. This subsidy limit is applicable only to the residential class, and is based upon usage levels of 7 kgals per month for the water systems and 6 kgals per month for the wastewater systems.

PAA ISSUE 41: Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

STIPULATION: AUF shall be authorized to revise the Miscellaneous Service Charges for its Breeze Hill and Fairway systems. The appropriate charges are reflected below.

	Water		Wastewater	
	Normal Hrs	After Hrs	Normal Hrs	After Hrs
Initial Connection	\$22	\$33	\$22	\$33
Normal Reconnection	\$22	\$33	\$22	\$33
Violation Reconnection	\$35	\$55	Actual Cost	Actual Cost
Premises Visit	\$22	\$33	\$22	\$33
Late Payment Fees	\$5	N/A	\$5	N/A

PAA ISSUE 42: What are the appropriate service availability charges and allowance for funds prudently invested charges for the Utility?

STIPULATION: The Utility’s previously-approved uniform meter installation, service installation, main extension, and plant capacity charges are appropriate for AUF’s Breeze Hill, Fairways, and Peace River stand-alone systems. AUF’s proposed uniform engineering fees are cost-based and appropriate. However, the Utility’s proposed uniform field inspection fees shall be denied for lack of support documentation in accordance with Section 367.091(6), F.S.

PAA ISSUE 48: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

STIPULATION: To ensure that the Utility adjusts its books in accordance with the Commission’s decision, AUF shall provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made.

B. Type B Stipulations Are Issues to Which AUF and Staff Agree and the Intervenors Take No Position

ISSUE 12: What is the appropriate Commission-approved leverage formula to use in the case?

STIPULATION: AUF and Staff agree that the appropriate leverage formula to use is the leverage formula in effect when the Commission makes its final decision.

XI. PENDING MOTIONS

None.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 75 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages and shall be filed at the same time.

XIV. RULINGS

A. Opening statements, if any, shall not exceed ten minutes per party.

B. The Emergency Motion filed November 7, 2011, to compel AUF's Responses to Yes's Third Set of Interrogatories and Third Request to Produce is denied as being premature.

C. Pasco County witness Mariano is excused from the hearing on November 29 and 30, 2011, and his testimony, if he is ultimately required to attend the hearing, will be taken on December 1, 2011.

D. OPC's Motion to Strike Supplemental Rebuttal Testimony Filed by Aqua

In rate case proceedings, the Commission schedules Customer Service Hearings to listen to the testimony of customers regarding the quality of service of the utility requesting a change in rates. The purpose and focus of those hearings is to hear from the customers, not the utility. The testimony of each customer is taken under oath. The service hearings are transcribed and are made part of the record for purposes of the Commission's decision. As a matter of general practice, the Commission permits the utility to file a response to the customer testimony. At the Greenacres Service Hearing, Commission staff reserved Exhibit 2 as the Utility's Response to customer testimony. The Presiding Officer at the Service Hearing approved the filing of a response by November 3, 2011. Customer Service Hearings were to be held throughout August, September, and October, 2011, in ten separate service hearings. The transcripts of the last two service hearings were not due until November 1 and 2, 2011, respectively, and the response was due one day after the last transcript was due. On November 3, 2011, AUF filed Supplemental

Rebuttal Testimony of three witnesses addressing the customer testimony at the ten service hearings.⁴

On November 4, 2011, objecting to the filing of this Supplemental Rebuttal Testimony, OPC filed its Motion to Strike Supplemental Rebuttal Testimony Filed by Aqua. OPC states that the last date to file rebuttal testimony was established as October 27, 2011, in the Order Establishing Procedure. OPC argues that it was not necessary for AUF to wait for the transcripts to file responsive testimony. OPC contends that it timely filed its testimony based on the customer testimony derived from the service hearings, and accordingly, AUF should be held to the same standard.

