

State of Florida



ORIGINAL

# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** February 7, 2007

**TO:** Ann Cole, Chief of Records, Division of the Commission Clerk & Administrative Services

**FROM:** Rosanne Gervasi, Senior Attorney, Office of the General Counsel *RS*

**RE:** Docket Number 060368-WS - Application for increase in water and wastewater rates in Alachua, Brevard, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

Please place the attached correspondence in the above-referenced docket file. Thank you.

RG/PE

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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President

ALLAN BENSE  
Speaker



STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL



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Harold McLean  
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FAX COVER SHEET

Date: 2/5/07 Time: 4:02 P.M.

To: Michael Cooke, Esq.

From: Steve Reilly

Total Number of Pages, Including This Page: 4

Special Instructions: Please see attached copy  
of letter mailed to you today. I  
have also faxed a copy to Rosanne.

\*\*\*\* We are transmitting from a Brother 980M fax machine, number (850) 488-4491. If you encounter problems in receiving this transmission, please call (850) 488-9330.

**KEN PRUITT**  
*President of the Senate*



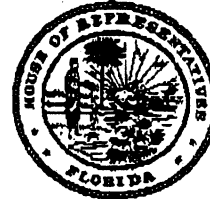
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**MARCO RUBIO**  
*Speaker of the House of Representatives*



February 5, 2007

Michael Cooke, Esq.  
General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: Hearing dates for Docket No. 060368-WS

Dear Mr. Cooke:

In the above docket Aqua Utilities, Florida, Inc. ("Aqua", "Utility" or "Company") is requesting increased rates, increased or revised service availability charges and approval of allowance for funds prudently invested charges for 81 water and wastewater systems located in 15 Florida counties.

I understand Staff has initially proposed scheduling the formal evidentiary hearing in this docket for early July, 2007, with intervenor testimony due in April, 2007. This proposed schedule is far too expedited to permit adequate review of the Company's filing, necessary discovery, (including inspection of every water and wastewater plant and service territory) and submittal of pre-filed testimony. In order to provide adequate time for the Office of Public Counsel to represent the interests of the ratepayers in this docket, I believe it is important for the formal evidentiary hearing to be scheduled no earlier than mid-September, 2007. Given the finite resources of our office, the mid-September, 2007, dates are also

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important because many of the other water and wastewater dockets we anticipate being actively involved in have hearing dates scheduled prior to and after mid-September, 2007.

I understand if the Aqua hearing is not scheduled for early July, 2007, that the next available dates on the Commission's calendar are October 24 through November 2, 2007. In order to provide our office with adequate time to represent the ratepayers in this docket, we agree that the later hearing dates of October 24 through November 2, 2007 should be reserved for the Aqua rate case, but that if hearing dates become available in September, 2007, the hearing would be moved to September, 2007. For this reason, all of the critical deadlines prescribed in the CASR should be scheduled to accommodate September, 2007 hearing dates, with the October 24 through November 2, 2007 dates being reserved as failsafe hearing dates.

As you know, your immediate predecessor rendered a legal opinion that changed 20 years of Commission practice with regard to when water and wastewater utilities could implement all or part of their requested rate increases, subject to refund, prior to the Commission issuing a final order in the rate case docket. The legal opinion states that Chapter 367.081 (6), F.S., provides that water and wastewater utilities can elect to implement all or part of the requested rate increases, subject to refund, after 8 months from the initial filing for the rate increases. The Office of Public Counsel agrees with the 20 years of Commission practice, that water and wastewater utilities cannot implement all or part of their requested rate increases, subject to refund, until after 8 months from the date the Company has provided the Commission with satisfactory minimum filing requirements.

Regardless of which interpretation of Chapter 367.081 (6), F.S., is correct, I understand that scheduling the formal evidentiary hearing for mid-September or October 24 through November 2, 2007 might result in the Company implementing all or part of its requested rate increases, subject to refund

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with interest, prior to the Commission issuing its final order in this docket. The Commission's decisions on the Company's interim rate increase requests will also impact the feasibility of the Company electing to implement rate increases for a short time subject to refund with interest. We believe it is far more important to provide the customers with adequate time to critique these rate increase requests than it is to rush to judgment in order to avoid potential, short term, reversible with interest, rate increases.

For the above reasons we strongly urge the Commission to reserve the October 24 through November 2, 2007 hearing dates and to move the hearing to September, 2007 as soon as dates become available. We suggest that the initial Prehearing Order provide critical deadlines that accommodate a hearing in September, 2007.

Sincerely,

Harold McLean  
Public Counsel



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