

ORIGINAL

2:27 PM JAMES E. "JIM"  
KING, JR.  
President

JOHNNIE BYRD  
Speaker



Harold McLean  
Public Counsel

STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE  
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Stephen C. Reilly  
Associate Public Counsel

December 12, 2005

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RECEIVED-FPSC  
05 DEC 12 PM 3:46  
COMMISSION  
CLERK

RE: Docket No. 000694-WU

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and fifteen copies of Public Counsel's and Water Management Services Inc.'s Joint Petition and Request to Approve Settlement Agreement and the Settlement Agreement.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Stephen C. Reilly  
Associate Public Counsel

- CMP \_\_\_\_\_
- COM 5
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_ SCR/pd
- SCR \_\_\_\_\_ Enclosures
- SGA \_\_\_\_\_
- SEC 1
- OTH Jim P.
- cover Hr.

RECEIVED & FILED  
OPC  
FPSC-BUREAU OF RECORDS

Settlement Agr.  
DOCUMENT NUMBER - DATE  
11588 DEC 12 '05  
FPSC-COMMISSION CLERK

Joint Petition  
DOCUMENT NUMBER - DATE  
11587 DEC 12 '05  
FPSC-COMMISSION CLERK

RECEIVED

DEC 12 2005

Office Of  
Public Counsel

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Water Management Services, Inc.  
For a Limited Proceeding to Increase Water Rates  
In Franklin County.

Docket No. 000694-WU  
Filed: December 12, 2005

**JOINT PETITION AND REQUEST TO  
APPROVE SETTLEMENT AGREEMENT**

Petitioners, Water Management Services, Inc. ("Water Management" or "Utility") and the Office of Public Counsel ("OPC") on behalf of the customers of Water Management, file this Joint Protest of Order No. PSC-05-1156-PAA-WU, issued by the Commission on November 21, 2005, ("PAA Order") and Request the Commission to approve a Settlement Agreement in its place, and state:

1. The name and address of the agency affected and the agency's file number:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Docket No. 000694-WU

2. The names and addresses of the Petitioners are:

Office of Public Counsel  
Room 812  
111 West Madison Street  
Tallahassee, FL 32399-1400

And

Water Management Services, Inc.  
3200 Commonwealth Boulevard  
Tallahassee, FL 32303

DOCUMENT NUMBER-DATE

11587 DEC 12 05

FPSC-COMMISSION CLERK

3. The names and addresses of the Petitioners' representatives to receive notices and pleadings in this docket are:

Stephen C. Reilly, Esquire  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

And

Kenneth A. Hoffman, Esquire  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
Attorneys and Counselors at Law  
Post Office Box 551, 32302-0551  
215 South Monroe Street, Suite 420  
Tallahassee, FL 32301-1841

4. The substantial interests of the customers of Water Management will be affected by the PAA Order because the order provides approval of final rates to be borne by the customers for water service received from Water Management. The substantial interests of Water Management will also be affected because the PAA Order proposes final rates to be collected by the Utility to help pay for the substantial capital projects and other expenses, which, together with a revised rate structure, are the subject of this Limited Proceeding.

5. OPC received a copy of the PAA Order by inter-office courier on November 22, 2005. Water Management received a copy of the PAA Order by US Mail on November 23, 2005.

6. The disputed issues of material fact, and respective ultimate facts alleged by the Petitioners are as set forth below.

7. Commission Order No. PSC-04-0791-AS-WU, issued on August 12, 2004, expressly provides that: "Further, with respect to the approximately 6.2 million dollars of capital projects undertaken by the Company since the Fall of 2000, the Commission shall verify specifically

what work was done, who did the work, what was paid to each and every contractor, subcontractor, vendor and supplier and the reasonableness and prudence of each expenditure prior to approving Phase 3 – Final Rates and charges in this docket.” OPC questions the adequacy of the staff’s audit to verify specifically what work was done, exactly who did the work, what was paid to each contractor, subcontractor, vendor and supplier and the reasonableness and the prudence of the expenditures that purportedly total \$6,156,536. For this reason, OPC protests all of the expenditures to be recovered from ratepayers in the Phase 3 Final Rates, until such time as the details and reasonableness of the transactions can be tested at a formal evidentiary hearing. OPC particularly questions many of the expenditures made by Water Management to the water plant/office building on St. George Island. OPC believes that many of these expenditures were outside of the scope of work authorized to be recovered in this Limited Proceeding, and challenges the prudence of some of the construction work performed by the Utility. As such, OPC believes that such costs are not recoverable in Phase 3 Final Rates. If the Commission should deny this Joint Request to Approve the Settlement Agreement, OPC reserves the right to protest any and all proposed determinations in the PAA Order, including but not limited to those delineated by Water Management in paragraph 8 of this Joint Motion.