AUF filed a timely response to OPC's motion on November 7, 2011. AUF responds that Commission staff requested AUF file its responses to the customer's testimony in a late-filed exhibit. AUF states that there were numerous references to the November 3, 2011 filing, including AUF's intent to file the exhibits with the testimony of a witness under oath. AUF points to Order No. PSC-11-0504-WS, issued October 27, 2011, in this docket, in which the Prehearing Officer acknowledged permission to late-file exhibits responsive to customer testimony.

Clearly, AUF was given until November 3, 2011, to file a response. As noted above, although it was contemplated that it would be an exhibit and an exhibit number was reserved for that purpose, AUF chose to file supplemental rebuttal testimony from three separate witnesses. I find that whether the response was filed as an exhibit or as testimony, there is no material difference. Further, to require AUF to convert the testimony to an exhibit format would serve no purpose, and cause undue rate case expense. Finally, by filing its response as testimony, the Intervenors know exactly which witnesses to cross-examine.

Based on the above, I find that a response was specifically allowed on November 3, 2011, and that there is no prejudice to the Intervenors.⁵ Therefore, OPC's Motion to Strike Supplemental Rebuttal Testimony Filed by AUF is denied.

E. Dispute on Inclusion of Issue 24

At the Issue Identification Meeting held on July 29, 2011, the parties could not agree on the appropriateness or the wording of OPC's proposed Issue 24. OPC's proposed wording of Issue 24 currently states:

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

⁴ AUF did the same in its last rate case, Docket No. 080121-WS.

⁵ I note that customers can write the Commission referencing this docket, and their letters will be placed in the correspondence side of the docket file and be available to the commissioners for review.

By Order No. PSC-11-0484-PCO-WS, issued October 25, 2011, the parties were allowed to file memoranda on the appropriateness of including this Issue. Both AUF and OPC timely filed their memoranda.

1. OPC's Memorandum

OPC argues that pursuant to Rule 28-106.201, F.A.C., in a dispute involving disputed issues of material fact, the Commission may only grant or deny the petition, but not modify the disputed issues. Further, OPC notes that Section 120.57(1)(b), F.S., provides that “[a]ll parties shall have an opportunity to respond, to present evidence and argument on all issues involved,” and OPC argues that the agency takes the case as it finds it once a determination is made that the petition contains the information required by the uniform rules.

OPC goes on to state that the issue of the affordability of the rates involves issues of material fact, and that the Commission will need to make factual determinations on whether the customers can afford the requested rate increase. OPC argues that the Commission “will need to make a factual determination if the totality of the operating costs in the test year were incurred in a prudent manner or whether Aqua spent too much money in total on its operating costs.”

OPC argues that pursuant to Sections 367.081 and 367.121, F.S., the Commission must set rates which are “fair, just, reasonable, compensatory, and not unfairly discriminatory,” and that included in this calculation is the concept of affordability. OPC notes that the concept of “affordability” was specifically addressed in AUF’s last rate case.⁶

OPC argues that the contention of staff in its prehearing statement “that the issue as worded is flawed,” is based on a faulty premise. OPC argues that the faulty premise “is that an expense can be determined to be prudent based solely on reviewing the cost in isolation.” OPC argues that the Commission “must review the sum total of the operating costs before they make a final determination of whether any given cost was prudently incurred.” Because rates are set prospectively, OPC argues that a utility’s operating expenses, unlike capital improvements, may be cut or reduced, i.e., expenses such as salaries or affiliate costs may be cut or reduced on a going forward basis.

OPC rejects staff’s proposed modification of the issue,⁷ stating that such proposal “materially changes the meaning of the issue.” However, OPC states that it would be willing to restate the issue as follows:

Have the total operating expenses been incurred in a prudent matter such that the resulting rates are affordable within the meaning and intent of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?

⁶ See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates . . . by Aqua Utilities Florida, Inc., p. 127.

⁷ Staff suggested in its prehearing statement that the Issue could be reworded to state as follows: “Are the resulting rates affordable within the meaning of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes.”

