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Subject: 100330-WS Electronic Filing
Attachments: Motion for Temporary Protective Order (2).pdf

a. Person responsible for this electronic filing:

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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, Hardee, 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 Motion to Temporary Protective Order.

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9/21/2011

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: September 20, 2011
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**AQUA UTILITIES FLORIDA, INC.'S
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Aqua Utilities Florida, Inc. ("AUF"), pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, hereby moves the Commission for a temporary protective order to exempt from Section 119.07(1), Florida Statutes, certain confidential information in AUF's supplemental responses to the Office of Public Counsel's ("OPC's") Seventh Request for Production of Documents ("PODs") Nos. 175 and 194. As grounds for its request, AUF states:

1. In POD No. 175, OPC seeks all analyses undertaken by or for AUF "that demonstrate the economies of scale provided by AAI's (and ASI's) common ownership of numerous companies." AAI refers to Aqua America, Inc., the parent of AUF. ASI refers to AUF's affiliate, Aqua Services, Inc. The document responsive to this request includes information about salaries of employees of AUF, AAI and ASI (collectively the "AUF entities"), which the AUF entities treat as strictly confidential to prevent other competing utility companies from luring these key employees away. This information is also kept strictly confidential by the AUF entities in order to maintain morale and prevent internal disputes among employees that have similar positions but different salaries.

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2. In POD No. 194, OPC requests all supporting workpapers and source documents for the total customer service charges of Aqua America, Inc. during the test year. As with POD No. 175, one of the documents responsive to this request contains information about employee salaries, which AUF and Aqua America, Inc. treat as strictly confidential for the same reasons described above. Namely, protecting this information prevents competitors from recruiting and hiring away AUF's and Aqua America, Inc.'s employees, and improves morale by not making internal salary differences transparent.

3. With respect to the salary information at issue in documents responsive to POD Nos. 175 and 194, this information is exempt from Florida's Public Records Act pursuant to Sections 367.156(3)(d) and/or (3)(e), Florida Statutes.¹ The First District Court of Appeal has ruled that this type of competitively sensitive employee compensation information is proprietary confidential business information and should be protected from public disclosure. *See Fla. Power & Light Co. v. Pub. Serv. Comm'n*, 31 So. 3d 860, 864-66 (Fla. 1st DCA 2010). Moreover, disclosure of this confidential employee compensation information would violate those employees' rights of privacy guaranteed by Article I, Section 23, of the Florida Constitution.

4. Rule 25-22.006(6)(c), Florida Administrative Code, specifically permits a utility to agree to allow OPC to inspect or take possession of information for the limited purpose of determining whether that information will be used in a proceeding, and to seek a temporary protective order to ensure the confidentiality of such material during that process.

¹ § 367.156(3), Fla. Stat. defines proprietary confidential business information as: "information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public."

5. Pursuant to Rule 25-22.006(6)(c), AUF agrees to make the requested documents available to OPC for inspection to determine whether any of the confidential information will be used in any proceeding in the instant case, and seeks a temporary protective order to ensure the confidentiality of such material related to that inspection. AUF will also make such documents available to Commission Staff for review upon issuance of the temporary protective order.

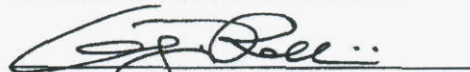
6. Rule 25-22.006(6)(c) prohibits OPC's retention of confidential information if OPC determines such information will not be used in a proceeding before the Commission. AUF requests that the Commission require OPC to promptly notify AUF if, after inspection, it intends to use AUF's confidential information at hearing so that AUF has fair opportunity to move for a full protective order under Rule 25-22.006(6)(a). *See Fla. Admin. Code R. 25-22.006(6)(c)* ("If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under [Rule 25-22.006(6)](a) above.").

7. The undersigned has conferred with counsel for OPC, and is authorized to represent that OPC does not object to the granting of this Motion.

WHEREFORE, AUF respectfully requests that the Commission enter a temporary protective order protecting against public disclosure the confidential information provided by AUF in response to OPC's Seventh Request for Production of Documents Nos. 175 and 194.

Respectfully submitted this 20th day of September 2011, by:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by e-mail and

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