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July 28, 2008

VIA HAND DELIVERY

RECEIVED--FPSC
08 JUL 28 AM 11:07
COMMISSION
CLERK

Ms. Ann Cole, Director
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, FL 32399-0850

Re: *In Re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc., Docket No. 080121-WS*

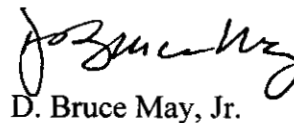
Dear Ms. Cole:

Enclosed for filing are the original and seven (7) copies of Aqua Utilities Florida, Inc.'s Motion to Withdraw its Chuluota System from the Request for Interim Rate Relief.

Please acknowledge receipt of this filing by stamping the extra copy of this letter "filed" and returning the copy to me. Thank you for your assistance.

Sincerely,

HOLLAND & KNIGHT LLP



D. Bruce May, Jr.

COM _____
ECR _____
GCL 2 _____
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SSC _____
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ADM _____
CLK _____ :kjj
Encls.

cc: Ralph Jaeger, Esq.
Katherine Fleming, Esq.
Caroline Klancke, Esq.
Erik Sayler, Esq.
Charles Beck, Esq.
Kimberly A. Joyce, Esq.

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06509 JUL 28 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water and)
wastewater rates in Alachua, Brevard, DeSoto,) DOCKET NO. 080121-WS
Highlands, Lake, Lee, Marion, Orange,)
Palm Beach, Pasco, Polk, Putnam,) FILED: July 28, 2008
Seminole, Sumter, Volusia, and Washington)
Counties by Aqua Utilities Florida, Inc.)
_____)

**AQUA UTILITIES FLORIDA, INC.'S MOTION TO
WITHDRAW ITS CHULUOTA SYSTEM
FROM THE REQUEST FOR INTERIM RATE RELIEF**

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Florida Administrative Code Rule 28-106.204, moves that its prior request for interim rates for the Chuluota water and wastewater system ("Chuluota System" or "System") be withdrawn from consideration in this docket because of special and compelling factors that are unique to the Chuluota System and the ongoing efforts to resolve those issues through the continued negotiations with the City of Oviedo ("Oviedo"). In support of the motion, AUF states:

1. By application dated May 22, 2008, AUF filed a request for final water and wastewater rate increases for its systems in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties, Florida ("Application").

2. AUF's Application also requests authority to collect interim rates for its systems until the effective date for the Commission's order on final rates. In support of its request for interim relief, AUF has filed MFRs and supporting prefiled testimony that clearly showed that the company's achieved rate of return during the 2007 test year falls below the minimum authorized rate of return established by the Commission. As reflected in staff's recommendation dated July 18, 2008 in this docket, AUF has made a prima facie showing of entitlement to

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interim rate relief pursuant to Section 367.082, Florida Statutes. Therefore, to deny AUF interim rate relief could be confiscatory. *In re: Application for rate increase in Pasco County by Labrador Utilities, Inc.*, 04 F.P.S.C. 2:359, Docket No. 030443-WS; Order No. PSC-04-0200-PCO-WS (February 24, 2004).

3. The interim rates requested by AUF are system-specific and vary depending on each system's cost characteristics. In its request for interim rate relief, AUF has provided a separate revenue requirement calculation for each of its systems, including a separate one for Chuluota. Chuluota is unique and distinct from AUF's other systems in several important respects. Chuluota is located in a unique hydrologic area of Florida that has elevated levels of hydrogen sulfide which have presented odor and black water issues for several decades, long before AUF acquired the system from Florida Water Services in 2004. After acquiring Chuluota, AUF's in-house experts, working closely with outside Florida consulting firms, have been diligent in their efforts to treat the hydrogen sulfide and related water-quality issues in the area. In addition, AUF continues to explore alternative water supply options to resolve those water quality issues. Specifically, AUF has been in discussions with Oviedo regarding the potential sale of the Chuluota System. Those negotiations are ongoing, and AUF is committed to continuing to explore an ultimate sale of its Chuluota assets to Oviedo for a fair value. AUF is also pursuing other avenues to bring water from Oviedo to Chuluota on an expedited basis. See letter dated July 25, 2008 from AUF Regional President, Christopher Franklin, to the Oviedo's Mayor attached as Exhibit "A".

