

**Diamond Williams**

100330-WS

**From:** Kelly Sullivan [kelly.sullivan.woods@gmail.com]  
**Sent:** Friday, July 01, 2011 4:56 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** bruce.may@hklaw.com; kajoyce@aquaamerica.com; christensen.patty@leg.state.fl.us; kenneth.curtin@arlaw.com; rloyd1@aol.com; wdco@comcast.net; beejays104@gmail.com; majordavis6@hotmail.com  
**Subject:** Electronic Filing (Docket 100330-WS)  
**Attachments:** Petition\_(Docket\_100330-\_WS).pdf  
 Electronic Filing

a. Person responsible for this electronic filing:

Ms. Kelly Sullivan - Attorney at Law  
 570 Osprey Lakes Circle  
 Chuluota, FL 32766-6658  
 Phone: (321) 287-5062  
 Email: [kelly.sullivan.woods@gmail.com](mailto:kelly.sullivan.woods@gmail.com)

b. Docket No. 100330-WS

In re: Application for increase in water/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.

c. Document being filed on behalf of:

Ms. Lucy Wambsgan  
 1222 La Salida Way  
 Leesburg, Florida 34748-8205

d. There are a total of 7 pages.

e. The document attached for electronic filing is: Petition (Docket 100330-WS).pdf

Thank you for your attention and cooperation to this request.

Sincerely,

s/ Kelly Sullivan  
 Kelly Sullivan - Attorney at Law  
 Attorney for Petitioner  
 Florida Bar No. 814024  
 570 Osprey Lakes Circle  
 Chuluota, FL 32766-6658  
 Phone: (321) 287-5062  
 Email: [kelly.sullivan.woods@gmail.com](mailto:kelly.sullivan.woods@gmail.com)

DOCUMENT NUMBER-DATE  
 04585 JUL-1 =  
 FPSC-COMMISSION CLERK\*

7/1/2011

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for increase in water/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: July 1, 2011

**PETITION PROTESTING PORTIONS OF PROPOSED AGENCY ACTION  
AND REQUESTING A FORMAL PROCEEDING**

Pursuant to sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.029 and 28-106.201, Florida Administrative Code, Ms. Lucy Wambsgan, through her undersigned attorney, hereby files a timely protest to Florida Public Service Commission (Commission) Order No. PSC-11-0256-PAA-WS, issued June 13, 2011 (PAA Order) and requests a formal proceeding on the disputed issues of material fact identified herein. In the PAA Order, the Commission approved, in part, water and wastewater increases for Aqua Utilities Florida, Inc. (AUF). In support thereof, the petitioner states as follows:

1. Name and address of the affected agency.

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

2. Name and address of the petitioner.

Ms. Lucy Wambsgan  
1222 La Salida Way  
Leesburg, Florida 34748-8205

3. Service. All pleadings, motions, orders and other documents directed to the petitioner should be served on:

DOCUMENT NUMBER-DATE  
04585 JUL-1 =  
FPSC-COMMISSION CLERK

Ms. Kelly Sullivan - Attorney at Law  
570 Osprey Lakes Circle  
Chuluota, FL 32766-6658  
Phone: (321) 287-5062  
Email: [kelly.sullivan.woods@gmail.com](mailto:kelly.sullivan.woods@gmail.com)

4. Notice of Docket. Petitioner is a formal party to the above captioned docket and was granted intervention on April 25, 2011. Petitioner received an electronic copy of the PAA Order on June 13, 2011.
  
5. Statement of Substantial Interests. Petitioner is a formal party to the above captioned docket and was granted intervention on April 25, 2011. Petitioner is a residential customer of Aqua Utilities Florida, Inc. (AUF), served by the Morningview system, and receives water and wastewater service at the above listed address. The AUF water and wastewater bill constitutes a significant portion of the petitioner's monthly household expense. The petitioner has a substantial interest in the above captioned docket as Commission approval of the rate increase requested by AUF will impact her water and wastewater rates. Accordingly, the proceeding in the above captioned docket directly coincides with the substantial interests of the petitioner to ensure that AUF rates are fair, just, and reasonable.
  