OPC notes that the case of Citizens v. Public Service Commission, 435 So. 2d 784 (Fla. 1983), might be cited for the proposition that the Commission has the discretionary authority to determine the issues that might be litigated in a rate case. OPC distinguishes this instant case from that case by noting that in the Citizens case the Commission excluded an issue that was raised for the first time on reconsideration; here, OPC notes that it raised its issue prior to prehearing, and thus all parties are afforded due process to respond to this issue at hearing. OPC also argues that the situation in this case is different from the facts in a 2009 Florida Power & Light Company FPL case (2009 FPL case).⁸ In the 2009 FPL case, a party requested inclusion of issue as follows: “What is a fair and reasonable rate for the customers of Florida Power & Light Company?” The issue was not allowed. OPC states that “the Prehearing Officer ruled that the issue referenced legal standards . . . in Chapter 366, . . . and permeated the issues in that docket.” OPC argues that while the issue in the 2009 FPL case and this case may appear to be similar on the surface, they are not because OPC’s proposed “Issue 24 requires the Commission to make factual findings.”

In its concluding paragraph, OPC notes that “the Commission has excluded issues when they have been beyond the scope of the current docket or were ‘subsumed’ in another issue, thereby allowing the parties to address the merits of the issue.” OPC argues that the issue is clearly within the scope of this proceeding and is not subsumed in any other issue. OPC notes that it is asking the Commission to “make a factual determination on the prudence of the Company’s actions in incurring all of the operating costs during the test year as it impacts the affordability of rates,” and that there is no other single issue that addresses this question.

2. AUF’s Memorandum

In its memorandum, AUF argues that to allow OPC to pursue this issue would inject “an unprecedented and legally unsupported criterion to determine AUF’s rates.” AUF argues that the applicable statutes and case law require that once an expense is determined to be prudently incurred, then rates must be set so as to allow a utility to recover those expenses and a fair rate of return on its used and useful investment. AUF further argues that the “prudence of all expenses is an issue already subsumed within other issues before the Commission.” AUF further notes that the idea of “affordability” has never been used to deprive a utility of its prudently incurred expenses, but has been “limited to designing the appropriate rate structure.”

Citing Order No. PSC-02-1537-PCO-TL, issued November 12, 2002,⁹ and Order No. PSC-99-1274-PCO-EU,¹⁰ issued July 1, 1999, AUF argues that the “Commission may properly limit the nature and scope of issues” and may “remove proposed issues on the basis that positions

⁸ See Order No. PSC-09-0573-PCO-EI, issued August 21, 2009, in Docket Nos. 080677-EI and 090130-EI, In re: Petition for a rate increase by Florida Power & Light Company, and In re: 2009 Depreciation Study by Florida Power & Light Company.

⁹ See Docket No. 020507-TL, In re: Complaint of Florida Competitive Carriers Ass’n against BellSouth Telecom, Inc.

¹⁰ See Docket No. 981890-EU, In re: Generic Investigation into the aggregate electric utility reserve margins planned for Peninsular Florida.

on those issues can be adequately presented within the context of other issues.” Further, AUF notes that the Prehearing Officer has that authority.¹¹

Citing many cases¹² and Section 367.081(1), AUF argues that in determining a utility’s rates, the Commission must fix rates which are just, reasonable, compensatory, and not unfairly discriminatory, with such rates being at a level which will allow a utility the opportunity to recover its prudently incurred expenses and to earn a fair return on its investment that is used and useful in the public service. Further, in Southern States Utilities, Inc. v. Florida Public Service Commission, 714 So. 2d 1046 (Fla. 1st DCA 1998), AUF argues that the First District Court of Appeals (Court) made it clear that, in the aggregate, rates and charges must assure a water and wastewater utility an opportunity to recover its revenue requirement, which it described as “the cost of the service the utility provides, operating expenses as well as cost of capital.” Moreover, AUF argues that the Court explained that, while an “affordability” criterion may be used to design a utility’s rate structure, such a criterion cannot be used to decrease a utility’s overall revenue requirement. See Southern States Utilities, Inc., 714 So. 2d at 1053.

