

State of Florida



# 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:** December 4, 2008

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Brady, Redemann)  
Office of the General Counsel (Hartman)

*pb PD PPM JSB*

**RE:** Docket No. 070739-WS – Application for approval of transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater systems to Aqua Utilities Florida, Inc., and for amendment of Certificate Nos. 106-W and 120-S in Lake County.  
County: Lake

**AGENDA:** 12/16/08 – Regular Agenda -- Proposed Agency Action for Issues 3, 4, 5, and 6 -- Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Argenziano

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\070739.RCM.DOC

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COMMISSION CLERK

### Case Background

On January 27, 2007, an application was filed for approval of the transfer of Fairways/Mt. Plymouth, Ltd.'s (Fairways, development) water and wastewater systems to Aqua Utilities Florida, Inc. (AUF) and for amendment of AUF's water and wastewater certificates in Lake County. The Fairways development is built out with a total of 243 single family homes. The facilities are located in the St. Johns River Water Management District (SJRWMD) where irrigation is currently restricted to twice a week.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Docket No. 070739-WS  
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Fairways' facilities have been in existence since 2001, with service provided for compensation since May of 2003 in apparent violation of Sections 367.031 and 367.045, Florida Statutes (F.S.) and Rule 25-30.034, Florida Administrative Code (F.A.C.). This recommendation addresses the apparent violations of statutes and administrative rule, transfer, rate base, acquisition adjustment, and rates and charges. The Commission has jurisdiction pursuant to Sections 367.031, 367.045, 367.071, 367.091, and 367.161, F.S.

### Discussion of Issues

**Issue 1:** Should Fairways/Mt. Plymouth, Ltd. be ordered to show cause, in writing within 21 days, as to why it should not be fined for providing water and wastewater service to the public for compensation without first obtaining certificates of authorization from the Commission in apparent violation of Sections 367.031 and 367.045, F.S., and Rule 25-30.034, F.A.C.?

**Recommendation:** No. Show cause proceedings should not be initiated and Fairways/Mt. Plymouth, Ltd. should not be required to refund any portion of its previously unauthorized rates and charges. (Hartman)

**Staff Analysis:** As noted, the facilities currently owned by Fairways have been providing water and wastewater service to the public for compensation since May of 2003, in apparent violation of Sections 367.031 and 367.045, F.S., and Rule 25-30.034, F.A.C. According to information provided in the application, Fairways initially believed its systems did not constitute a public utility because it was providing water and wastewater service to its own development. When it learned such an interpretation was incorrect, it began discussions with Florida Water Services Corp. (FWSC) to provide water and wastewater services to the development. Prior to Fairways becoming operational, FWSC decided to divest its Florida water and wastewater operations and terminated discussions with Fairways. Its application further indicates that Fairways then believed it would be exempt from regulation until it reached 100 customers before which time its systems would be sold. Fairways stated it subsequently did not monitor its connections and the requirement to be certificated by the Commission was overlooked as development progressed. Since being advised by staff that Fairways was jurisdictional, both Fairways and AUFU have been responsive in providing all information required by staff.

Section 367.031, F.S., provides that “each utility subject to the jurisdiction of the commission must obtain from the commission a certificate of authorization to provide water or wastewater service.” Moreover, Section 367.161(1), F.S., authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any provision of Chapter 367, F.S. Utilities are charged with the knowledge of the Commission’s statutes and rules. Thus, any intentional act, such as Fairways providing water and wastewater service to the public for compensation since May of 2003, without first obtaining a certificate of authorization from the Commission, would meet the standard for a “willful violation” of Section 367.161(1), F.S. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating to Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., having found that having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order the utility to show cause why it should not be fined, stating that “in our view, ‘willful’ implies an intent to do an act, and this is distinct from an intent to violate a statute or rule.” Additionally, “it is a common maxim, familiar to all minds that ‘ignorance of the law’ will not excuse any person, either civilly or criminally.” Barlow v. United States, 32 U.S. 404, 411 (1833).

Although Fairways’ failure to obtain certificates of authorization from the Commission prior to charging the public for service is an apparent violation of statutes and administrative rule, there are circumstances which appear to mitigate the apparent violations. Fairways appears

to have been confused by the small system exemption from Commission regulation in Section 367.022(6), F.S., which exempts systems with the capacity or proposed capacity to serve 100 or fewer persons. As permitted, Fairways has always had the capacity to serve greater than 100 persons, which is defined by Rule 25-30.055, F.A.C., as capacity of no greater than 10,000 gallons per day (gpd). Fairways' water and wastewater systems were permitted and constructed for 360,000 and 75,000 gpd, respectively. However, since it appears that Fairways had intended to sell its systems to a water and wastewater service provider and has fully cooperated in filing the additional required information, staff does not believe that the apparent violation of Florida statutes and administrative rule rise to the level of warranting a show cause order.

In addition, in the review of Fairways' existing rates and charges in Issue 5, staff noted that the revenues generated from the existing potable water, wastewater, and irrigation rates appear to be less than the cost of providing those services. Therefore, staff does not believe that the customers have been harmed by the unauthorized rates and charges. As such, staff recommends that Fairways/Mt. Plymouth, Ltd. not be required to refund any portion of its previously unauthorized rates and charges.