8. As stated below, Water Management has reached a settlement with OPC that, if approved by the Commission, would provide a final resolution of the matters addressed in the PAA Order. Water Management supports and seeks approval of the Settlement Agreement it has reached with OPC. If the Commission should deny the Joint Request of Water Management and OPC to approve the Settlement Agreement, Water Management reserves its right to protest any and all proposed determinations in the PAA Order including, but not limited to:

- (a) The proposed final revenue requirement;

- (b) The proposed determination regarding improvements to office building;
- (c) The proposed determination regarding depreciation expense for retired supply main;
- (d) The proposed determination concerning rate case expense and Water Management would specifically request recovery of all prudently incurred rate case expense incurred through the conclusion of this proceeding, including but not limited to the final hearing, posthearing briefs, motions for reconsideration and appeals;
- (e) The proposed reduction in rates for first year to return alleged over-collection of revenue;
- (f) The proposed determination of the Utility's rate structure including any and all issues and proposed determinations relevant to or utilized in the PAA Order to develop and determine the proposed rate structure; and
- (g) The proposed determination of final rates.

Should the Commission not approve the Settlement Agreement between OPC and Water Management, Water Management maintains that these proposed determinations and issues should be resolved in favor of Water Management and consistent with positions previously provided by Water Management to the Commission and/or the Commission Staff. Water Management maintains that it should recover its full requested Phase III final revenue requirement, that there should be no reduction in rates for the first year the new rates go into effect and that Water Management should maintain its existing rate structure.

9. Notwithstanding the above Joint Protest of the PAA Order, OPC and Water Management have entered into a Settlement Agreement that avoids the time, expense and uncertainty

associated with adversarial litigation, and in keeping with this Commission's long-standing policy and practice of encouraging Parties in protested proceedings to settle issues whenever possible.

10. The Petitioners have agreed to settle this case, with the PAA Order becoming final, except that the Total Project Cost provided by the PAA Order shall be reduced by an additional \$71,000 in plant in service. This reduction of \$71,000 shall result in a reduction of \$5,635 to the annual revenue requirement approved in the PAA Order. While the rate structure will remain the same, rates will be reduced on a pro rata basis to reflect the \$5,635 reduction in the annual revenue requirement.

11. If the Commission accepts this Settlement Agreement and issues a Final Order adopting the reduced Total Project Cost, reduced annual revenue requirement and resulting reduction in rates, the Joint Protest shall be deemed to be withdrawn. If the Commission does not accept the Settlement Agreement in total without modification, the Joint Protest shall be preserved and both Water Management and OPC will be free to litigate the full range of issues presented herein without limitation, and no Party may use or offer the attempted Settlement Agreement or any discussions between the Parties or their authorized representatives and/or counsel related to settlement in this or any other proceeding.

WHEREFORE, the Petitioners hereby protest the PAA Order and request the Commission to issue a Final Order consistent with the terms of the Settlement Agreement between Water Management and OPC, as provided above.

Respectfully submitted,



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Kenneth A. Hoffman, Esq.  
Rutledge, Ecenia, Purnell & Hoffman  
Attorneys and Counselors at Law  
Post Office Box 551, 32302-0551  
215 S. Monroe Street, Suite 420  
Tallahassee, FL 32301-1841

On behalf of Water Management  
Services, Inc.



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Stephen C. Reilly, Esq.  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

On behalf of the Citizens of the  
State of Florida

**CERTIFICATE OF SERVICE  
DOCKET NO. 000694-WU**

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Petition And Request To Approve Settlement Agreement has been furnished by hand-delivery to the following Party this 12<sup>th</sup> day of December, 2005.

Adrienne Vining, Esquire  
Florida Public Service Commission  
Office of General Counsel  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, Florida 32399-0850

  
\_\_\_\_\_  
Stephen C. Reilly  
Associate Public Counsel