AUF argues that to the extent “affordability” would cap the rates of certain systems at a level that would interfere with the recovery of the revenue requirement, the resulting “shortfall” would need to be recovered from the remaining ratepayers of the utility. Based on the above, AUF argues that the pertinence of any affordability questions or issues must be confined to the appropriate rate design of AUF’s rate structure. Based on all the above, AUF argues that OPC’s attempt to use affordability to reduce AUF’s revenue requirement would contradict Florida law and result in confiscatory rates.

AUF concludes its arguments by noting that nowhere in Chapter 367, F.S., is the term “affordability” ever used. AUF further notes that the term is used in Chapter 364, F.S. (Telecommunications Companies), and that, therefore, the Legislature is familiar with the term. However, AUF argues that even in regards to telecommunications, “affordability” has never been used to deprive a telephone company of its right to recover its revenue requirement. AUF concludes that Issue 24, as proposed, should be excluded.

3. Conclusion

OPC attempts to distinguish this case from the 2009 FPL case.¹³ In that case, the Attorney General proposed an issue as follows: *What is a fair and reasonable rate for the customers of Florida Power and Light Company?* That issue was not included as a separate and distinct issue in the docket because “*This issue references legal standards established by the*

¹¹ See Order No. PSC-08-0549-PCO-TP, issued August 19, 2008, in Docket No. 070691-TP, In re: Complaint and request for emergency relief against Verizon Florida, LLC, for anticompetitive behavior in violation of Sections 366.01(4), 364.3881, 364.10, F.S., and for failure to facilitate transfer of customers’ numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC.

¹² See United Telephone Co. v. Mayo, 403 So. 2d 962, 966 (Fla. 1981); Keystone Water Co. v. Bevis, 278 So. 2d 606 (Fla. 1973); Westwood Lake, Inc. v. Dade County, 264 So. 2d 7 (Fla. 1972); Gulf Power Co. v. Bevis, 289 So. 2d 401 (Fla. 1974); and Southern States Utilities, Inc. v. Florida Public Service Commission, 714 So. 2d 1046 (Fla. 1st DCA 1998).

¹³ Docket No. 080677-EI.

legislature in Chapter 366, F.S. and permeates the issues in the docket."¹⁴ I find that the situation in this case is very similar.

OPC's argument that the prudence of any expense is a position that OPC may take in each of the issues dealing with revenue requirements. In Order No. PSC-07-0816-FOF-EI¹⁵ we defined prudence as "what a reasonable utility manager would have done in light of conditions and circumstances which were known or reasonably should have been known at the time the decision was made."¹⁶ Merriam-Webster dictionary defines prudent as: characterized by, arising from, or showing prudence; marked by wisdom or judiciousness; shrewd in the management of practical affairs; marked by circumspection; discreet; provident; frugal. Therefore, OPC's argument that costs are unaffordable, is an argument about the prudence of the costs. I find that OPC's revised permutation of the issue is likewise inappropriate. OPC and any party to this proceeding may challenge an expense item because that expense was imprudent. The prudence or imprudence of that expense may be argued by each party, and may include the appropriateness of the individual expense. The parties may present such testimony or arguments as they deem relevant to the issue, including OPC's argument that affordability is a component of determining fair, just, reasonable, and not unduly discriminatory rates. Based on the testimony and subsequent briefs of the parties, the Commission determines the legitimate and prudent expense to be allowed in each individual issue and will determine the revenue requirements for the utility. Therefore, as regarding expenses, I find that OPC's concerns may be addressed as the Commission comes to each of the requested expenses in dispute, and that, therefore, the issue of whether the expenses are legitimate and prudent is subsumed in the individual issues. Therefore, in consideration of the above, and having reviewed the memoranda of OPC and AUF, the applicable case law, and statutes, I find that proposed Issue 24 is neither required nor appropriate, and it shall be excluded and stricken.