Staff recommends that Fairways should not be show caused for providing water and wastewater service to the public for compensation without first obtaining certificates of authorization from the Commission in apparent violation of Sections 367.031 and 367.045, F.S., and Rule 25-30.034, F.A.C. In addition, staff recommends that Fairways/Mt. Plymouth, Ltd. should not be required to refund any portion of its previously unauthorized rates and charges

**Issue 2:** Should the transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater facilities to Aqua Utilities Florida, Inc. and the amendment of Certificate Nos. 106-W and 120-S in Lake County be approved?

**Recommendation:** Yes. The transfer of Fairways' water and wastewater facilities to AUFU should be approved effective the date of the transfer on April 30, 2007. AUFU's Certificate Nos. 106-W and 120-S in Lake County should be amended to add the territory described in Attachment A. The resultant order should serve as AUFU's amended water and wastewater certificates and should be retained by the utility. (Brady, Redemann, Hartman)

**Staff Analysis:** As stated in the case background, AUFU filed an application on December 27, 2007, for approval of the transfer of Fairways' water and wastewater facilities to AUFU and for amendment of AUFU's water and wastewater certificates in Lake County. The application is in compliance with the governing statutes, Sections 367.045 and 367.071, F.S., and other pertinent statutes and administrative rules concerning applications for transfer and amendment of certificates.

The application contains evidence that appropriate notice was given pursuant to Rule 25-30.030, F.A.C. No objections to the notice have been filed with the Commission and the time for filing objections has expired. The application also contains a description of the transferred territory, a detailed system map, and an adequate territory map. A description of the territory being transferred is appended to this memorandum as Attachment A. The application contains an executed and recorded copy of a warranty deed as evidence that AUFU owns the land upon which the utility facilities reside.

The application also contains a copy of the Asset Purchase Agreement, which was executed by Fairways and AUFU on or about April 5, 2007. The transfer took place on April 30, 2007, subject to Commission approval. The \$450,000 purchase price was financed through the use of short-term funds provided by AUFU's parent, Aqua America, Inc. According to the Asset Purchase Agreement, the only obligation assumed by AUFU were customer deposits.

Fairways' water system consists of two wells with a combined capacity of 360,000 gpd. Liquid chlorine is used to disinfect the water. Water is pumped by two 550 gallons per minute wells into a 15,000 gallon hydropneumatic tank. The pressurized water then flows into the distribution system. Should the water system lose pressure, an automatic diesel generator is activated. Irrigation service is provided from potable water by separate irrigation meters so that conservation rates can apply to irrigation use.

Fairways' wastewater treatment plant is rated at 75,000 gpd based on the annual average daily flow in extended air mode. Wastewater treatment consists of influent screening, aeration, secondary clarification, chlorination, and aerobic digestion of residuals with disposal into a rapid infiltration basin system. The total wetted area is 0.31 acres. The wastewater system does not generate enough effluent to be retrofitted with reuse facilities.

According to the application, there were two Department of Environmental Protection (DEP) issues that needed to be addressed at the time of the acquisition. The first concerned advisory signs and the second concerned nitrate levels. According to the application, both issues

were addressed by AUFU prior to filing the application. Staff has confirmed that the Fairways systems are currently in compliance with all applicable standards set by DEP.

Since Fairways was not previously certificated, it did not submit annual reports and remit regulatory assessment fees (RAFS). However, staff has verified that AUFU is current on annual reports for its Lake County certificates and that there are no outstanding RAFs, fines, or refunds due. Staff also verified that AUFU included the Fairways systems in its 2007 annual report and RAFs. AUFU should continue to be responsible for submitting annual reports and remitting RAFs for Fairways' systems in the future.

According to the application, AUFU has the technical and financial ability to render reasonably sufficient, adequate, and efficient service to the proposed amended territory. The application also indicates that AUFU is a wholly owned subsidiary of Aqua American, Inc., which is described as the largest publicly traded water and wastewater utility in the United States, providing service to more than 800,000 customers in thirteen states. The application further states that, given its size, access to capital, and recognized strength in system planning, capital budgeting, and construction management, Aqua American, Inc. and its subsidiary AUFU are uniquely well-positioned to provide high quality water and wastewater service to its customers. The application also provides a statement that AUFU will fulfill the commitments, obligations, and representations of Fairways with regard to utility matters.

Based on the above information, staff recommends that it is in the public interest to approve the transfer of Fairways/Mt. Plymouth, Ltd.'s water and wastewater facilities to Aqua Utilities Florida, Inc., effective the date of the transfer on April 30, 2007. AUFU's Certificate Nos. 106-W and 120-S in Lake County should be amended to add the territory described in Attachment A. The resultant order should serve as the AUFU's amended water and wastewater certificates and should be retained by the utility.

**Issue 3:** What is rate base for the Fairways' water and wastewater systems at the time of the transfer?

**Recommendation:** Staff recommends that rate base is \$189,216 for the water system and \$443,036 for wastewater system as of April 30, 2007, as shown on Schedule No. 1. Schedule No. 2 shows the recommended balances for Fairways' water and wastewater plant and accumulated depreciation balances as of April 30, 2007, using the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). Within 60 days of the date of the final order, the utility should be required to provide a statement that AUFIs books have been updated for the Fairways' systems to reflect the Commission-approved rate base adjustments and balances and that these numbers will also be reflected in the utility's 2008 annual report. (Brady, Redemann)

**Staff Analysis:** Since rate base has never been established for Fairways' water and wastewater systems, and since it initially appeared that there could be a negative acquisition adjustment, an audit of rate base was conducted to establish rate base as of the date of transfer on April 30, 2007. Based on the adjustments described below, staff recommends that rate base is \$189,216 for the water system and \$443,036 for the wastewater system, as of April 30, 2007. Staff's calculation of rate base is shown on Schedule No. 1. It should be noted that rate base for transfer purposes does not include the normal rate making adjustments for used and useful plant or working capital.

