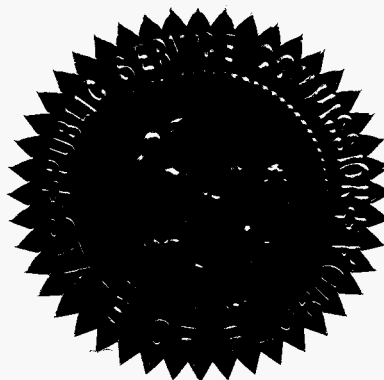


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 080121-WS

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.



PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 6

COMMISSIONERS  
PARTICIPATING: CHAIRMAN NANCY ARGENZIANO  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER NATHAN A. SKOP  
COMMISSIONER DAVID E. KLEMENT  
COMMISSIONER BEN A. "STEVE" STEVENS III

DATE: Tuesday, April 20, 2010

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

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## P R O C E E D I N G S

1  
2           **CHAIRMAN ARGENZIANO:** We are going to move  
3 to Item Number 6, and I believe we have Ms. Kelly  
4 Sullivan on the telephone with us.

5           Ms. Sullivan, are you there?

6           **MS. SULLIVAN:** I'm here.

7           **CHAIRMAN ARGENZIANO:** Can you hear us  
8 okay?

9           **MS. SULLIVAN:** Yes, ma'am. Thank you very  
10 much.

11           **CHAIRMAN ARGENZIANO:** Thank you. And I  
12 believe Marshall Willis will kick us off.

13           **MR. WILLIS:** Thank you, Chairman.

14           Marshall Willis with the Division of  
15 Economic Regulation. At the March 16th, 2010, Agenda  
16 Conference, the Commission made the decision that the  
17 monitoring of Aqua Utilities Florida should continue.  
18 They instructed staff to come back within 45 days  
19 with a recommendation for a Phase II Monitoring Plan  
20 that would continue all the way through December 31.  
21 The Commission at that time directed staff to develop  
22 a plan which would emphasize the specific areas such  
23 as customer billing, customer complaints, meter  
24 reading, and billing accuracy. The plan was also to  
25 include a review of the procedures and accuracy of

1 estimated bills, and the appropriate methods and  
2 costs to improve the bills -- to improve the  
3 aesthetic quality of water in several targeted  
4 systems. In coming up with this monitoring plan,  
5 staff was directed to work with Aqua and all the  
6 parties to develop a plan that was both  
7 cost-effective, efficient, and meaningful towards the  
8 end.

9           Toward that end, staff met twice with all  
10 parties during that time period to discuss the  
11 development of a plan to meet the Commission's  
12 required goals. During their first meeting, the  
13 Office of Public Counsel came forward with its  
14 recommended monitoring plan which all parties  
15 discussed thoroughly.

16           At the second meeting, Aqua Utilities  
17 Florida and the Office of Public Counsel came forward  
18 with a recommended proposed Phase II Monitoring Plan.  
19 The monitoring plan itself starts on Page 9 and is  
20 included in our recommendation. It starts on Page 9  
21 of our recommendation. It includes the majority of  
22 the areas that the Commission requested the staff to  
23 look into, including a review of the aesthetics which  
24 starts out with seven systems.

25           I would point out that staff during that

1 time period when we were looking at the Office of  
2 Public Counsel and Aqua's proposal, reviewed whether  
3 or not those seven systems were the systems that we  
4 would look at on our first go-round, and I would  
5 emphasize that it is the first go-round, because the  
6 indication is that there will be more of this type of  
7 aesthetic review for further systems. But to keep in  
8 line with the Commission's desire that this be  
9 cost-effective, it was narrowed down to seven  
10 systems. We are in agreement with the seven systems  
11 at this point with the understanding that will  
12 continue after this by Aqua itself.

13 Staff is in support of Aqua and OPC's  
14 recommended proposal. In addition to the agreement,  
15 staff is also requesting that the Commission include  
16 two more requirements in the Phase II Monitoring.  
17 One of those would include the further evaluation of  
18 the calculation of billing samples which was  
19 indicated at the last Commission conference that  
20 there was a desire to do so. The last item is that  
21 the environmental compliance continue.

22 This continuation basically will allow  
23 staff to monitor problems such as Chuluota in which  
24 the utility is actually trying to implement a fix at  
25 this point in the Chuluota system. They are building

1 a MIEX system which will hopefully remove the  
2 hydrogen sulfide and solve some of the problems.  
3 That's to be seen. That is something that our  
4 continuing monitoring of the environmental compliance  
5 issues will review and look at. We don't want those  
6 issues to be lost.

7 With that, today we have before us the  
8 Office of Public Counsel, members of Aqua Utilities  
9 and, of course, Ms. Nancy (sic) Sullivan on the  
10 telephone. I would propose that you might want to go  
11 to Aqua Utilities or OPC to have them go over their  
12 proposed agreement.

13 **CHAIRMAN ARGENZIANO:** Absolutely. We'll  
14 go to the utility first, or the representative of  
15 the utility.

16 **MR. MAY:** Thank you, Madam Chair.

17 My name is Bruce May. I'm with the law  
18 firm of Holland and Knight. With me today is Mr.  
19 Jack Lihvarcik, President of Aqua Utilities Florida.  
20 We thank you for the opportunity.

21 I think Mr. Willis has done a good job in  
22 accurately summarizing the plan, the Phase II  
23 Monitoring Plan which we worked closely with the  
24 Office of Public Counsel. I don't know what I can  
25 add to that, other than to say we also agree with the

1 additional two items, the testing of the billing  
2 accuracy as well as the continued environmental  
3 compliance.

