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September 24, 2008

VIA HAND DELIVERY

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

RECEIVED-FPSC
08 SEP 24 PM 1:37
COMMISSION
CLERK

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 for Temporary Protective Order.

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


Gigi Rollini

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SSC Enclosures
SGA
ADM
CLK

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

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

FILED: September 24, 2008

**AQUA UTILITIES FLORIDA, INC.'S
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Pursuant to section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Aqua Utilities Florida, Inc. ("AUF"), hereby moves the Commission, through the Prehearing Officer, for a temporary protective order to exempt from section 119.07(1), Florida Statutes, documents produced in response to the Office of Public Counsel's ("OPC") Fifth Set of Interrogatories ("Fifth ROG") No. 417. As grounds for its request, AUF states:

1. OPC has requested that it be permitted to inspect and potentially take possession of certain of AUF's confidential, proprietary business information that is responsive to OPC's Fifth ROG No. 417, which requests the "amount of incentive compensation, bonuses, stock options, and other non salaried compensation paid to each employee (provide employee's name and title) whose compensation was charged to AUF, either directly or through allocations." Similar information was the subject of AUF's prior Motion for Temporary Protective Order, which was granted by the Commission on July 14, 2008, by Order No. PSC-08-0447-PCO-WS.

2. With respect to AUF's response to OPC's Fifth ROG No. 417, the confidential information includes contractual data, the disclosure of which would impair the efforts of AUF and its affiliates to contract for goods and services on favorable terms, and information relating to AUF's competitive interests which, if disclosed, would impair the company's competitive

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position. Such information is exempt from Florida's Public Records Act pursuant to section 367.156(3)(d) and/or (3)(e), Florida Statutes. *See, e.g., In re: Petition for rate increase by Peoples Gas Sys., Docket No. 020384-GU, Order No. PSC-02-1755-CFO-GU (Dec. 12, 2002) (granting request for confidential classification of information regarding Peoples' specific executive compensation and incentive compensation, including stock grants, pursuant to similar section 366.093(3), Florida Statutes).*¹

3. Rule 25-22.006(6)(c) specifically permits a utility to agree to allow OPC to inspect or take possession of information for the limited purpose of determining whether that information will be used in a proceeding, and to seek a temporary protective order to ensure the confidentiality of such material during that process.

4. Pursuant to Rule 25-22.006(6)(c), AUF agrees to make the requested documents available to OPC for inspection at the undersigned's office in Tallahassee, Florida, and seeks a temporary protective order to ensure the confidentiality of such material related to that

¹ In *Peoples Gas System*, the Commission found that the information described by Peoples was "proprietary confidential business information, within the meaning of Sections 366.093(3) and 366.093(3)(e), Florida Statutes, for the reasons expressed by Peoples." *Id.* at *9. Peoples offered the following reasons, which are equally applicable to the information AUF has produced in response to OPC's Fifth ROG No. 417:

Disclosure of [this] information would hamper the Company's ability to negotiate incentive compensation and stock grants with its executives and other management personnel [and] . . . would enable competing employers to meet or beat the incentive compensation and grants paid and awarded, and offered to be paid and awarded by the Company . . . to their executives and other managerial personnel. The result would be either loss of the executives and other managers, or increases in these types of compensation for the purpose of retaining their services, either of which would cause harm to the Company and its ratepayers. As such, the highlighted information [consisting of information identifying the Company's executive and incentive compensation] is "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes.

Id. at *5-*6.

inspection. AUF will also make such documents available to Commission Staff for review upon issuance of the temporary protective order.

5. Rule 25-22.006(6)(c) prohibits OPC's retention of confidential information if OPC determines such information will not be used in a proceeding before the Commission. AUF requests that the Commission require OPC to promptly notify AUF if, after inspection, it intends to use AUF's confidential information at hearing so that AUF has fair opportunity to move for a full protective order under Rule 25-22.006(6)(a). *See Fla. Admin. Code R. 25-22.006(6)(c)* ("If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under [Rule 25-22.006(6)](a) above.").

6. AUF has been authorized by counsel for OPC to represent that OPC does not object to the granting of this Motion.

WHEREFORE, AUF respectfully requests that the Commission enter a temporary protective order protecting against public disclosure the confidential information provided by AUF in response to OPC's Fifth ROG No. 417.

Respectfully submitted this 24th day of September, 2008.



D. Bruce May, Jr.

Florida Bar No. 354473

Gigi Rollini

Florida Bar No. 684491

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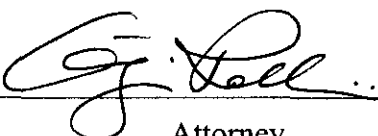
(850) 224-7000 (Telephone)

(850) 224-8832 (Facsimile)

Counsel for Aqua Utilities Florida, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by U.S. Mail and electronic transmission to **Charles Beck, Esq., Office of Public Counsel**, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, and to **Cecilia Bradley, Esq., Office of the Attorney General**, The Capitol-PL01, Tallahassee, FL 32399-1050; and a true and correct copy was furnished by hand delivery to **Ralph Jaeger, Katherine Fleming, Caroline Klancke and Erik Sayler, Esq., Office of General Counsel, Florida Public Service Commission**, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this 24th day of September, 2008.



Attorney

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