**Utility Plant in Service (UPIS).** Staff's recommendation for Fairways' water and wastewater UPIS at the time of the transfer is based upon a review of tax returns and invoices, where available, and estimated costs for the remainder of the assets. There were no invoices available for the wastewater package plant or the water and wastewater lines. The audit included AUFIs estimated costs for the water and wastewater lines, which staff has determined are reasonable. In addition, subsequent to the audit, AUFi provided engineering estimates for the cost of the wastewater package plant, which it trended back to 2001 using the Consumer Price Index. Staff retrended the costs using the Handy-Whitman Index of Public Utility Construction Costs (HWI), which is based on construction costs for water, gas, and electric industries. The 2001 costs were then compared against known costs for similar plant, constructed at approximately the same time, in same general area as the utility facilities. For the most part, AUFi's estimated costs for the wastewater treatment plant were determined to be reasonable, but costs that appeared too high were adjusted downward to reflect staff's research of similar facilities. As a result of its analysis, staff recommends that UPIS for Fairways be established as \$777,852 for water and \$2,164,954 for wastewater, as of April 30, 2007. Staff's recommended balances for UPIS by NARUC USOA are shown on Schedule No. 2.

**Land.** Fairways did not identify an amount on its books or its tax records for the original value of the land under the water and wastewater treatment plants. Subsequent to the audit, AUFi provided documentation on the actual purchase price of the land for the Fairways' development of \$1,219,000. Based the original cost of the land, staff recommends that the value of the land at the time it was first placed into public use was \$27,737 for wells sites and the water treatment plant site (0.884 acres) and \$24,904 for lift station (0.0154 acres) and wastewater treatment plant site (0.859 acres).

**Accumulated Depreciation.** Based upon the adjustments to UPIS described above, staff recalculated the accumulated depreciation balances using the guidelines for average service lives as set forth in Rule 25-30.140, F.A.C. As a result, staff recommends that the accumulated depreciation balances for Fairways' water and wastewater systems are (\$146,592) and (\$514,518), respectively, as of April 30, 2007.

**Contributions-in-Aid-of-Construction (CIAC) and Amortization of CIAC.** The audit revealed that Fairways did not separately identify CIAC or amortization of CIAC on its books. Pursuant to Rule 25-30.570, F.A.C., if CIAC has not been recorded on the utility's books, the amount of CIAC shall be imputed to be the amount of the plant costs attributable to the water transmission and distribution system and the wastewater collection system. Therefore, staff recommends that the value, as of April 30, 2007, for the water transmission and distribution system of (\$562,950) and the wastewater collection system of (\$1,531,656), be imputed as CIAC. Using the guidelines for average service lives as set forth in Rule 25-30.140, F.A.C., the appropriate amount of water and wastewater amortization of CIAC, as of April 30, 2007, is \$93,169 and \$289,352, respectively. These amounts result in net contributed plant of 74.4% for water and 75.3% for wastewater, which is consistent with the guidelines for CIAC as provided in Rule 25-30.580, F.A.C. Staff, therefore, recommends that, as of April 30, 2007, CIAC and amortization of CIAC for Fairways are (\$562,950) and \$93,169, respectively, for the water system and (\$1,531,656) and \$289,352, respectively, for the wastewater system.

**Conclusion.** Based on the above, staff recommends that rate base for transfer purposes is \$189,216 for Fairways' water system and \$443,036 for the wastewater system, as of April 30, 2007, as shown on Schedule No. 1. Schedule No. 2 shows the recommended balances for Fairways' water and wastewater plant and accumulated depreciation accounts as of April 30, 2007, using NARUC's USOA. Staff notes that rate base for transfer purposes does not include the normal rate making adjustments for used and useful or working capital. Staff recommends that, within 60 days of the date of the final order, the utility should be required to provide a statement that AUF's books have been updated for Fairways' systems to reflect the Commission-approved rate base adjustments and balances and that these numbers will also be reflected in the utility's 2008 annual report.



**Issue 4:** Should an acquisition adjustment be recognized for ratemaking purposes?

**Recommendation:** Yes. Pursuant to Rule 25-30.0371(3)(b), F.A.C., a negative acquisition adjustment of \$55,802 should be recognized for rate-making purposes, amortized over a five year period beginning with the date of the issuance of the order approving the transfer of assets. The negative acquisition adjustment should not be recorded on the books for ratemaking purposes nor used for any earnings review unless AEFI files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817, or 367.0822, F.S. (Brady, Hartman)

**Staff Analysis:** An acquisition adjustment results when the purchase price differs from the original cost of the assets (rate base) adjusted to the time of the acquisition. Pursuant to Rule 25-30.0371(3)(b), F.A.C., if the purchase price is less than 80 percent of rate base, and uncontested, then the amount of the difference in excess of 20 percent of rate base shall be recognized for ratemaking purposes as a negative acquisition adjustment and amortized over a 5-year period from the date of the issuance of the order approving the transfer of assets. If the Commission approves staff's recommendation for Issue 3, rate base for Fairways' water and wastewater systems at the time of the acquisition was \$632,252. According to the application, the purchase price was \$450,000. Therefore, the transfer results in a negative acquisition adjustment of \$55,802, calculated as follows:

Rate Base	\$ 632,252
80% of Rate Base	\$ 505,802
Purchase Price	\$ 450,000
Negative Acquisition Adjustment	\$ 55,802

Pursuant to Rule 25-30.0371(3)(b), F.A.C., staff recommends that a negative acquisition adjustment of \$55,802 be recognized for rate-making purposes, amortized over a five year period beginning with the date of the issuance of the order approving the transfer of assets. The negative acquisition adjustment should not be recorded on the books for ratemaking purposes nor used for any earnings review unless AEFI files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817, or 367.0822, F.S.