6. Standing. Petitioner is a formal party to the above captioned docket and was granted intervention on April 25, 2011. Petitioner is a residential customer of Aqua Utilities Florida, Inc. (AUF), served by the Morningview system, and receives water and wastewater service at the above listed address. Moreover, the petitioner's substantial interests are of the type that this proceeding is designed to protect. See, Agrico Chemical

Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2nd DCA 1981).

7. Disputed Issues of Material Fact. The disputed issues of material fact, including a concise statement of the ultimate facts alleged and those facts that the petitioner contends warrant reversal and/or modification of the agency's proposed action are discussed below. The Commission finding of marginal quality of service provided by AUF to AUF customers in the PAA Order should be set aside. The AUF quality of service should be found to be unsatisfactory. As a result, the Commission should reduce the authorized Return on Equity (ROE) for AUF by 100 basis points based upon the finding that the quality of service is unsatisfactory.

Petitioner further supports the contention of the Office of Public Counsel (OPC) that the rate base, Net Operating Income (NOI), and the revenue requirement approved in Order No. PSC-11-0256-PAA-WS were overstated. As a result of the rate base, NOI, and the revenue requirement being overstated, the resulting rates are unjust and unreasonable. Moreover, petitioner further asserts that the rates approved within the PAA Order are unaffordable and significantly exceed the affordability limits previously established by the Commission in Order No. PSC-09-0385-FOF-WS (\$65.25 for water systems; \$82.25 for wastewater systems). Specifically, the Commission completely ignores the previously established affordability limits in the PAA Order while maintaining the previously established subsidy limits from Order No. PSC-09-0385-FOF-WS. The failure of the Commission to acknowledge the previously established affordability limits within the PAA Order clearly illustrates the point that AUF rates are

already unaffordable and continue to increase with each rate case. Pursuant to Section 367.081 and Section 367.121, Florida Statutes, the Commission has the authority and duty to prescribe and fix just and reasonable rates and charges. Accordingly, adjustments should be made to the rate base, NOI, and revenue requirement to make the rates and charges just and reasonable for AUF customers.

Based upon the above, petitioner hereby protests the following portions of the PAA Order relating to the quality of service (including ROE reduction resulting from unsatisfactory quality of service), affordability, and rate case expense as disputed issues of material fact with a list of tentative issues as follows:

**A. Quality of Service**

- a. Is the quality of service provided by the AUF satisfactory?
- b. If the quality of service provided by AUF is found to be unsatisfactory, should the Commission reduce the authorized Return on Equity (ROE) for AUF by 100 basis points?

**B. Affordability**

- a. Do the proposed rates exceed the affordability limits previously established by the Commission in Order No. PSC-09-0385-FOF-WS (\$65.25 for water systems, and \$82.25 for wastewater systems) for AUF customers?<sup>1</sup>
- b. What are the appropriate rate cap thresholds (affordability limits) to be used to cap residential customer bills for the water and wastewater systems?

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<sup>1</sup> Order No. PSC-09-0385-FOF-WS at 128.

### **C. Rate Case Expense**

- a. What is the appropriate amount of rate case expense?

Furthermore, petitioner hereby protests any fallout issues resulting from the portions of the PAA Order protested above. Petitioner further supports the protest of OPC regarding portions of the PAA Order relating to the rate base, NOI, and revenue requirement approved in Order No. PSC-11-0256-PAA-WS. Moreover, petitioner reserves her right to fully participate in the hearing process and to take positions with respect to any additional issues raised by any other party's protest or cross-petition in this docket.

