**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Application for Authority to Transfer ) Docket No. 110061-WS

 the Assets of Service Management Systems, Inc., )

and Certificate Nos. 517-W and 450-S in Brevard County, )

Florida to Aquarina Utilities, Inc. )

 **James I. Minnes’ Response to Aquarina Utilities Inc.**

 **Motion to Dismiss Reply**

James I. Minnes hereby responds to Aquarina Utilities, Inc., (“AUI”) Motion to Dismiss my Reply to AUI’s Response to My Motion to Compel AUI to Produce Documents as follows:

1. AUI’s Response raises new issues and allegations which make it necessary and appropriate in these circumstances to join issue by way of a Reply.
2. AUI has chosen to raise in its Response issues and allegations pertaining to: (i) the incorporation of a non-profit community corporation the members of which are customers of the utility, (ii)an attempt by the non-profit corporation to purchase the utility on behalf of and for the members of the community, (iii) an inadmissible and ambiguous opinion from OPC on the Burges financial statement, and (iv) inflammatory allegations of threats and harassment, of which I have no knowledge and a presumptive conclusion of a future breach of confidentiality for which there is no reason or basis given.
3. AUI by raising such allegations and issues in its Response , as they are in dispute, must necessarily be joined, denied and a brief factual description of the actual circumstances be provided by Reply , free of AUI’s fictional surmising of motive, intention, and future conduct.
4. AUI has made the bald statement that AUI’s and the Burges financial documentation is “proprietary confidential information”, and relies solely upon that statement for its request for confidentiality. While such a claim is necessary for a confidentiality request pursuant to Rule 25-22.006 (4)(c), F.A.C. and Section 364.183 (3), Florida Statutes, it is not sufficient to overcome the Florida law presumption that documents submitted to governmental agencies shall be public records.
5. For AUI to be entitled to an Order from the Commission granting AUI’s request for confidential classification of these financial documents, it is by statute, the further burden of AUI to demonstrate how and that the ”… disclosure of the financial information sought will cause AUI or its ratepayers harm.” (Section 364.183, Florida Statutes). At no time has AUI done so or even attempted to do so. This failure of AUI is fatal to its request and its request for confidentiality ought to be denied by the Commission.
6. No documents have been produced by AUI to date.

All of which is respectfully submitted this 4th day of November, 2011, by:

 s/James I. Minnes 25Grovehurst Drive, Ottawa, Ont

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 **Certificate of Service**

 Docket No. 110061-WS

I Hereby Certify that a true copy of the foregoing Response to AUI’s Motion to Dismiss Reply has been filed with the PSC Clerk and furnished to the following parties by e-mail and regular mail this 4th day of November, 2011:

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