**Issue 5:** What are the appropriate rates and charges for Fairways' water and wastewater systems?

**Recommendation:** The potable water, wastewater, and irrigation water rates shown on Schedule No. 3 should be continued for Fairways' water and wastewater systems. AUFU should be required to charge these approved rates until authorized to change them by this Commission in a subsequent proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. (Brady)

**Staff Analysis:** Since the Fairways' water and wastewater systems were not previously regulated, the Commission has never approved its rates and charges. According to the application, Fairways' began charging for service in May of 2003 and subsequently made only one change in rates in early 2005 or 2006 at the request of the SJRWMD. In order to encourage conservation, irrigation meters were installed for all customers and tiered usage rates for irrigation service were implemented.

Based upon the information provided by both Fairways and AUFU, the utility's existing rates for potable water, wastewater, and irrigation services generated revenues of approximately \$223,881 in 2007. The expenses reflect four months of operation by Fairways and eight months of operation by AUFU. During the same period of time, the utility had approximately \$266,718 in expenses. Staff, therefore, recommends that the existing potable water, wastewater, and irrigation rates requested by AUFU, as shown on Schedule No. 3, appear reasonable and should be approved. Since the Fairways systems are built out, AUFU is not requesting any service availability charges. Also, since the Commission-approved rates represent the customers' existing rates, notification to customers of a rate increase does not apply.

Staff recommends that the potable water, wastewater, and irrigation water rates shown on Schedule No. 3 should be continued for Fairways' water and wastewater systems. AUFU should be required to charge these approved rates until authorized to change them by this Commission in a subsequent proceeding. The rates should be effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C.

**Issue 6:** Should AUFIs request for initial customer deposits and miscellaneous service charges be approved?

**Recommendation:** Yes. AUFIs request for initial customer deposits and miscellaneous service charges shown on Schedule No. 4 should be approved. Within 5 working days of the issuance of the PAA order, staff recommends that AUFIs be required to file a proposed customer notice of the Commission-approved miscellaneous service charges. Once staff has approved the proposed customer notice, the utility may either choose to mail the notice separately to its customers or insert it with the next billing cycle. Either way, the tariffs approving the miscellaneous service charges should not be stamped approved by staff until after AUFIs files an affidavit that notice has been given notice to customers of the Commission-approved charges. The tariff sheets containing initial customer deposits and miscellaneous service charges should become effective for services rendered on or after the stamped approval date on the tariff, pursuant to Rule 25-30.475, F.A.C. (Brady, Redemann)

**Staff Analysis:** AUFIs requested initial customer deposits and miscellaneous service charges pursuant to Section 367.091, F.S. This statute authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges.

### **Initial Customer Deposits**

AUFIs requested initial customer deposits for the Fairways' water and wastewater systems of \$25.00 and \$50.00, respectively. The proposed deposits are based on two times an average monthly bill for projected usage of 3,000 gallons of water. Fairways' customers all use residential 5/8" x 3/4" meters. Deposits in the amount of two times an average monthly bill are consistent with Rule 25-30.311, F.A.C., which contains the criteria for collecting, administering, and refunding customer deposits.

As justification for its proposed initial customer deposits, AUFIs indicated that, if utilities do not collect adequate deposits to recover the cost of providing service, the result would be an increase in its bad debt expense. Ultimately, bad debt expense is included in the utility's revenue requirement and, therefore, included in the cost of service charged to the general body of ratepayers. AUFIs also notes that collecting customer deposits is consistent with one of the fundamental principles of rate making, ensuring that the cost of providing service is recovered from the cost-causer. Since initial customer deposits do not apply to existing customers, notice to customers of the charges does not apply.

Staff recommends that the utility's proposed initial customer deposits shown on Schedule No. 4 of \$25.00 for water service and \$50.00 wastewater service are consistent with Commission rules and should be approved.

### **Miscellaneous Service Charges**

For a majority of its systems, AUFIs has Commission-approved standard miscellaneous service charges which were originally approved these systems in Order No. PSC-99-0093-FOF-

WS<sup>1</sup>. For ease of administration and fairness, AUFU requests that these same standard miscellaneous charges be approved for Fairways' water and wastewater systems. Staff agrees that this is a reasonable request and recommends that AUFU's standard water and wastewater miscellaneous service charges be approved for the Fairways' systems. The proposed miscellaneous service charges are shown on Schedule No. 4.

Staff notes that Fairways was already charging a connection fee similar to that proposed by the utility, and the remaining charges only apply to actions or services caused by, or requested by, the customers. Nonetheless, staff recommends that customers be notified of the Commission-approved miscellaneous service charges before the charges go into effect. Therefore, within 5 working days of the issuance of the PAA order, staff recommends that AUFU be required to provide a draft customer notice to staff for review and approval. Once staff has approved the proposed customer notice, the utility may either choose to mail the notice separately to customers or insert it with the next billing cycle. Either way, the tariffs approving the miscellaneous service charges should not be stamped approved by staff until after AUFU files an affidavit that notice has been given to customers of the Commission-approved miscellaneous service charges.