4. As explained above, AUF is committed to continuing to pursue the sale of the Chuluota System to Oviedo. However, AUF is concerned that the pendency of interim rates at

the time of such sale may cause unnecessary customer confusion, complicate negotiations and threaten the timely closing of any possible transaction.

5. Pursuant to Section 367.071(4)(a), Florida Statutes, if AUF and the City reach agreement on the sale of the Chuluota system, that sale would be approved by the Commission as a "matter of right." However, the transaction is complicated by other provisions of the same statute that requires that interim rates pending at the time of the sale are to be discontinued midstream, and interim revenues collected up to that point must be refunded with interest.

Any request for rate relief pending before the Commission at the time of a sale is deemed to have been withdrawn. Interim rates, if previously approved by the Commission, must be discontinued and any money collected pursuant to interim rate relief must be refunded to the customers by the utility with interest.

Section 367.071(4), Florida Statutes.

6. Interim rates pending at the time of a utility transfer to a governmental authority have generated confusion and dispute. *See In re: Petition by Gulf Utility Company for interim and permanent increase in rates pursuant to sections 367.0817, 367.082, and 367.0822, F.S. in Lee County*, 99 F.P.S.C. 2:480, Docket No. 980057-WU, Order No. PSC-99-0390-FOF-WU (February 23, 1999). *See also, In re: Application for rate increase for Silver Springs Shores Division in Marion County by General Development Utilities, Inc.*, 94 F.P.S.C. 1:291 Docket No. 920734-WS, Order No. PSC-94-0093-FOF-WS (January 26, 1994) (midstream discontinuance of interim rates complicates the calculation of interim revenues and the administration of interim revenue refunds). Therefore, AUF is concerned that the pendency of interim rates at the time of such sale may cause unnecessary customer confusion, complicate transaction negotiations, inject uncertainty over the interim refund process, impose unnecessary administrative costs on the Commission and the parties, and substantially delay closing.

7. To avoid these problems, and in recognition of the unique issues confronting Chuluota customers, AUF and Oviedo, AUF submits that it is in the public interest to withdraw its request for interim rate relief for the Chuluota System only. As explained in detail above, there are special and compelling reasons, unique to Chuluota, that support withdrawing Chuluota from the interim rate structure requested for AUF's other systems. Moreover, the interim rates requested by AUF are system-specific, including a separate stand-alone interim rate for Chuluota. Accordingly, the Chuluota System can be withdrawn from the overall interim rate request without undermining the remaining interim rate structure for AUF's other systems, or in any way affecting its Application for permanent rates for all its systems.

8. Pursuant to Uniform Rule 28-106.204, the undersigned has consulted with the other parties of record in this case and is authorized to represent that the Commission staff does not oppose this Motion. The Office of Public Counsel has been consulted and has stated that it does not oppose the relief requested, but intends to argue that no interim relief is appropriate.

WHEREFORE, for the foregoing reasons, AUF respectfully requests to withdraw its application for interim rates for the Chuluota System.

Respectfully submitted this 28th day of July, 2008.

HOLLAND & KNIGHT LLP



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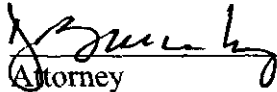
-and-

Kimberly A. Joyce, Esquire
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Attorneys for Aqua Utilities Florida, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by hand delivery and electronic transmission to **Charles Beck, Esq., Office of Public Counsel**, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, beck.charles@leg.state.fl.us; and **Ralph Jaeger, Esq., Office of General Counsel, Florida Public Service Commission**, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, RJaeger@psc.state.fl.us; and a courtesy copy of the foregoing was furnished by electronic transmission to **Katherine Fleming, Esq.** (keflemin@psc.state.fl.us), **Caroline Klancke, Esq.** (cklancke@psc.state.fl.us), and **Erik Saylor, Esq.** (esaylor@psc.state.fl.us), this 28th day of July, 2008.