4 We are here to answer any questions, and we  
5 are also -- we understand that there may have been  
6 some issues or some concerns from some of the  
7 Chuluota folks. I'm glad Ms. Kelly Sullivan is on  
8 the phone today. We are prepared to answer any  
9 questions that she may have regarding the on-going  
10 efforts to address some of the aesthetic issues and  
11 some of the quality, but we are also here to answer  
12 any questions regarding Chuluota.

13 It was not our intent to ignore Chuluota.  
14 Chuluota is being addressed on a separate track.  
15 It's actually on a more expedited track, and Mr.  
16 Lihvarcik is here. At the appropriate time we have  
17 actual photographs of some of the equipment and some  
18 of the technology that we are installing in that area  
19 to address the concerns. Thank you.

20 **CHAIRMAN ARGENZIANO:** In the Chuluota  
21 area?

22 **MR. MAY:** Yes, ma'am.

23 **CHAIRMAN ARGENZIANO:** Okay.

24 Members, any questions for -- Commissioner  
25 Stevens.

1                   **COMMISSIONER STEVENS:** Thank you, Madam  
2 Chair.

3                   I just appreciate Aqua and OPC working  
4 together on this. It's certainly much more  
5 productive and it certainly helps the customers. So  
6 thank ya'll, I appreciate it.

7                   **CHAIRMAN ARGENZIANO:** Commissioner Edgar  
8 next.

9                   Commissioner Skop.

10                  **COMMISSIONER EDGAR:** Thank you, Madam  
11 Chair.

12                  And, again, I guess Mr. Lihvarcik is here,  
13 and Ms. Sullivan is on the phone and Public Counsel  
14 is before us. I'd like to hear their input and any  
15 concerns with respect to Chuluota and the progress  
16 being made there. There seems to be some customer  
17 concerns, perhaps, about why they were not included  
18 in the aesthetic monitoring, but I guess we will get  
19 to that in due course.

20                  **CHAIRMAN ARGENZIANO:** Commissioner Edgar.

21                  **COMMISSIONER EDGAR:** I was just wondering,  
22 and this could be after OPC, because I certainly  
23 want to hear from them, as well, but if there is  
24 anybody here from the Attorney General's Office,  
25 because I do believe that they have been very

1 involved in all of these issues as we have  
2 considered them, and I -- no?

3 **MR. WILLIS:** Commissioner Edgar.

4 **COMMISSIONER EDGAR:** Yes, sir.

5 **MR. WILLIS:** I'd just like to indicate  
6 that Cecilia Bradley was at our discussions  
7 personally with the first one, and on the phone with  
8 the second one, had not indicated whether she was in  
9 agreement, but the Office of Public Counsel might be  
10 able to shed light on that.

11 **COMMISSIONER EDGAR:** Okay. Thank you.

12 And I, also, am interested in hearing a  
13 little more of the specifics for -- as Mr. May  
14 mentioned, kind of a separate or expedited focus on  
15 Chuluota, but that may be more helpful after or  
16 separate from this other piece of the agreement.  
17 Thank you.

18 **CHAIRMAN ARGENZIANO:** Mr. May.

19 **MR. MAY:** And we'd be glad to get into  
20 that, Commissioner Edgar. And to address  
21 Commissioner Skop's point, I didn't want to leave  
22 you with the impression that the Chuluota system was  
23 excluded from the aesthetic efforts of the Company.  
24 The Company is taking steps to address the  
25 aesthetics and we will be prepared to go into more



1 detail on that at the appropriate time.

2 **CHAIRMAN ARGENZIANO:** Great. Mr. Beck.

3 **MR. BECK:** Thank you, Madam Chairman.

4 Charlie Beck with the Office of Public Counsel.

5 Commissioners, we obviously support staff's  
6 recommendation. I'm basically here to answer any  
7 questions you may have. I think the company would be  
8 well suited to describe what they are doing in  
9 Chuluota. I think there is some mention of it in the  
10 staff recommendation, as well.

11 **CHAIRMAN ARGENZIANO:** Okay. Any questions  
12 for Mr. Beck at this time?

13 Hearing none, Ms. Sullivan.

14 **MS. SULLIVAN:** I'm here.

15 **CHAIRMAN ARGENZIANO:** Okay. Would you  
16 like to address the Commission?

17 **MS. SULLIVAN:** Yes, please, thank you.  
18 And I do appreciate your accommodating my request to  
19 participate by telephone. I was not able to take a  
20 vacation day today to come up to speak to.

21 I think it would be helpful, particularly  
22 for the new Commissioners, for me to give just a  
23 little bit of background, and I promise not to make  
24 this lengthy, but if you'd give me a little bit of  
25 leeway.

1           As you all know, I'm a resident of  
2 Chuluota, Florida. And last month at the agenda  
3 conference Aqua and its statements, and I have seen  
4 in written statements that they agree that Chuluota  
5 has struggled for nearly 40 years to have affordable  
6 potable water. The issue of access to potable water,  
7 of course, is very important. It's one of our most  
8 basic needs as human beings.

9           Most Floridians don't put a great deal of  
10 thought into the source of their water. Most of them  
11 can turn on their tap and they get fresh potable  
12 water without a thought. That's not the case in  
13 Chuluota. The hydrogeology in Chuluota combined with  
14 the natural groundwater in the area in Aqua's words  
15 is characteristically difficult to treat for public  
16 drinking water purposes. One of the three wells in  
17 Chuluota was closed to salt water intrusion. It  
18 was -- you know, they are all shallow wells, and one  
19 of them had to be closed because of salt water  
20 intrusion. We draw -- those wells that are in place  
21 draw some of the poorest quality water in the state.  
22 The residents of Chuluota have lived in fear of  
23 drinking the water; many have suffered illnesses, and  
24 so have their pets.