### **Conclusion**

Staff recommends that AUFU's proposed initial customer deposits and miscellaneous service charge shown on Schedule No. 4 are consistent with Commission rules and should be approved. Within 5 working days of the issuance of the PAA order, staff recommends that AUFU be required to provide a draft customer notice for staff's review and approval. Once staff has approved the proposed customer notice, the utility may either choose to mail the notice separately to customers or insert it with the next billing cycle. Either way, the tariffs approving miscellaneous service charges should not be stamped approved until after AUFU files an affidavit that notice has been given to customers of the Commission-approved miscellaneous service charges. The tariff containing both the initial customer deposits and miscellaneous service charges will become effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C.

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<sup>1</sup> Order No. PSC-99-0093-FOF-WS, issued September 14, 1999, in Docket No. 950495-WS, In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County. and in Bradford. Brevard. Charlotte. Citrus. Clay. Collier. Duval. Highlands. Lake. Lee. Marion. Martin. Nassau. Orange. Pasco. Putnam. Seminole. St. Johns. St. Lucie. Volusia. and Washington Counties.

**Issue 7:** In the event of a timely protest of any rates and charges in the Proposed Agency Action (PAA) Order, should AUFU be allowed to continue charging the Commission-approved rates?

**Recommendation:** Yes. In the event of a timely protest of any recommended rates and charges in the PAA Order, AUFU should be authorized to continue charging the Commission-approved PAA rates, subject to refund, pending the final outcome of this proceeding. If the final rates are lower than the PAA rates, then AUFU should be required to refund the difference, with interest, pursuant to Rule 25-30.360, F.A.C. (Brady, Hartman)

**Staff Analysis:** Issue 5 recommends that AUFU be allowed to continue Fairways' existing water, wastewater, and irrigation rates and that AUFU's proposed initial customer deposits and miscellaneous service charges be approved. These rates are shown on Schedule Nos. 3 and 4. As noted in Issue 5, Fairways' existing rates generated revenues of approximately \$223,881 in 2007, with approximately \$266,718 in expenses operating costs. A timely protest of the PAA rates might delay the continuation of existing rates causing AUFU irreparable loss of revenues needed to operate the water and wastewater facilities. Therefore, in the event of a timely protest of a PAA rate, staff recommends that the Commission authorize AUFU to implement the Commission-approved PAA rates pending the final outcome of this proceeding. If the final rates are lower than the PAA rates, then AUFU should be required to refund the difference, with interest, pursuant to Rule 25-30.360, F.A.C.

In conclusion, in the event of a timely protest of a PAA rate, staff recommends that the Commission authorize AUFU to implement the Commission-approved PAA rates pending the final outcome of this proceeding. If the final rates are lower than the PAA rates, then AUFU should be required to refund the difference, with interest, pursuant to Rule 25-30.360, F.A.C.

**Issue 8:** Should this docket be closed?

**Recommendation:** No. If no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued and the docket should be closed administratively upon receipt of a statement that AUFIs books for Fairways' systems have been updated to reflect the Commission-approved rate base adjustments and balances, and these numbers will also be reflected in the utility's 2008 annual report. (Hartman)

**Staff Analysis:** If no protest to the proposed agency action issues is filed by a substantially affected person within 21 days of the date of the order, a consummating order should be issued and the docket should be closed administratively upon receipt of a statement that AUFIs books for Fairways' systems have been updated to reflect the Commission-approved rate base adjustments and balances, and these numbers will also be reflected in the utility's 2008 annual report.

**AQUA UTILITIES FLORIDA, INC.**  
**Lake County**  
**Fairways**  
**Water and Wastewater Service Territory**

**Township 19 South, Range 28 East**  
**Section 32**

Fairways at Mt. Plymouth, Phases 1, 2, 3, and 4, described together as one parcel: that part of Section 32, Township 19 South, Range 28 East, in Lake County, Florida, bounded and described as follows:

The Point of Beginning is the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of Section 32, Township 19 South, Range 28 East, run N.00°40'11"W. along the West line of the Southeast 1/4 of the Southwest 1/4, a distance of 332.39 feet to a point on the South line of the North 3/4 of the Southwest 1/4 of the Southwest 1/4 of Section 32; thence S.89°51'49"W. along the South line of the North 3/4 of the Southwest 1/4 of the Southwest 1/4, a distance of 25.00 feet; thence N.21°20'54"W., 353.98 feet to a point on the West line of the East 150 feet of the Southwest 1/4 of the Southwest 1/4 of Section 32, said point also being on the North line of the South 330 feet of the North 3/4 of the Southwest 1/4 of the Southwest 1/4 of Section 32; thence S.89°57'19"W. along the North line of the South 330 feet of the North 3/4 of the Southwest 1/4 of the Southwest 1/4, a distance of 740.97 feet, to a point on the East line of the West 438 feet of the Southwest 1/4 of the Southwest 1/4 of Section 32; thence N.00°33'20"W. along the east line of the West 438 feet of the Southwest 1/4 of the Southwest 1/4, a distance of 180.01 feet to a point on the North line of the South 510 feet of the North 3/4 of the Southwest 1/4 of the Southwest 1/4 of Section 32; thence S.89°57'19"W. along the North line of the South 510 feet of the North 3/4 of the Southwest 1/4 of the Southwest 1/4, a distance of 413.02 feet to the east line of Rainey Road; thence N.00°33'20"W. along said East line of Rainey Road, 485.27 feet to a point on the North line of the Southwest 1/4 of the Southwest 1/4 of Section 32; thence N.89°51'44"E. along the north line of the Southwest 1/4 of the Southwest 1/4, a distance of 1,011.26 feet; thence N.00°34'43"W. along the Southerly extension of the East right-of-way line of Seaforth Drive and along the East right-of-way line of Seaforth Drive 823.30 feet to a point on the Southerly right-of-way line of Adair Avenue; thence N.85°38'22"E. along the Southerly right-of-way line of Adair Avenue, a distance of 290.68 feet to a point on the West line of the Northeast 1/4 of the Southwest 1/4 of Section 32; thence S.00°40'11"E. along the West line of the Northeast 1/4 of the Southwest 1/4 of Section 32, a distance of 15.29 feet to a point on the Southerly right-of-way line of Dubsdread Drive; thence N.82°48'24"E. along the Southerly right-of-way line of Dubsdread Drive, 255.44 feet to the beginning of a curve concaved Northwesterly and having a radius of 156.72 feet; thence Northeasterly along the arc of said curve and said Southerly and Southeasterly right-of-way line of Dubsdread Drive through a central angle of 65°00'50" an arc length of 177.83 feet to the end of said curve; thence N.17°47'34"E. along the Southeasterly right-of-way line of Dubsdread Drive, 148.60 feet to a point on the southerly right-of-way of Troon Avenue; thence N.73°55'32"E. along said Southerly right-of-way line of Troon Avenue, 501.38 feet; thence leaving said Southerly right-of-way line run S.01°52'34"W., 129.61

feet; thence S.16°14'30"W., 84.57 feet; thence S.23°39'53"W., 232.34 feet; thence S.03°10'14"W., 47.84 feet; thence S.11°31'57"E., 360.00 feet; thence S.14°18'04"E., 58.20 feet; thence S.20°58'53"E., 55.62 feet; thence S.30°00'18"E., 55.62 feet; thence S.36°37'12"E., 57.22 feet; thence S.39°25'00"E., 420.29 feet; thence S.50°35'00"W., 120.39 feet to a point on a curve concaved Southwesterly and having a radius of 375.00 feet; thence Southeasterly along the arc of said curve through a central angle of 10°42'19" an arc length of 70.07 feet, said curve having a chord bearing and distance of S.31°26'46"E., 69.96 feet; thence leaving said curve run N.59°24'28"E., 67.97 feet to the beginning of a curve concaved Northwesterly and having a radius of 375.00 feet; thence Northeasterly and Northerly along the arc of said curve through a central angle of 57°19'40" an arc length of 375.21 feet to the end of said curve; thence N.02°04'48"E., 151.77 feet to the beginning of a curve concaved southeasterly and having a radius of 35.00 feet; thence Northeasterly and Easterly along the arc of said curve through a central angle of 74°44'33" an arc length of 45.66 feet to the end of said curve and the beginning of a curve concaved Northwesterly and having a radius of 60.00 feet; thence Easterly, Northeasterly and Northerly along the arc of said curve through a central angle of 99°50'58" an arc length of 104.56 feet; thence S.42°37'47"E., 20.30 feet to a point on the Southeasterly right-of-way line of Musselburg Place; thence N.45°02'25"E. along the Southeasterly right-of-way line of Musselburg Place, 25.02 feet to the centerline of Glenco Avenue (closed); thence S.42°37'47"E. along said centerline of Glenco Avenue, 306.61 feet to a point on the Westerly right-of-way line of County Road C-435, said point being on a curve concaved Easterly and having a radius of 329.36 feet; thence Southwesterly, Southerly and Southeasterly along the arc of said curve and said Westerly right-of-way line of County Road C-435 through a central angle of 46°08'55" an arc length of 265.28 feet, said curve having a chord bearing and distance of S.05°40'53"E., 258.17 feet to the end of said curve; thence S.28°45'20"E. along said Westerly right-of-way line of County Road C-435, a distance of 66.39 feet to a point on the South line of the North 170 feet of the Southwest 1/4 of the Southeast 1/4 of Section 32; thence S.89°51'49"W. along the south line of the North 170 feet of the Southwest 1/4 of the Southeast 1/4, a distance of 438.25 feet to a point on the East line of the Southeast 1/4 of the Southwest 1/4 of Section 32; thence S.00°50'18"E. along the East line of the Southeast 1/4 of the Southwest 1/4, a distance of 1,157.92 feet to the Southeast corner of the Southeast 1/4 of the Southwest 1/4 of Section 32; thence S.89°47'30"W. along the South line of the Southeast 1/4 of the Southwest 1/4, a distance of 1,331.52 feet to the Point of Beginning.

