

**Diamond Williams**

100330-WS

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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: 4

e. Brief description of filing: Aqua Utilities Florida, Inc.'s Response to Petition to Intervene by Lucy Wambsgan.

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**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 Filed: April 11, 2011
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**AQUA UTILITIES FLORIDA, INC.'S RESPONSE  
TO PETITION TO INTERVENE BY LUCY WAMBSGAN**

Pursuant to Rule 28-106.204, Florida Administrative Code, Aqua Utilities Florida, Inc. ("AUF"), hereby files its response to the amended motion for intervention filed by Lucy Wambsgan ("Mrs. Wambsgan") on April 4, 2011. Ms. Wambsgan alleges that she is a retail customer of AUF. AUF does not object to Ms. Wambsgan's intervention on that basis but asks that the Commission clarify its grant of intervention in two respects.

1. First, Mrs. Wambsgan should be advised that intervention does not permit her to raise arguments outside of the scope of this base rate proceeding. In Mrs. Wambsgan's petition, she lists the following as a disputed issue of material fact:

Should the Commission encourage AUF to divest its systems to counties and municipalities to facilitate consumers receiving quality water at an affordable price?

The Commission is a creature of statute and only has those powers that are conferred on it by statute. Any reasonable doubt as to the lawful existence of a particular power must be resolved against its exercise. *City of Cape Coral v. GAC Utilities, Inc. of Florida*, 281 So.2d 493, 495-6 (Fla. 1973). The Commission's authority to regulate private water and wastewater utilities is found exclusively in Chapter 367, Florida Statutes. Nothing in Chapter 367 empowers the Commission to require or encourage government takeover of private water and wastewater utilities like AUF. To the contrary, the Florida Legislature

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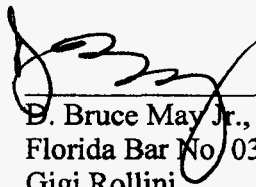
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has made it clear that Chapter 367 is designed to "encourage the private sector to participate in the investment in water and wastewater infrastructure." See § 367.0813, Fla. Stat. (2010). Accordingly, Mrs. Wambsgan's participation should be expressly limited to those issues within the jurisdiction and scope of this rate case proceeding, which is being conducted pursuant to Section 367.081(8), Florida Statutes. *See, In re: Petition for increase in rates by Florida Power & Light Company*, Docket No. 080677-EI; Order No. PSC-09-0280-PCO-EI (April 29, 2009) ("The decision to grant [retail customer] intervention should not be construed to permit him to raise arguments outside the scope of the issues the Commission determines to address in this rate proceeding.") *See also, In re: Petition for a rate increase in Martin County by Sailfish Point Utility Corporation*, Docket No. 900816-WS; Order No. 24486 (May 7, 1991) ("In granting intervention, we do so with the understanding that issues raised [by retail customer group] are to be relevant and directly related to this rate proceeding, and designed to foster our pursuit for a determination of rates which are just, reasonable, compensatory, and not unfairly discriminatory. We will not address issues which are outside the scope of this proceeding or which are beyond our jurisdiction.").

2. Second, Mrs. Wambsgan's petition recognizes that, as an intervenor, she takes the case as she finds it. *See* Rule 25-22.039, Florida Administrative Code. Furthermore, as an intervenor, Mrs. Wambsgan should be reminded that she is required to "comply with the same standards, rules, statutes, and procedures as all other parties to this proceeding and shall be required to stay within the scope of this proceeding as established through the issues, rules, and governing statutes." Order No. PSC-09-0280-PCO-EI, *supra* at p. 8.

Wherefore, AUF respectfully requests that the Commission clarify the proper scope of this proceeding and Ms. Wambsgan's participation therein as described above.

Respectfully submitted this 11<sup>th</sup> day of April, 2011.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail  
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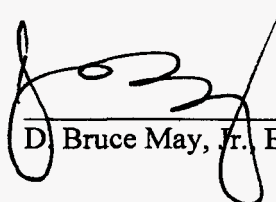
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