25           Their physicians and their veterinarians

1 advise them to seek alternate sources of water. Many  
2 people drink it anyway out of desperation. They  
3 cannot afford bottled water, and they cannot afford  
4 to install an expensive filtration system. Thus, the  
5 impact is the greatest on the poor.

6 As we all know, water can be treated to  
7 turn it into potable water. The treatment of  
8 Chuluota's water has resulted in by-products known as  
9 trihalomethanes, which have exceeded federal EPA  
10 standards virtually from the moment the latest  
11 regulations were put in place. The treatments with  
12 chemicals does not remove the particulates that cause  
13 appliances to fail and pipes to clog.

14 The PSC found and documented in its order  
15 of May 29th, 2009, that the quality of service  
16 provided by Aqua was marginal for all systems except  
17 for Chuluota, which was unsatisfactory. A monitoring  
18 plan was put in place for six months in order for  
19 staff to evaluate the quality of service provided.  
20 In its Proposed Agency Action order of April 6th, the  
21 PSC required staff and the Office of Public Counsel  
22 to continue -- I'm sorry, the PSC required the staff  
23 to continue the monitoring of the quality of service  
24 provided by Aqua. So the staff and the OPC, along  
25 with some of the affected parties, proposed a

1 supplemental monitoring plan which was issued  
2 April 9th.

3 Charlie Beck mentioned that he thought  
4 Chuluota was addressed in that recommendation, so if  
5 that's the case, I must have missed it. When I  
6 reviewed the staff recommendation, what I was struck  
7 with is that the one system found to have  
8 unsatisfactory service is not included in the  
9 recommendation. The April 6th order acknowledges  
10 that an update of Aqua's environmental compliance was  
11 not required by the prior monitoring plan, and nor  
12 was it required by this recommended plan. I was  
13 pleased to hear that apparently because of some  
14 conversations that I have had with a variety of  
15 people, apparently they are recommending to include  
16 now environmental compliance.

17 And so I appreciate that my conversations  
18 have been taken and, you know, there has been some  
19 consideration apparently given to that. Because in  
20 requiring the environmental compliance where I know  
21 before the PSC had issued letters to Aqua requiring  
22 them to notify the PSC any time there was a new  
23 consent order or a change with one of their systems  
24 and I didn't see that in the staff recommendation.  
25 So if that's where you're going, I'm pleased to hear

1 it.

2 I know in his letter of April 7th, counsel  
3 to Aqua provided further clarification as to how the  
4 seven systems were selected for monitoring. What I  
5 understand is that these seven systems were selected  
6 based on a review of customer comments at public  
7 hearings, internal review of a number of customers  
8 complaints on water quality issues, a review of water  
9 quality data from secondary drinking water test  
10 results, input from Aqua area coordinators on  
11 aesthetic water quality issues, and the results of  
12 Aqua's customer surveys.

13 Now, I cannot imagine a system that more  
14 fits that description of qualifying for continued  
15 monitoring than Chuluota. As the PSC found, that  
16 system's service was considered unsatisfactory. The  
17 residents of Chuluota have -- they have been very  
18 participatory in the process to describe their fears,  
19 to describe their concerns, to explain that as Aqua  
20 has admitted, this has been going on for 40 years.

21 Aqua took over the system in the summer of  
22 2004, I think it was June, it may have been July of  
23 2004, and I understand that there is a DEP consent  
24 order in place for Aqua. That order was originally  
25 imposed in January of 2007. At that time, we were

1 told with the help of Professor Taylor at UCF that  
2 Aqua had found the answer. That chloramination was  
3 going to solve our problems. Well, it didn't. It  
4 failed.

5 Now I'm told that this new Anion system is  
6 the best that money can buy. And, you know, we don't  
7 know. Maybe it will solve the problems. I certainly  
8 hope it does. But that system is due to go on-line  
9 in July of 2010. It seems to me that the monitoring  
10 plan -- because there will be a lot of communication  
11 to residents. There will be -- if it goes poorly as  
12 it did in 2007, the residents will speak up.

13 It seems to me the one system that has  
14 complained the loudest, that has provided the  
15 cooperation, has provided the information to the PSC  
16 over and over again is -- I want to say it's an  
17 insult to be left out of the monitoring program,  
18 because we have invested our time, our energy, our  
19 money, our vacations to come and participate in this  
20 process. And yet just -- it's almost an  
21 afterthought. It was the last sentence of counsel's  
22 letter to the PSC explaining how the seven systems  
23 were selected. And, oh, by the way, Chuluota has a  
24 consent order. Well, Chuluota is not the only system  
25 with a consent order, and that consent order has been

1 in place for over three years now. We still do not  
2 have relief.

3 I understand the Anion system that they are  
4 going to have to route water from one well to the  
5 other well to get it through the Anion system. And  
6 if I'm mistaken, I would welcome on clarification on  
7 that from Mr. Lihvarcik. But it seems to me  
8 unbelievable that the one system you found  
9 unsatisfactory for quality service will be left out.  
10 And I just would request that you reconsider that,  
11 and to include Chuluota in your monitoring, your  
12 Phase II Monitoring.

13 Thank you.

14 **CHAIRMAN ARGENZIANO:** Thank you, Ms.  
15 Sullivan.

16 Commissioners? Commissioner Klement.

17 **COMMISSIONER KLEMENT:** Thank you, Madam  
18 Chair.

19 I would like to ask the same question the  
20 witness just did. Why was it left out?

21 **CHAIRMAN ARGENZIANO:** Marshall.