Less the following described parcel:

Commence at the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of Section 32, Township 19 South, Range 28 East, in Lake County, Florida, run N.00°40'11"W. along the West line of the Southeast 1/4 of the Southwest 1/4, and along the West line of the Northeast 1/4 of the Southwest 1/4 of Section 32, a distance of 1,826.61 feet to a point on the Southerly right-of-way line of Dubsdread Drive; thence N.82°48'24"E. along the Southerly right-of-way line of Dubsdread Drive, a distance of 169.12 feet; thence S.07°07'47"E., 183.50 feet to the Point of Beginning of this description; from said Point of Beginning run N.82°52'13"E., 25.79 feet; thence S.11°31'57"E., 374.36 feet; thence S.10°56'33"E., 63.11 feet; thence S.13°20'23"E., 66.72 feet; thence S.20°06'51"E., 66.89 feet; thence S.24°10'24"E., 65.78 feet; thence S.25°59'34"E., 57.95 feet; thence S.21°25'16"E., 56.70 feet; thence S.16°26'53"E., 56.70 feet; thence S.11°28'31"E., 56.70 feet; thence S.06°30'09"E., 56.70 feet; thence S.00°23'56"E., 117.45 feet; thence S.03°02'14"E., 66.53 feet; thence S.07°02'25"E., 65.70 feet; thence S.11°10'43"E., 71.00



feet; thence S.12°55'51"E., 118.01 feet; thence S.09°24'37"E., 116.32 feet; thence S.07°32'32"E., 58.19 feet; thence S.02°13'44"E., 33.00 feet; thence N.52°40'02"W., 460.75 feet; thence N.80°28'08"W., 33.31 feet; thence N.02°24'20"W., 104.27 feet; thence N.38°35'48"W., 151.33 feet; thence N.00°40'11"W., 348.69 feet; thence N.00°34'43"W., 430.18 feet; thence N.22°25'36"W., 84.17 feet; thence N.61°30'53"W., 47.65 feet; thence N.07°09'41"W., 123.90 feet; thence N.82°52'13"E., 107.52 feet to the Point of Beginning.

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**Aqua Utilities Florida, Inc.**  
pursuant to  
**Certificate Number 106-W**

to provide water service in Lake County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, canceled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
5573	11/03/72	C-72497-W	Original Certificate
5595	12/07/72	C-72505-W	Original Certificate
5666	03/06/73	C-72651-W	Original Certificate
6801	07/25/75	750327-W (AP)	Original Certificate
6928	09/30/75	750367-W	Original Certificate
8075	12/02/77	770578-W (TC)	Transfer/Amendment
8076	12/02/77	770577-W (TC)	Transfer/Amendment
8144	01/25/78	770579-W (TC)	Transfer/Amendment
8299	05/05/78	780057-WS (TC)	Transfer/Amendment
9483	08/05/80	791043-W	Transfer/Amendment
9635	11/14/80	800192-WS (AP)	Original Certificate
9688	12/10/80	791043-W (TC)	Amendatory
9988	05/05/81	780278-WS (TC)	Transfer/Amendment
10109	06/29/81	800636-WS (TC)	Transfer/Amendment
10109-A	07/31/81	800636-WS (MC)	Amendatory
14115	02/21/85	840304-WS	Original Certificate
15295	10/25/85	850695-WU	Amendment
19575	06/27/88	870633-WS	Transfer Certificate
20647	01/24/89	881011-WU	Transfer/Amendment
20869	03/09/89	880605-WS	Transfer/Amendment
21636	07/31/89	890348-WU	Transfer/Amendment
23378	08/21/90	900106-WS	Transfer/Amendment
23459	09/11/90	900227-WU	Amendment
23505	09/18/90	900556-WU	Amendment
23656	10/23/90	891320-WU	Amendment
23852	12/10/90	900556-WU	Affirm Amendment
24230	03/12/91	900702-WU	Amendment
PSC-93-0754-FOF-WU	05/18/93	921044-WU	Amendment
PSC-93-0754A-FOF-WU	06/07/93	921044-WU	Amendatory
PSC-93-1150-FOF-WU	08/09/93	930129-WU	Amendment
PSC-93-1306-FOF-WU	09/08/93	930129-WU	Amendment

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-95-0268-FOF-WS	02/28/95	940091-WS	Transfer/Amendment
PSC-96-0131-FOF-WS	01/29/96	950231-WS	Amendment
PSC-96-0432-FOF-WU	03/28/96	950880-WU	Transfer/Amendment
PSC-96-1409-FOF-WU	11/20/96	960716-WU	Transfer Certificate
PSC-97-0375-FOF-WU	04/07/97	960793-WU	Transfer/Amendment
PSC-97-0427-FOF-WS	04/16/97	970028-WS	Name Change
PSC-99-0483-FOF-WS	03/08/99	981508-WS	Transfer Majority Control
PSC-99-2115-PAA-WS	10/25/99	981779-WS	Transfer Certificate
PSC-02-1427-FOF-WU	10/18/02	990054-WU	Amendment/Deletion
PSC-03-0627-FOF-WU	05/23/03	021142-WU	Amendment
PSC-03-1235-FOF-WU	11/03/03	021137-WU	Amendment
PSC-04-0715-FOF-WS	07/21/04	040359-WS	Name Change
PSC-05-1242-PAA-WS	12/20/05	040951-WS	Transfer Certificate
PSC-06-0973-FOF-WS	11/22/06	060643-WS	Reorg./Name Change
PSC-07-0963-PAA-WU	12/04/07	070361-WU	Amendment
PSC-07-0968-PAA-WU	12/05/07	070362-WU	Amendment
*	*	070739-WS	Transfer/Amendment

