

**Ann Cole**


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**From:** Tim Devlin  
**Sent:** Monday, November 29, 2010 8:13 AM  
**To:** Ann Cole  
**Cc:** Chuck Hill; Mary Anne Helton; Marshall Willis; Bart Fletcher; Commissioners Advisors  
**Subject:** FW: Request for Oral Modification for Item No. 19, November 30, 2010, Commission Conference, Docket No. 100126-WU - CFAT H2O, Inc.

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**From:** Tim Devlin  
**Sent:** Monday, November 29, 2010 8:06 AM  
**To:** Andrew Maurey; Marshall Willis; Mary Anne Helton  
**Cc:** Cheryl Bulecza-Banks; Mark Cicchetti; John Slemkewicz; Dale Buys; Jay Donoho; Bart Fletcher; Keino Young; Jennifer Crawford  
**Subject:** RE: Request for Oral Modification for Item No. 19, November 30, 2010, Commission Conference, Docket No. 100126-WU - CFAT H2O, Inc.

Approved.

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**From:** Andrew Maurey  
**Sent:** Wednesday, November 24, 2010 3:09 PM  
**To:** Tim Devlin; Marshall Willis; Mary Anne Helton  
**Cc:** Cheryl Bulecza-Banks; Mark Cicchetti; John Slemkewicz; Dale Buys; Jay Donoho; Bart Fletcher; Keino Young; Jennifer Crawford  
**Subject:** FW: Request for Oral Modification for Item No. 19, November 30, 2010, Commission Conference, Docket No. 100126-WU - CFAT H2O, Inc.  
**Importance:** High

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**From:** Bart Fletcher  
**Sent:** Wednesday, November 24, 2010 2:59 PM  
**To:** Andrew Maurey  
**Cc:** Bart Fletcher  
**Subject:** Request for Oral Modification for Item No. 19, November 30, 2010, Commission Conference, Docket No. 100126-WU - CFAT H2O, Inc.  
**Importance:** High

Item 19 involves staff's recommendation to suspend final requested rates and to approve an interim rate increase for CFAT H2O, Inc. Staff requests approval to make an oral modification to the recommendation paragraph and staff analysis section for Issue 4, on Page 7. The requested modification is to reflect the correct percentage of water revenues to deposit in an escrow account in case the Utility chooses this option to secure the collection of interim rates. This requested modification has no other effects on Staff's recommendation. The two changes are in type and strike format, as well as highlighted in yellow, below:

**Issue 4:** What is the appropriate security to guarantee the interim increase?

DOCUMENT NUMBER - DATE

**CLK AGENDA  
 STAFF COPIED**

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FPSC-COMMISSION CLERK

11/29/2010

**Recommendation:** The Utility should be required to open an escrow account or file a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility shall deposit ~~49.25~~ ~~97.06~~ percent of water revenues into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$24,980. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and in accordance with Rule 25-30.360, F.A.C.

**Staff Analysis:** Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission. As recommended in Issue 2, the total annual interim increase is \$42,792. In accordance with Rule 25-30.360, F.A.C., staff has calculated the potential refund of revenues and interest collected under interim conditions to be \$24,980. This amount is based on an estimated seven months of revenue being collected from staff's recommended interim rates over the Utility's current authorized rates shown on Schedule No. 4.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed CFAT's 2007, 2008 and 2009 financial statements to determine the financial condition of the Utility. CFAT has inadequate liquidity, profitability, ownership equity, and interest coverage to guarantee any potential refund. Based on this analysis, staff recommends that CFAT be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refunds of water revenues. This brief financial analysis is only appropriate for deciding if the Utility can support a corporate undertaking in the amount proposed and should not be considered a finding regarding staff's position on other issues in this proceeding.

If the security provided is an escrow account, said account should be established between the Utility and an independent financial institution pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: that the account is established at the direction of the Commission for the purpose set forth above; that no withdrawals of funds should occur without the prior approval of the Commission through the Office of Commission Clerk; the account should be interest bearing; information concerning that escrow account should be available from the institution to the Commission or its representative at all times; the amount of revenue subject to refund should be deposited in the escrow account within seven days of receipt; and, pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla 3d DCA 1972), escrow accounts are not subject to garnishments.

If the security provided is an escrow account, the Utility shall deposit ~~49.25~~ ~~97.06~~ percent of water revenues into the escrow account each month. The escrow agreement should also state that if a refund to the customers is required, all interest earned on the escrow account should be distributed to the customers, and if a refund to the customers is not required, the interest earned on the escrow account should revert to the Utility.