22 **MR. WILLIS:** Commissioners, Chuluota was  
23 not left out of the recommendation. It's not  
24 specifically named, as were other systems with  
25 environmental compliance problems that are

1       undergoing consent orders. Chuluota right now has a  
2       consent order which the Company is working to  
3       rectify. Hopefully that fix will be in place in  
4       July. That's part of the monitoring compliance plan  
5       which staff has from the very beginning insisted we  
6       were going to put in our recommendation to  
7       recommend. It wasn't a last minute thought to  
8       include environmental compliance. That has been  
9       there all along as far as our mind-set goes.

10               The Woods is part of the environmental  
11       compliance process. The Chuluota system is being  
12       monitored through that environmental process. It's  
13       not lost; it's there. There is going to be continued  
14       testing by DEP. Once the fix goes in in July, the  
15       fix has to be assured that it's working. We are  
16       going to be monitoring that situation. We are going  
17       to know whether the fix works. That's the best I can  
18       tell you. It is not left out of the recommendation  
19       whatsoever.

20               **CHAIRMAN ARGENZIANO:** Well, when one reads  
21       it and doesn't see the name there, you can come to  
22       the conclusion that is left out, I guess. So can  
23       we -- with the understanding today, knowing that it  
24       is going to be in for the environmental monitoring,  
25       also.



1           **MR. WILLIS:** Absolutely.

2           **COMMISSIONER KLEMENT:** Madam Chair?

3           **CHAIRMAN ARGENZIANO:** Commissioner

4           Klement.

5           **COMMISSIONER KLEMENT:** But I believe we  
6           heard the last time this came up that environmental  
7           concerns can overlook or pass on the aesthetic  
8           qualities that are so objectionable to the users,  
9           the taste and the color. Will that be addressed?

10          **MR. WILLIS:** Yes.

11                 Commissioner, staff's monitoring plan as  
12                 well as the proposed plan addresses both of those  
13                 issues. Environmental compliance basically goes  
14                 after those first requirements that you have to meet  
15                 as far as the health and safety of the water.

16          **COMMISSIONER KLEMENT:** Correct.

17          **MR. WILLIS:** Aesthetics are something  
18                 which we call secondary standards as far as the  
19                 Department of Environmental Regulation. You can  
20                 still drink the water, it may have enough sulfur in  
21                 it where it's not very pleasant, or other things  
22                 that discolor the water, but it is perfectly safe  
23                 according to the Department of Environmental  
24                 Protection to drink.

25                 Aesthetic issues deal with those secondary

1 standards. The environmental compliance is dealing  
2 with whether or not the water is safe to drink, and  
3 what fixes are being put in place to deal with that.

4 **COMMISSIONER KLEMENT:** Well, how will this  
5 monitoring plan address the secondary?

6 **MR. WILLIS:** It is, Commissioner. That's  
7 part of the proposal put forward by Aqua Utilities  
8 and the Office of Public Counsel. At this point,  
9 the plan is going forward with looking at the  
10 aesthetic issues of seven systems which are listed  
11 in the actual proposal. Our discussions -- in our  
12 discussions, Aqua Utilities said this isn't the  
13 point where it stops. They continue. They said  
14 they're going to this on a yearly basis. They are  
15 going to meet with customer groups, they are going  
16 to look at a next set of systems to look at for  
17 aesthetic issues, but this is basically the most  
18 cost-effective way to do it. Instead of looking at  
19 every system at one time, which would be  
20 cost-prohibitive, they can focus their attention on  
21 seven, and then go to the next seven, and then to  
22 the next seven.

23 **CHAIRMAN ARGENZIANO:** Question. Wouldn't  
24 it be reasonable to look at the ones that need it  
25 the most first?

1                   **MR. WILLIS:** Well, Commissioner, that's  
2 basically what I believe the proposal does.

3                   **CHAIRMAN ARGENZIANO:** And Chuluota isn't  
4 in that first batch?

5                   **MR. WILLIS:** Well, you have to think about  
6 the difference between aesthetic issues and those  
7 safety issues.

8                   **CHAIRMAN ARGENZIANO:** I know the  
9 differences. But what I'm talking about are those  
10 secondary issues, also. Are they in the first  
11 batch?

12                   **MR. WILLIS:** They are being looked at for  
13 environmental compliance, because once the MIEX  
14 system goes in, there may not be an aesthetic issue.

15                   **CHAIRMAN ARGENZIANO:** Right, I understand.

16                   **MR. WILLIS:** But if there is an aesthetic  
17 issue remaining after that fix goes in, yes, it will  
18 be one of those systems looked at. I don't know if  
19 I answered your question good enough, but they are  
20 not being left out of aesthetic issues in the  
21 future. We don't know right now when this fix goes  
22 in in July whether there will be any aesthetic  
23 issues.

24                   The MIEX system is designed, and I'm not an  
25 engineer, but I've heard a lot of talk about the MIEX

1 system, the MIEX system is designed to strip  
2 basically hydrogen sulfide out of the water. It  
3 doesn't mask it, it removes hydrogen sulfide. Along  
4 with it, it removes other particles contained in the  
5 water.

6 **CHAIRMAN ARGENZIANO:** Okay. Then what is  
7 the harm, though, of monitoring? If the Anion  
8 system comes on and then suddenly it's gone, and  
9 you're monitoring it, over a short period of time  
10 maybe at least you know it's gone and you take that  
11 off the table. I think what you're saying is if the  
12 customers will say that the system comes on and it's  
13 still bad or we're still having problems, and there  
14 has to be some time to get the system up and  
15 running, I'm sure. But Mr. May may want to answer  
16 that.

17 **MR. MAY:** Sure. I think we may be talking  
18 past each other here. Just to make it clear,  
19 Commissioner Klement and Commissioners, the  
20 Company's view of the Chuluota system, in order to  
21 comply with the consent order they have put in an  
22 Anion exchange as Mr. Willis just described. That  
23 is not only designed to address the primary  
24 standards, but it's also designed to address the  
25 odor, the clarity, and the taste of the water. So

1 it's designed to address the primary and secondary.