Moreover, the issue proposed by OPC, placed at the conclusion of the revenue requirements section, could jeopardize the ultimate decision of the Commission. If the Commission were to first determine the revenue requirements and then reduce those requirements because it determined that the results were unaffordable, the Commission could run afoul of a long line of cases regarding ratesetting. Pursuant to the holdings in Gulf Power Company v. Wilson, 597 So. 2d 270 (Fla. 1992); Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 679 (1923); and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), a utility must be given an opportunity to recover its legitimate and prudent expenses, and a fair rate of return on its investment that is used and useful in the public service.

Having found that Issue 24, as worded by OPC, should not be included, I do note that Commission staff's proposed rewording of the issue as a rate issue is appropriate. As noted in the Southern States case cited above, it appears that the appropriate place to address "affordability" is in the rate structure portion of the issues. Once revenue requirements have

¹⁴ Order No. PSC-09-0573-PCO-EI, issued August 21, 2009.

¹⁵ Issued October 10, 2001, in Docket No. 060658-EI, In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million.

¹⁶ City of Cincinnati v. Public Utilities Commission, 620 N.E. 2d 826 (Ohio 1993).

been established, the rate structure is determined. Therefore, proposed Issue 24 is stricken, and an issue concerning affordability shall be added. The issue concerning affordability is a rate structure issue and shall be numbered as Issue 31A and worded as follows:

Are the resulting rates affordable within the meaning of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?"

At hearing the parties may state their position on the issue as modified.

F. Inclusion of Issue 26 as an Issue

From review of the record and the protests and cross-petitions of the parties, it appears that Ms. Lucy Wambsgan was the only one who specifically addressed this issue and could be said to have put it in dispute. She has now withdrawn as a party. Yes argues that the language in its Cross-Petition Protesting Certain Portions of the Proposed Agency Action would allow this issue to still be considered as a disputed issue. In its cross-petition, Yes states:

Pursuant to Section 120.80(13)(b), Fla. Stat., a Section 120.57 hearing may only address those issues in dispute and any other issues not in dispute are deemed stipulated. Yes reserves the right to take positions and file testimony on any additional issues raised by any other party's protest or cross-protest or any fallout issues resulting from those issues identified above or identified in any other party's protest or cross-protest.

I find that the above-noted language does not preserve Issue 26 as being in dispute. However, because Issue 26 is affected and is dependent on the resolution of other disputed issues, I find that Issue 26 shall be preserved as a fallout issue as it is currently listed.

G. The parties have all agreed that staff witnesses Lott, Daugherty, Schwarb, Yingling, Chelette, Welch and Hicks, and Yes witness Kurz may be excused from the hearing and their testimony and exhibits, if any, shall be admitted. If no Commissioner has questions for these witnesses, they may be excused from the hearing, and their testimony and exhibits shall be placed into the record at the time they would have been scheduled to appear.

H. OPC has agreed that staff witnesses Walker, Harrison, Loughlin, Piltz, Rauth, Eck, Dodson, and Rodriguez (DEP personnel) may be excused from the hearing and their testimony and exhibits, if any, shall be admitted. If no Commissioner or other party has questions for these witnesses, they may be excused from the hearing, and their testimony and exhibits shall be placed into the record at the time they would have been scheduled to appear.

I. The parties have also agreed that the following staff Water Management District and DEP witnesses, if needed, may be taken up out of turn and on a date certain as follows:

November 29, 2011: WMD witness Walker
November 30, 2011: DEP witnesses Greenwell and Carrico

December 1, 2011: DEP witnesses Dodson, Penton, Montoya, Rauth, Rodriguez, Miller, Sloan, Harrison, Eck, and Carrico

Therefore, these witnesses, if needed, shall only be required to attend the hearing on the date noted, and their testimony and exhibits, time permitting, will be taken up on that day, and out of order if necessary.

It is therefore,

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 23rd day of November, 2011.



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RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

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