**\*Order Number and date to be provided at time of issuance.**

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**Aqua Utilities Florida, Inc.**  
pursuant to  
**Certificate Number 120-S**

to provide wastewater service in Lake County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
6142	05/14/74	73521-WS	Original Certificate
8299	05/05/78	780057-WS (TC)	Transfer of Certificate
9635	11/14/80	800192-WS (AP)	Original Certificate
10109	06/29/81	800636-WS (TC)	Transfer/Amendment
10109-A	07/31/81	800636-WS (MC)	Amendatory
14115	02/21/85	840304-WS	Original Certificate
19575	06/27/88	870633-WS	Transfer of Certificate
20869	03/09/89	880605-WS	Transfer/Amendment
23378	08/21/90	900106-WS	Transfer/Amendment
PSC-95-0268-FOF-WS	02/28/95	940091-WS	Transfer/Amendment
PSC-96-0131-FOF-WS	01/29/96	950231-WS	Amendment
PSC-97-0427-FOF-WS	04/16/97	970028-WS	Name Change
PSC-99-2115-PAA-WS	10/25/99	981779-WS	Transfer of Certificate
PSC-04-0715-FOF-WS	07/21/04	040359-WS	Name Change
PSC-05-1242-PAA-WS	12/20/05	040951-WS	Transfer of Certificate
PSC-06-0973-FOF-WS	11/22/06	060643-WS	Reorganization/Name Change
*	*	070739-WS	Transfer/Amendment

**\*Order Number and date to be provided at time of issuance.**

**AQUA UTILITIES FLORIDA, INC.**  
**Lake County**  
**Fairways System**

**Schedule No. 1**

**SCHEDULE OF RATE BASE**

<b>Description</b>	<b>Water</b>	<b>Wastewater</b>
Utility Plant in Service (UPIS)	\$ 777,852	\$ 2,164,954
Land	27,737	24,904
Accumulated Depreciation	(146,592)	(514,518)
Contributions in Aid of Construction (CIAC)	(562,950)	(1,531,656)
Amortization of CIAC	93,169	289,352
<b>Rate Base</b>	<b>\$ 189,216</b>	<b>\$ 443,036</b>

**AQUA UTILITIES FLORIDA, INC.**  
**Lake County**  
**Fairways System**

**Schedule No. 2**

**STAFF RECOMMENDED WATER ACCOUNT BALANCES**  
**as of April 30, 2007**

ACCT NO.	ACCOUNT NAME	PLANT BALANCE	ACCUMULATED DEPRECIATION BALANCE
304	Structures and Improvements	\$ 44,033	\$ 8,235
307	Wells and Springs	67,857	14,703
310	Power Generation Equipment	19,610	6,376
311	Pumping Equipment	35,701	11,603
320	Water Treatment Equipment	8,696	5,655
330	Distribution Reservoirs and Standpipes	39,005	6,851
331	Transmission & Distribution Mains	337,830	59,358
333	Services	72,900	11,024
334	Meters	131,220	19,752
335	Hydrants	21,000	3,035
	<b>Totals</b>	<b><u>\$777,852</u></b>	<b><u>\$146,592</u></b>

**STAFF RECOMMENDED WASTEWATER ACCOUNT BALANCES**  
**as of April 30, 2007**

ACCT NO.	ACCOUNT NAME	PLANT BALANCE	ACCUMULATED DEPRECIATION BALANCE
354	Structures and Improvements	\$ 50,481	\$ 10,257
355	Power Generation Equipment	66,029	21,457
360	Collection Sewers – Force	38,244	8,287
361	Collection Sewers – Gravity	675,660	97,585
362	Special Collecting Structures	126,000	20,475
363	Services	637,875	109,128
371	Pumping Equipment	53,877	53,877
380	Treatment and Disposal Equipment	440,890	159,224
380	Treatment and Disposal – Electrical Controls	69,729	30,218
380	Treatment and Disposal – Chlorine Equipment	6,169	4,010
	<b>Totals</b>	<b><u>\$2,164,954</u></b>	<b><u>\$514,518</u></b>

**AQUA UTILITIES FLORIDA, INC.**  
**Lake County**  
**Fairways System**

**Schedule No. 3**

**RESIDENTIAL SERVICE (RS) and GENERAL SERVICE (GS)**  
**Monthly**

	<b>Potable Water</b>	<b>Wastewater</b>
<b>Base Facility Charge</b>		
All meter sizes	\$ 7.50	\$ 12.50
<b>Charge per 1,000 gallons</b>	\$ 1.75	\$ 3.75*

\*Capped at 6,000 gallons for residential service.

**IRRIGATION SERVICE (IR)**  
**Monthly**

<b>Base Facility Charge</b>	
All meter sizes	\$ 7.50
<b>Charge per 1,000 gallons</b>	
0 to 5,000 gallons	\$ 1.75
5,001 to 10,000 gallons	\$ 2.00
10,001 to 15,000 gallons	\$ 2.50
15,001 gallons and above	\$ 3.00

**AVERAGE BILL COMPARISON**

<b>Water Usage Per Month</b>	<b>Potable Water</b>	<b>Irrigation</b>	<b>Wastewater</b>
5,000 gallons	\$ 16.25	\$ 16.25	\$ 31.25
8,000 gallons	\$ 21.50	\$ 22.25	\$ 35.00*
10,000 gallons	\$ 25.00	\$ 26.25	\$ 35.00*

\*Capped at 6,000 gallons for residential service.

**AQUA UTILITIES FLORIDA, INC.**  
**Lake County**  
**Fairways System**

**Schedule No. 4**

**CUSTOMER DEPOSITS**

	<b>Potable Water &amp; Irrigation</b>	<b>Wastewater</b>
All meter sizes	\$ 25.00	\$ 50.00

**MISCELLANEOUS SERVICES CHARGES**

	<b>Water</b>	<b>Wastewater</b>
Initial Connection	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection	\$ 15.00	\$Actual Cost
Premises Visit	\$ 10.00	\$ 10.00