2 Our thought was, Commissioner Klement, that  
3 the company has already committed to this as part of  
4 the consent order process, and we were adding an  
5 additional seven systems to the aesthetic issue. It  
6 wasn't to exclude Chuluota, but these are in  
7 addition. And we have no problem, and my client has  
8 no problem in clarifying that in any order that you  
9 may issue today.

10 **CHAIRMAN ARGENZIANO:** Commissioner  
11 Klement, a follow-up?

12 **COMMISSIONER KLEMENT:** I wonder -- is it  
13 Ms. Sullivan on the line, if she is satisfied with  
14 that?

15 **MS. SULLIVAN:** Yes, I do have some  
16 comments.

17 **CHAIRMAN ARGENZIANO:** Ms. Sullivan.

18 **MS. SULLIVAN:** May I?

19 **CHAIRMAN ARGENZIANO:** Go ahead, Ms.  
20 Sullivan, and then Commissioner Edgar would like to  
21 make a statement. Go ahead.

22 **MS. SULLIVAN:** Thank you. And I  
23 apologize. The web version that I'm watching on my  
24 computer is a little delayed, so I didn't mean to  
25 interrupt. A couple of things come to my mind in

1 listening.

2 Mr. Willis said that Aqua had agreed to  
3 include the customers and that Aqua had agreed to  
4 meet with customer groups. I remind you that the  
5 last time we -- they agreed to meet with customers,  
6 what came out of that was an initiative known as Aqua  
7 Connects. And, indeed, Aqua had some town hall  
8 meetings where they met with customers throughout the  
9 state. At least in Chuluota I can tell you it was  
10 poorly attended. It was poorly attended because of  
11 the location and the time that it was -- it wasn't  
12 even in our county, it was in the next county south.  
13 So it was poorly attended.

14 But my point is that we were told at the  
15 time Aqua Connects was rolling out that this would be  
16 an annual opportunity, or an annual meeting, or an  
17 ongoing education opportunity. It is now April, near  
18 the end of April, and it has been over a year since  
19 the Aqua Connects program. Now I don't know if they  
20 ditched that program because it wasn't  
21 cost-effective, but my point is I haven't heard  
22 anything from Aqua about how they intend to  
23 communicate and to meet with the customers in  
24 Chuluota about the new Anion system and what it  
25 should and should not do.

1           The other thing I would point out is that  
2 what is valuable to Chuluota with regard to the  
3 monitoring plan that is -- the seven systems that are  
4 included in, the secondary drinking water aesthetics  
5 piece, is that the data, the data is valuable. The  
6 data will speak for itself. And customers in  
7 Chuluota, quite frankly, have stopped complaining  
8 because we feel like it has been an ongoing  
9 complaint. We haven't been listened to. We haven't  
10 gotten results. We haven't had resolution. We have  
11 had a lot of promises, but no resolution.

12           So I think the data, particularly the data  
13 that segregates between is this a billing issue, is  
14 this a start/stop issue, or is it in their other  
15 bucket. It's that other bucket that I think I last  
16 saw 19 percent of their complaints was in the other  
17 category. It's that other category that I think is  
18 the most important.

19           And so the data would be valuable to the  
20 residents of Chuluota. And, you know, we have had a  
21 lot of promises, but no resolution. So I would  
22 request, again, that you include Chuluota in the  
23 systems that will be monitored. I certainly think  
24 it's excellent to continue not just Chuluota's  
25 consent order monitoring, but the other system that

1 is under consent order, as well. But we certainly in  
2 Chuluota have no confidence that this Anion system is  
3 going to solve our problems. I hope it will, but we  
4 have no confidence that it will.

5 **CHAIRMAN ARGENZIANO:** Commissioner Edgar.

6 **COMMISSIONER EDGAR:** Thank you.

7 I'd like to pose a question to OPC, if I  
8 may. From looking at this item prior to today, and  
9 today, and listening to the discussions, and  
10 recognizing how involved OPC was through the hearing  
11 process and everything that went before it and has  
12 come afterwards, I heard Mr. Beck say a few minutes  
13 ago that OPC supports the staff recommendation and  
14 has worked very closely to help us to get to this  
15 point. So with that, I would have the impression and  
16 assume that OPC believes that the concerns at  
17 Chuluota are in process and are being addressed, and  
18 that this agreement does not -- does not not protect  
19 the customers of that particular system. And so,  
20 Mr. Beck, if you can just respond to, as your office  
21 was having these discussions and helping us to get to  
22 this point, what your position is or thoughts are as  
23 to how the Chuluota system is addressed?

24 **MR. BECK:** Certainly, Commissioner Edgar.

25 First off, the mention of Chuluota's



1 system, what was on my mind was the previous  
2 recommendation as well as the order that lead to us  
3 being here today. There is an account of exactly  
4 what has been done in Chuluota, and what they expect  
5 in the March 4th recommendation at Page 11, as well  
6 as in the PAA order dated April 6th on Page 10.

7 We agree with Aqua that we view the other  
8 systems as in addition to Chuluota. That Chuluota is  
9 actually very much on its own track with some  
10 detailed attention. And, again, the Anion exchange  
11 treatment plant is supposed to be complete and  
12 operational by July of 2010.

13 And we certainly agree that if separate  
14 monitoring for Chuluota, I think, is contemplated in  
15 one way or another. There is also two ways we are  
16 going to see complaints. Although I know Ms.  
17 Sullivan said that the residents have stopped  
18 complaining, but there's two ways we will get  
19 complaints from the entire system. One is through a  
20 detailed analysis of the complaints the company is  
21 getting in their call centers. We are going to get  
22 backup under the agreement on a customer-by-customer  
23 basis for that. And then the staff is separately  
24 going to do an analysis of complaints that the  
25 Commission gets. So there's two different ways that

1 we will be reviewing that. But we see Chuluota as  
2 definitely being on a primary track of it's own,  
3 separate from the other ones that are in addition to  
4 that.

