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# Public Service Commission

June 8, 2001

Bryan L. Weber, President  
Ecoventure PVB, Inc.  
Flagship Communities, LLC  
430-B Royal Pines Parkway  
St. Augustine, FL 32092

**Re: Service Availability Policies, United Water Florida, Inc.**

Dear Mr. Weber:

Thank you for your letter dated May 29, 2001, regarding the impact of the service availability policy approved by the Commission for United Water Florida, Inc. I would like to take this opportunity to explain the rationale for the Commission's approval of United Water Florida's requested service availability charges, including the provision that the new charges would be effective for connections made after the effective date of the Commission's order.

The establishment of service availability charges is predicated on the principle that current customers should not pay for future growth in the utility's service area. At the agenda conference on March 13, 2001, during which the Commission considered this case, a developer appeared before the commission and made essentially the same point as did your letter: that the new charges should not be applicable to new connections under developer agreements which were already in place. The Commission considered this argument, but voted to follow prior Commission practice, which is to allow the new charges to be effective for connections after the effective date of the order. In so doing, the Commission followed the mandate of the Florida Supreme Court in H. Miller & Sons v. Hawkins, 373 So. 2d 913, 916 (Fla., 1979). In this case, the Supreme Court ruled that the "crucial time must be the date of connection since actual cost of maintaining sufficient capacity cannot be sooner ascertained." This case supports the Commission's finding that it has the authority to modify private contracts between the utility and developers in furtherance of the public policy consideration that current customers should not subsidize future plant capacity.

Our staff reviewed United Water's tariff which was in effect prior to the increase and found that the tariff included a paragraph clearly stating that, in the event the Commission approves an increase in connection fees, the increased fees are effective for that portion of the development

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Bryan L. Weber, President

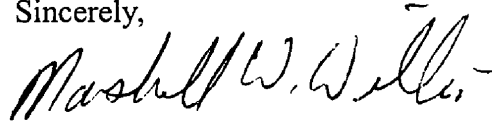
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which is not connected and receiving service on the date of the Commission order authorizing the increase. Further, in connection with its petition for the new service availability charges, United Water filed an affidavit stating that, in addition to publishing public notice of its intent to seek the increase, it had mailed copies of the notice directly to applicants for service on July 24, 2000. Included on the list of persons notified was Michael Q. Johnson, at 430-B Royal Pines Parkway, St. Augustine, FL 32092. I assume that Mr. Johnson is or was affiliated with your company. Finally, the Commission's decision was issued as a Proposed Agency Action. There were no protests during the prescribed period, so the decision became final on April 30, 2001.

I hope this letter addresses your concerns. If you have any additional comments or questions, please let us know.

Sincerely,

A handwritten signature in black ink that reads "Marshall W. Willis". The signature is written in a cursive style with a horizontal line at the end.

Marshall Willis

Bureau Chief, Division of Economic Regulation

MW/JBK

cc: Division of Economic Regulation (Merchant, Kyle, Ariola)  
✓ Division of Records and Reporting (Docket No. 000610-WS)  
Mr. Gary Moseley, United Water Florida, Inc.