8. Pursuant to Section 120.80(13)(b), Florida Statutes, a Section 120.57 hearing may address only those issues in dispute, and any other issues not in dispute are deemed stipulated. Petitioner reserves her right to take positions with respect to any additional issues raised by any other party's protest or cross-petition in this docket.
9. By Order No. PSC-11-0256-PAA-WS, any protest to the PAA Order shall be filed with the Office of the Commission Clerk no later than the close of business on July 5, 2011. Accordingly, this petition has been timely filed.
10. Petitioner requests that the Commission set the Proposed Agency Action, Order No. PSC-11-0256-PAA-WS, for formal hearing as requested herein. Petitioner further joins OPC in specifically requesting that along with the required service hearings, that the technical hearing and a special agenda for voting on final rates be held at a location within AUF's

service territory (i.e., Pasco, Lake, or Seminole county) rather than Tallahassee in order to afford AUF ratepayers the opportunity to participate in this proceeding.

**WHEREFORE**, the petitioner, through her undersigned counsel, hereby files a timely protest to Commission Order No. PSC-11-0256-PAA-WS and requests a formal hearing on the disputed issues of material fact identified herein pursuant to Section 120.57(1), Florida Statutes, at a location within the AUF service territory most centrally located to the customers affected by the PAA Order.

s/ Kelly Sullivan  
Kelly Sullivan - Attorney at Law  
**Attorney for Petitioner**  
Florida Bar No. 814024  
570 Osprey Lakes Circle  
Chuluota, FL 32766-6658  
Phone: (321) 287-5062  
Email: [kelly.sullivan.woods@gmail.com](mailto:kelly.sullivan.woods@gmail.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following via Electronic Mail this 1st day of July, 2011 to all parties of record as indicated below.

s/ Kelly Sullivan  
Kelly Sullivan - Attorney at Law  
**Attorney for Petitioner**  
Florida Bar No. 814024  
570 Osprey Lakes Circle  
Chuluota, FL 32766-6658  
Phone: (321) 287-5062  
Email: [kelly.sullivan.woods@gmail.com](mailto:kelly.sullivan.woods@gmail.com)

<p>Holland &amp; Knight, LLP D. Bruce May, Jr./Gigi Rollini Post Office Drawer 810 Tallahassee, FL 32302-0810 Phone: (850) 224-7000 Fax: (850) 224-8832 Email: <a href="mailto:bruce.may@hklaw.com">bruce.may@hklaw.com</a></p> <p>Aqua America, Inc. Kimberley A. Joyce, Esq. 762 West Lancaster Avenue Bryn Mawr, PA 19010 Phone: (610) 645-1077 Fax: (610) 519-0989 Email: <a href="mailto:kajoyce@aquaamerica.com">kajoyce@aquaamerica.com</a></p> <p>Aqua Utilities Florida, Inc. 1100 Thomas Ave Leesburg, FL 34748 Phone: (352) 435-4024 Fax: (352) 787-6333 Email: <a href="mailto:kajoyce@aquaamerica.com">kajoyce@aquaamerica.com</a></p> <p>Office of Public Counsel J.R. Kelly/Patricia Christensen c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 Phone: (850) 488-9330 Email: <a href="mailto:christensen.patty@leg.state.fl.us">christensen.patty@leg.state.fl.us</a></p>	<p>Adams and Reese Law Firm Kenneth M. Curtin, Esq. 150 Second Avenue North, Suite 1700 Saint Petersburg, FL 33701 Phone: (727) 502-8261 Fax: (727) 502-8961 Email: <a href="mailto:kenneth.curtin@arlaw.com">kenneth.curtin@arlaw.com</a></p> <p>Robert Lloyd P.O. Box 63 Captiva, FL 33924 Phone: (239) 395-3771 Fax: (954) 301-5887 Email: <a href="mailto:rlloyd1@aol.com">rlloyd1@aol.com</a></p> <p>William Coakley 5934 Lake Osborne Drive Lantana, FL 33461 Phone: (561) 385-8959 Email: <a href="mailto:wco@comcast.net">wco@comcast.net</a></p> <p>William Jordan 104 Orange Drive East Palatka, FL 32131 Phone: 386-326-0897 Email: <a href="mailto:Beejays104@gmail.com">Beejays104@gmail.com</a></p> <p>Pat Davis 102 Orange Drive East Palatka, FL 32131 Phone: 386-328-9092 Email: <a href="mailto:majordavis6@hotmail.com">majordavis6@hotmail.com</a></p>
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