Attorney



July 25, 2008

Mayor Mary Lou Andrews
400 Alexandria Boulevard
Oviedo FL, 32765

Aqua America, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010

Christopher Franklin
Regional President

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SENT VIA FACSIMILE (407) 971-5803

Dear Mayor Andrews:

First I want to thank you for your comments at the Public Service Commission customer service hearings in Oviedo last week. I was encouraged by your statements that the City of Oviedo (the "City") would like to assist in solving the water quality issues, which have existed in Chuluota at various levels for several decades, by bringing City water into Chuluota. As you know, Aqua and the City have been in discussions about a sale of assets for over the past year. Our hurdle has always been the difference between Aqua's approximately \$9 million in rate base and what the City can support within its limited rate structure. Aqua is committed to continuing to explore an ultimate sale of assets to the City, but my company is also very interested in expediting an arrangement to bring quality water from the City to Chuluota quickly.

To that end, I am proposing a meeting as soon as possible with all parties copied on this letter to discuss the following issues: 1) St. Johns Water Management District ("SJRW") - Consumptive Use Permits; 2) Aqua/City Engineers - Hydraulics and Interconnection between the City and Aqua; 3) FDOT/Seminole County - Road Crossing Permits to Install Interconnection Pipeline; 4) Florida Department of Environmental Protection ("FDEP") - advice on water quality, permits and process; and 5) Florida Department of Health ("FDOH") - review of any test results.

- 1) Initial reviews of the City and Aqua systems would suggest that an interconnection could be achieved at the intersection of SR 419 and Snow Hill road. A 10 inch pipeline would be routed and terminate at Aqua's Chuluota plant #2. This would require installation of approximately 5,500 feet of water main.
- 2) It is important that FDOT and Seminole County transportation staff be included in the initial discussions so that they are aware of any proposed pipeline routes and the associated permitting required.
- 3) FDEP has been regulating and monitoring Aqua's TTHM remediation project and progress in Chuluota. We would hope that FDEP would support and expedite an interconnection with Oviedo, but implementation under the most optimistic scenario could take several months. Aqua will need to continue to work with FDEP in the interim.

Exhibit A

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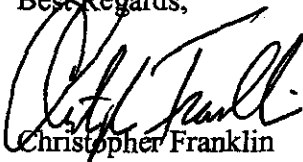
- 4) If FDOH has done any testing of water samples from Chuluota, a meeting among all the parties might be an appropriate time to share and review the results.
- 5) Our preliminary discussion with officials at the SJRWMD indicates that they would advocate a solution that involves a mix of Chuluota and City water. The ratio of that mix needs to be a topic of discussion at the meeting and subsequent consumptive use permitting for Aqua and the City. It would be helpful if the SJWMD would advise the parties on this issue including but not limited to process and recommended mix

We believe that the initial meeting would be best used to flesh out the concept, collaboratively discuss potential solutions, and establish a schedule for follow up meetings designed to reach a final solution. This framework will allow us to report back to our respective organizations for timely decisions on key elements of a plan, including terms of any purchase water contract.

Mayor, I am optimistic that together we can collaboratively resolve the long standing water quality problem in Chuluota. This issue is at the top of my agenda at Aqua. I would propose that we convene our meeting at your earliest convenience. I can be reached at any time and I look forward to talking with you soon to set up mutually convenient time and location for a meeting.

Finally, because the PSC staff has asked that we keep them apprised, I am providing a copy of this letter to the PSC clerk and parties in PSC Docket No. 080121.

Best Regards,



Christopher Franklin
Regional President

cc: Honorable Sandy Adams, State Representative
Deputy Mayor Dominic Persampiere
Cecilia Bradley, Office of the Attorney General
Mr. Kirby Green, SJWMD
Ms. Vivian Garfein, FDEP
Mr. Randy Williams, Seminole County/FDOT
Mr. William Sundstrom, Esq.
Mr. Michael J. Napier, M.S., FDOH
Mr. Jack Lihvarcik, President Aqua Florida
Ms. Ann Cole, PSC Clerk
Charles Beck, Esq., Office of Public Counsel
Ralph Jaegger, Esq., PSC
Katherine Flemming, Esq., PSC