5 **COMMISSIONER EDGAR:** Thank you, Mr. Beck.  
6 That is very helpful, and that is commensurate with  
7 what my understanding was, was that Chuluota was not  
8 excluded, but actually it has its own very special  
9 treatment, and much attention given, which is  
10 certainly appropriate. So thank you.

11 **MS. SULLIVAN:** May I respond?

12 **CHAIRMAN ARGENZIANO:** Hang on, Ms.  
13 Sullivan.

14 Commissioner Skop, do you want to -- Ms.  
15 Sullivan, you're next. Go ahead.

16 **MS. SULLIVAN:** Thank you. I must say I  
17 have worked very closely with Charlie Beck over the  
18 last several years, and I have a lot of respect for  
19 Mr. Beck and the assistance that he has provided. I  
20 did speak to him at some length, I think it was last  
21 week, and I forget the date, but I know we had a  
22 conversation where I discussed with Mr. Beck that I  
23 thought a protest of the April 6th order might be in  
24 order if the staff recommendation were not changed.

25 At that time in our conversation, he agreed

1 with me that Chuluota wasn't missed. So I have to  
2 assume that he has gone back and reflected some since  
3 then -- we haven't spoken since that conversation --  
4 and that because of the consent order situation, I  
5 have to assume that he now is of the opinion that  
6 Chuluota is included. It seems to me, then, there is  
7 some discrepancy in the understanding of one of the  
8 customers that has been very active in this matter,  
9 and at least from my perspective, I would rather see  
10 Chuluota listed in the -- either added as an eighth  
11 system in the data that will be collected or  
12 selected, because there is no system that better  
13 meets the criteria set forth by the company than  
14 Chuluota to be included for specific monitoring.

15 It is not sufficient, in my mind, to rely  
16 on the DEP. In your April 6th PAA, it even states  
17 that the -- I'm looking for the language, but there  
18 is language in there that says that the environmental  
19 compliance was not part of the monitoring program.  
20 So I don't know if we are arguing over semantics.  
21 You know, if your overall -- what you perceive to  
22 propose is not only the aesthetics but a more  
23 comprehensive, where Chuluota stands alone, you're  
24 suggesting that there will be a special track for  
25 Chuluota. Let's collect the data on Chuluota. Let's

1 see what's happening.

2 Right now we are limited by the THM results  
3 that come out once a quarter. I mean, the amount of  
4 information that Chuluota residents have about what's  
5 happening with its water and what's the current  
6 status of its water is limited. And I think having  
7 it monitored along with these other systems is a way  
8 to collect data that will be useful.

9 **CHAIRMAN ARGENZIANO:** Okay. Ms. Sullivan,  
10 I think I'm just going to give my statement to just  
11 remit it, Commissioner Skop, if you don't mind. I  
12 think that the problems of Chuluota have been very  
13 long going, and understandably the customers or some  
14 of the customers have a reluctance or have a lack of  
15 confidence. But some of those problems, or most of  
16 those problems, many of the problems, and I'm not  
17 going to relieve the company for some of the things  
18 that, maybe, happened in the past, but are not the  
19 fault of the company. I think where the wells are,  
20 the type of water has been a problem way before this  
21 company ever owned that.

22 Not to relieve the company from other  
23 problems that have been before this Commission  
24 before, I'm not saying so, but I think that the  
25 systems that are about to be put into that area are

1 probably the best bet for Chuluota in 40 years to  
2 maybe get some water that is odorless or as close to  
3 odorless as you can.

4 And I think what you are hearing here from  
5 Charlie Beck -- and, Charlie, just jump in there if  
6 I'm not saying it, and from staff -- is that with  
7 this system coming on-line, scientifically we know  
8 that is going to solve a lot of the problems of that  
9 area. Maybe not all of them, but I think I'm hearing  
10 also that there will be continued monitoring.

11 OPC is going to be looking into that, our  
12 staff is going to be looking into that, and you hear  
13 it on the record today that we are not going to just  
14 not look at what is happening at Chuluota. It's a  
15 big issue. It has been a big issue. And even if  
16 some of us are not here in the future, I think it is  
17 big enough for Commissioners to understand and to  
18 know that this has been an ongoing problem.

19 I don't think OPC is going to forget it. I  
20 think the company wants to have that water  
21 aesthetically as best as it can be. So with those  
22 systems coming in perhaps, and I know it's hard to  
23 ask for some confidence, but at this point let's see  
24 what happens, because I think it is the best thing to  
25 happen to Chuluota in a long time. And, hopefully,

1 there will be no stopping of the monitoring, and  
2 hopefully the customers will speak up. I mean,  
3 that's what they have to do, and I hope they will,  
4 and I have confidence in OPC telling us today that  
5 they are going to be looking at that, and our staff,  
6 too. And I know as long as I am here I'm going to be  
7 asking questions on how it's going at Chuluota.

8 Marshall, did you want to add to that, and  
9 then Commissioner Skop?

10 **MR. WILLIS:** Yes, I did, Chairman.

11 If it would help, we will be more than  
12 happy to put a separate paragraph in the order which  
13 indicates that Chuluota is on a separate --

14 **CHAIRMAN ARGENZIANO:** You know, if that  
15 makes the customers feel more comfortable, after a  
16 lot of what they have been through, that would be an  
17 easy thing to do. And I think that would -- I don't  
18 think -- I see the company shaking their head saying  
19 no problem. Why don't we do that.

