

****CLK OFFICIAL DOCUMENT...****

Kimberley Pena

From: Cecilia Bradley [Cecilia.Bradley@myfloridalegal.com]
Sent: Monday, July 28, 2008 7:06 PM
To: Filings@psc.state.fl.us
Cc: kajoyce@aquaamerica.com; Bruce.may@hklaw.com; :RJaeger; KELLY.JR; Charles Beck; REILLY.STEVE@leg.state.fl.us; Erik Saylor; Caroline Klancke; Jennifer Brubaker; Katherine Fleming; Michael Cooke; Mary Anne Helton
Subject: Re: Electronic Filing for DOCKET NO. 080121-WS- Attorney General's request to speak at agenda conference

Attachments: letter to clerk 7-28-08.pdf



letter to clerk
7-28-08.pdf (2..

Attached is our request to speak at the agenda conference being held tomorrow in DOCKET NO. 080121-WS .

(See attached file: letter to clerk 7-28-08.pdf)

Cecilia Bradley
Senior Assistant Attorney General
General Civil/Tort Litigation
Office of the Attorney General
Tel.: (850) 414-3300
Fax: (850) 488-4872

E-mail:cecilia.bradley@myfloridalegal.com

Please note that Florida has a broad public records law, and that all correspondence to me via email may be subject to disclosure.

DOCUMENT NUMBER-DATE

06545 JUL 29 8

FPSC-COMMISSION CLERK



BILL McCOLLUM
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL

CECILIA BRADLEY
Senior Assistant Attorney General
PL-01 The Capitol
Tallahassee, Florida 32399-1050
Telephone (850) 414-3300,
Fax (850) 488-4872,
Cecilia.bradley@myfloridalegal.com

July 28, 2008

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket 080121-WS; Request of Aqua Utilities Florida, Inc., for an Interim Rate Increase

Dear Ms. Cole:

I am writing in response to the letter of D. Bruce May dated July 24, 2008, which was sent on behalf of Aqua Utilities Florida, Inc. (Aqua). Like Mr. May, I am requesting permission to address the Commission at its Agenda Conference tomorrow.

There appears to be a misconception that the granting of interim rate increases are practically automatic. However, Sections 367.011(3) and 367.082(1), Florida Statutes and the rules of statutory construction hold otherwise. Section 367.011(3), Florida Statutes, provides that:

The regulation of utilities is declared to be in the public interest, and this law is an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

Applying the rules of statutory construction, the remainder of this section must be read in conjunction with this provision so that this directive will not be violated by a strained construction of the statute.

It has been argued that because Section 367.082(2), F.S., speaks of how the Commission "shall" grant interim rate increases, such increases must be granted once a prima facie showing has been made. However, such argument ignores the language of Section 367.082(1), which provides that "the commission 'may' . . . authorize the collection of interim rates until the effective date of the final order." The entire statute must be considered in determining legislative intent and effect must be given to every part of the

DOCUMENT NUMBER-DATE

06545 JUL 29 08

FPSC-COMMISSION CLERK

section and every part of the statute as a whole. See *State v. Rodriguez*, 365 So. 2d 157 (Fla. 1978); *Forsythe v. Longboat Key Beach Erosion Control District*, 604 So. 2d 452 (Fla. 1992); *State ex rel. City of Casselberry v. Mager*, 356 So. 2d 267 (Fla. 1978) (statute should be interpreted to give effect to every clause in it and to accord meaning and harmony to all of its parts); *T.R. v. State*, 677 So. 2d 270 (Fla. 1996) (all parts of a statute must be read together in order to achieve a consistent whole); *Fleischman v. Department of Professional Regulation*, 441 So. 2d 1121 (Fla. 3d DCA 1983), *review denied*, 451 So. 2d 847 (Fla. 1984) (every statute must be read as a whole with meaning ascribed to every portion and due regard given to the semantic and contextual interrelationship between its parts). When Section 367.082(2) is read in conjunction with Section with 367.082(1) and 367.011(3), F.S., it is clear that the commission has the discretion to deny interim rates in cases such as this one where it would not protect the health, safety and welfare of Aqua's consumers or provide for fair and reasonable rates.

Although the majority of complaints about health concerns came from the Chuluota area, consumers throughout the service area complained that they could not drink the water and were being forced to purchase bottled water.

Customers throughout the area also complained about the billing errors. Aqua initially claimed that many of the errors were committed by rogue meter readers or were not errors and were occasioned by leaks at the customers homes or the customer using too much water. However, the testimony at the public hearings did not support these claims.

Aqua then put in an electric meter reading system to correct the problem but the problems have persisted. The errors to which numerous customers testified, emphasize that Aqua's records are unreliable and should not be relied upon as the basis for such excessive interim rates. We also have concerns about Aqua's decision to build a wastewater facility to serve nearly ten times the customers they have. Many customers on fixed incomes testified that they cannot afford the excessive increase requested by Aqua.

Aqua's customers are entitled to clean and safe water. Accordingly, we would urge the commission to deny this interim rate increase so that a thorough investigation of Aqua's records can be carried out.

Sincerely,

/s/Cecilia Bradley

Cecilia Bradley

Senior Assistant Attorney General

cc: D. Bruce May
Ralph Jaeger

Kimberly A. Joyce
Charlie Beck
J.R. Kelly
Michael G. Cooke