100330-WS

FPSC-COMMISSION OLEPK

Diamond Williams

From: jennifer.gillis@hklaw.com

Sent: Thursday, December 16, 2010 4:30 PM

To: Filings@psc.state.fl.us

Cc: Katherine Fleming; Ralph Jaeger; Caroline Klancke; KELLY.JR@leg.state.fl.us; Charles Beck;

christensen patricia@leg.state.fl.us; kajoyce@aquaamerica.com; WTRendell@aquaamerica.com

Subject: 100330-WS - Electronic Filing

Attachments: 100330-WS - Objections.pdf a. Person responsible for this electronic filing:

D. Bruce May, Jr. Holland & Knight LLP Post Office Drawer 810 Tallahassee, FL 32302-0810 (850) 224-7000 bruce.may@hklaw.com

- b. Docket number and title for electronic filing are: Docket No. 100330-WS In Re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.
- c. The name of the party on whose behalf the document is filed: Aqua Utilities Florida, Inc. ("AUF")
- d. Total number of pages: 3
- e. Brief description of filing: AUF's Objections to OPC's Second Set of Interrogatories and Second Request for Production of Documents.

Jennifer Gillis | Holland & Knight

Sr Legal Secretary 315 South Calhoun Street, Suite 600 | Tallahassee FL 32301 Phone 850.425.5605 | Fax 850.224.8832 jennifer.gillis@hklaw.com | www.hklaw.com

Add to address book

To ensure compliance with Treasury Regulations (31 CFR Part 10, Sec. 10.35), we inform you that any tax advice contained in this correspondence was not intended or written by us to be used, and cannot be used by you or anyone else, for the purpose of avoiding penalties imposed by the Internal Revenue Code.

NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Docket No. 100330-WS

Dated: December 16, 2010

AQUA UTILITIES FLORIDA, INC.'S OBJECTIONS TO OPC'S SECOND SET OF INTERROGATORIES AND SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Florida Administrative Code Rule 28-106.206 and Rules 1.340 and 1.350, Florida Rules of Civil Procedure, serves its objections to the Second Set of Interrogatories ("ROGs") and Second Request for Production of Documents (PODs") propounded by the Office of Public Counsel ("OPC") on November 16, 2010.

1. To date, AUF has already answered OPC's First Set of ROGs (consisting of over 208 interrogatories including subparts) and OPC's First PODs (consisting of 101 PODs including subparts). AUF formally objected to OPC's First Set of ROGs and OPC's First PODs because that discovery far exceeded the numeric limits for interrogatories set forth in Florida Administrative Code Rule 28-106.206 and the Florida Rules of Civil Procedure, was oppressive, unduly burdensome and would cause rate case expense to customers to increase dramatically. Notwithstanding those objections and in a good faith effort to be as accommodating to OPC as possible, AUF proceeded to provide OPC with answers to 208 ROGs and responses to 101 PODs. In so doing, AUF has produced over 16,000 pages of documents to OPC and expended significant time, energy and monies through the discovery process.

DOCUMENT NUMBER DATE 09988 DEC 16 =

2. Without leave of the Commission, OPC has now served AUF with an additional set of ROGs and PODs that exceed the numeric discovery limits under the rules and are oppressive and unduly burdensome. Thus far, the excessive discovery propounded by OPC has already caused rate case expense to customers to increase dramatically. Responding to this additional discovery will drive rate case expense even higher.

3. This case is being processed pursuant to the Commission's proposed agency action ("PAA") procedures that were designed by the Legislature to streamline rate case proceedings and minimize rate case expense to customers. The volume of discovery propounded thus far in this case by OPC is unprecedented in a PAA proceeding and eviscerates the Legislature's objectives to control rate case expense. AUF has an obligation to mitigate rate case expense that ultimately will be passed on to its customers. Therefore, AUF does not intend to respond to OPC's Second Set of ROGs and PODs until receiving further direction from the Commission.

Dated this 16th day of December, 2010.

HOLLAND & KNIGHT LLP

D. Bruce May, Jr.

Gigi Rollini

Fla. Bar No. 684491 Holland & Knight LLP Post Office Drawer 810

Tallahassee, Florida 32302-0810

Phone: (850) 224-7000 Fax: (850) 224-8832

E-Mail: <u>bruce.may@hklaw.com</u> gigi.rollini@hklaw.com

-and-

Kimberly A. Joyce, Esquire Aqua America, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010 (610) 645-1077 (Telephone) (610) 519-0989 (Facsimile)

Attorneys for Aqua Utilities Florida, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by electronic transmission and U.S. Mail this 16th day of December, 2010 to:

Katherine Fleming/Ralph Jaeger/ Caroline Klancke Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 J.R. Kelly/Charles Beck/ Patricia Christensen Office of Public Counsel c/o The Florida Legislature 111 W Madison St, Room 812 Tallahassee, FL 32399-1400