20 Commissioner Skop.

21 **COMMISSIONER SKOP:** Thank you, Madam  
22 Chair.

23 Just two brief questions for staff. First,  
24 on Page 5 of the staff recommendation, going to Ms.  
25 Sullivan's concerns, the first three systems are all

1 located in Highlands County, and I just wanted to get  
2 staff's perspective as to what drove that choice or  
3 that heavy weighting towards the systems in Highlands  
4 County. I know that from attending the service  
5 meetings that many of the customers expressed  
6 aesthetic concerns through visual evidence they  
7 provided. But I was just wondering, in light of the  
8 concerns raised by Ms. Sullivan, and I think that we  
9 have worked through by staff's proffer to put a  
10 paragraph into the final order, and Chairman  
11 Argenziano's concerns. But I was wondering with  
12 respect to those three, just staff's perspective on  
13 why Highlands was so prominent in the seven systems  
14 as opposed to maybe considering Chuluota.

15 **MR. WILLIS:** Sure. The Office of Public  
16 Counsel and Aqua may be able to better address why  
17 that is, but my understanding from our discussions  
18 with them is that it was several fold. It was the  
19 number of quality of water complaints from the  
20 service hearings as well as the number of complaints  
21 coming in to both Aqua and the Commission as far as  
22 quality of service.

23 In other words, you start with the systems  
24 with the most complaints and work your way down the  
25 list. That's my understanding of how the plan goes

1 as far as the aesthetic issues. Chuluota was already  
2 on the books as far as both primary and secondary  
3 standards. They are already being worked on. And  
4 hopefully, hopefully, those two things are going to  
5 go away, is problems with Chuluota. We can all hope  
6 that that will happen.

7 **COMMISSIONER SKOP:** And to that point, the  
8 Commission has additional discretion in the future  
9 should it deem necessary to look at Chuluota as far  
10 as continued monitoring if the proposed  
11 implementation of the Anion exchange does not result  
12 in improved water quality.

13 **MR. WILLIS:** Absolutely. And bearing in  
14 mind that the proposal itself means that the staff  
15 will be bringing a recommendation back to the  
16 Commission in February of 2010, or 2011, that is, as  
17 far as any continued monitoring after that point.  
18 That's the point in time, I'm sure, that this will  
19 come up again.

20 **COMMISSIONER SKOP:** Thank you.

21 And, Madam Chair, just one additional  
22 question that's a housekeeping matter for staff. On  
23 Page 13 of the April 6th Commission order, the  
24 separate supplemental monitoring plan shall include,  
25 and it listed five criteria of which the aesthetic



1 quality is one of the criteria. I think it's  
2 Criteria Number 4, and that criteria is the selection  
3 of the seven systems where AUF will focus on the  
4 specific aesthetic concerns, the solutions to improve  
5 these aesthetics, an estimate of the cost to improve  
6 the water quality, and the impact upon rates.

7 Looking at Page 6 of the staff  
8 recommendation, and it talks about the creation or  
9 establishment of a joint secondary water quality task  
10 force with cross-discipline representation from Aqua,  
11 OPC, and other parties, and speaks to the two  
12 meetings and the locations to discuss aesthetic  
13 concerns affecting the system, possible solutions,  
14 and associated costs. And then in the next paragraph  
15 it speaks to a report that will be promulgated by  
16 Aqua in February of 2011.

17 Is it staff's expectation that that report  
18 will embody the intent of the order to the extent  
19 that it will provide the estimates of the costs to  
20 improve the water quality and proposed rate impacts?

21 **MR. WILLIS:** Yes, Commissioner.

22 **COMMISSIONER SKOP:** Okay. Thank you.

23 **CHAIRMAN ARGENZIANO:** I'm sorry, I'm  
24 trying to -- okay. We're going to add the  
25 paragraph. Ms. Sullivan, does that help you out at

1 all? I mean, I think we're in a good place, but  
2 does that at least give you some comfort?

3 **MS. SULLIVAN:** Well, adding the paragraph,  
4 yes, gives some comfort. I don't believe, however,  
5 that is resolves my concerns. As I stated before,  
6 the data that would be collected through this joint  
7 secondary water quality task force would be very  
8 valuable, because it would -- you know, many times  
9 we have been -- it has been difficult to provide the  
10 data necessary to speak for itself, as opposed to,  
11 you know, just the voices themselves of residents  
12 who, you know, we're just -- our voices are treated  
13 as just, okay, it's our little story to tell. Which  
14 the truthfulness of things that I said at the agenda  
15 conference last month were challenged. So the data  
16 would speak for itself. And I just think it's  
17 troubling that this data would not be collected on a  
18 monthly basis to be reported to the PSC.

19 And as I see the way, the path that this  
20 takes, at least as presently submitted, is that after  
21 the December 31st deadline, then the whole issue  
22 comes back to the PSC for determination of whether to  
23 close the docket. And I just, you know, without the  
24 data, Chuluota is just -- we are diminished to just  
25 voices telling stories. So I think the data is

1 important.

2 **CHAIRMAN ARGENZIANO:** Thank you, Ms.

3 Sullivan.

4 I'm feeling comfortable that we will be  
5 getting data, and I'm feeling comfortable that -- I  
6 know myself, and I'm sure other Commissioners are  
7 going to be wanting to know how the system works when  
8 it gets in place, and I think we are going to hear  
9 about that. So I appreciate your concerns, but I  
10 think this system -- I really do. I was hoping that  
11 those Anion exchange systems could be in place very  
12 soon. And hopefully in July, I believe, is the time  
13 that that is going to solve some of the problems that  
14 have been around Chuluota for a very long time, and I  
15 hope so for the people's sake that have been dealing  
16 with the water quality in Chuluota for a long time.

17 That doesn't restrict us from asking for  
18 data in the future, and I know I'm going to be asking  
19 to, you know, see how those systems are working, and  
20 also asking OPC if you are going to be really  
21 monitoring and going back and forth with staff and  
22 the company, what happens after the system gets  
23 on-line? And I'm hoping it's going to be a very  
24 happy scenario, because it has been a long time  
25 coming.

1                   Commissioners? Commissioner Skop.

2                   **COMMISSIONER SKOP:** Thank you, Madam  
3 Chair.

4                   With that, if there are no further  
5 questions, I would be prepared to make a motion.

6                   **CHAIRMAN ARGENZIANO:** Okay. Any other  
7 questions? Seeing none, Commissioner Skop.

8                   **COMMISSIONER SKOP:** Thank you, Madam  
9 Chair.

10                   I would respectfully move to adopt the  
11 staff recommendation for Item 6 as amended by staff,  
12 and with the addition of the proposed paragraph to  
13 address Chuluota. That would essentially pertain to  
14 Issue 1; and under Issue 2 the Commission, as always,  
15 would reserve its discretion to do continuing  
16 monitoring with respect to whether the docket should  
17 be closed or not.

18                   **CHAIRMAN ARGENZIANO:** Do we have a second?

19                   **COMMISSIONER STEVENS:** Second.

20                   **CHAIRMAN ARGENZIANO:** All those in favor,  
21 aye.

22                   **COMMISSIONER EDGAR:** Excuse me, could I  
23 ask a question?

24                   **CHAIRMAN ARGENZIANO:** Yes, absolutely.

25 Any debate? Questions?

1                   **COMMISSIONER EDGAR:** Thank you.

2                   **CHAIRMAN ARGENZIANO:** You're recognized.

3                   **COMMISSIONER EDGAR:** I'd like a little  
4 more clarity as to what the paragraph is that we are  
5 proposing would say.

6                   **MR. WILLIS:** Yes, Commissioner Edgar.

7                   The paragraph is going to talk about the  
8 continuing monitoring, that Chuluota is on a separate  
9 track, and exactly how that monitoring is going to  
10 continue on.

11                   **COMMISSIONER EDGAR:** And how is that?

12                   **MR. WILLIS:** It's going to be looking at  
13 not only the primary, but the secondary standards.

14                   **COMMISSIONER EDGAR:** I appreciate that.

15                   **MR. WILLIS:** And as I indicated, it would  
16 be part of the final report that comes in from the  
17 company.

18                   **COMMISSIONER EDGAR:** And just, since we  
19 are all here together, is that the understanding of  
20 both Aqua and OPC and no heartburn?

21                   **CHAIRMAN ARGENZIANO:** That's what I  
22 thought we all said before, so hopefully that's it.  
23 That's great.

24                   **COMMISSIONER EDGAR:** Thank you.

25                   **CHAIRMAN ARGENZIANO:** We have a second.

1 All those in favor say aye.

2 (Vote taken.)

3 **CHAIRMAN ARGENZIANO:** Opposed?

4 The motion is adopted.

5 And, Ms. Sullivan, thank you very much for  
6 your participation, continued participation. And,  
7 you know, you have been a stalwart for the advocacy  
8 of the consumers there, and I appreciate it very  
9 much. And trust me, we will continue to keep looking  
10 at it, and hopefully things will really get on track  
11 there soon. Thank you for joining us today.

12 **MS. SULLIVAN:** Thank you. May I ask a  
13 question, a clarifying question?

14 **CHAIRMAN ARGENZIANO:** I'm sorry?

15 **MS. SULLIVAN:** If someone can contact me  
16 regarding -- I mean, your April 6th order says that  
17 a protest must be filed no later than April 27th, so  
18 I want to know if I will be able to view this extra  
19 paragraph before that date? Because I would like to  
20 see the final recommendation and review it so that I  
21 can make a decision timely before that deadline.

22 **MR. JAEGER:** I believe I can work with  
23 Marshall, and we can give what the paragraph  
24 addition would be to her before the 27th, which is  
25 the last day to protest. I believe the PAA order

1 just said this is the plan that -- this is where we  
2 are actually adopting a plan. I'm not sure what the  
3 protest would do to the PAA order that we had,  
4 because what she is really protesting is this PAA  
5 order. This will also be a PAA order. So I'm not  
6 sure if she needs to address -- to object to the  
7 first order or object to this order would be more  
8 appropriate.

9 **CHAIRMAN ARGENZIANO:** Okay. Commissioner  
10 Skop.

11 **COMMISSIONER SKOP:** Thank you, Madam  
12 Chair.

13 And to that point, as a point of procedure,  
14 again, I would look to our legal counsel. It would  
15 seem to me that the plan is embodied under the PAA  
16 that the Commission just approved, which is subject  
17 to being protested by any interested party as well as  
18 the protest period is still in existence for the PAA  
19 order that directed staff to go create this plan. So  
20 I guess you have two lingering PAA orders, but it  
21 seems the most applicable one with respect to the  
22 plan would be the one that the Commission just voted  
23 on. Is that correct?

24 **MR. JAEGER:** That's my understanding.  
25 They can protest either, but we will get another PAA

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order out on what you have done here today.

**COMMISSIONER SKOP:** All right. Thank you.

**CHAIRMAN ARGENZIANO:** Ms. Sullivan, did you get that?

**MS. SULLIVAN:** Yes, I did. Thank you.

**CHAIRMAN ARGENZIANO:** Okay. Thank you very much.

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STATE OF FLORIDA )

: CERTIFICATE OF REPORTER


COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 23rd day of April, 2010.

  
\_\_\_\_\_  
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