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**Sent:** Friday, December 30, 2011 5:01 PM  
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**Subject:** Attorney General's Post-hearing brief in Docket No. 100330-WS  
**Attachments:** AG's Post-Hearing Brief.pdf



(See attached file: AG's Post-Hearing Brief.pdf)

**Electronic Filing**

a. Person responsible for this electronic filing:

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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 for the Attorney General on behalf of the Citizens of Florida

d. The document(s) attached for electronic filing:  
Attorney General's Post-Hearing Brief in the above mentioned docket.

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**DOCUMENT NO.    DATE**  
00019-12    1/3/12  
**FPSC - COMMISSION CLERK**

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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.

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DOCKET NO. 100330-WS

December 30, 2011

**ATTORNEY GENERAL'S POST-HEARING BRIEF**

Cecilia Bradley  
Senior Assistant Attorney General

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The Capitol-PL01  
Tallahassee, FL 32399-1050

Attorney for Attorney General  
Pamela Jo Bondi on behalf of the  
Citizens of Florida

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DOCKET NO. 100330-WS

December 30, 2011

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**ATTORNEY GENERAL'S POST-HEARING BRIEF**

Attorney General Pamela Jo Bondi, through undersigned counsel and pursuant to the Order Establishing Procedure in this docket, Order No. PSC-11-0309-PCO-WS, issued July 25, 2011, submits this Post-Hearing Brief.

**STATEMENT OF BASIC POSITION**

**ISSUES AND POSITIONS**

**QUALITY OF SERVICE**

**Issue 1:** What is AUF's quality of service?

**AG:** \*AUF's quality of service is unsatisfactory. AUF has on-going poor water quality issues, billing problems, and poor customer service.\*

During the Public Hearings on this case, numerous customers testified that AUF's overall quality of service is unsatisfactory. This has been an on-going problem since the last rate request and many of the same problems have persisted.

The unsatisfactory water quality compounds the excessive rates of AUF. If the water quality was satisfactory, the customers would not mind the cost of water as much but they testified that they are paying excessive rates for water they cannot use.

As Citizens' witness Vandiver testified, of the 156 speakers at the customer meetings held in October and November 2010, 27% complained about the poor quality of the plant maintenance, including unkempt property, odors from plant facilities, line breaks, and malfunctioning lift station alarms. (TR 638) She also stated that 35% addressed the poor customer service related to rude customer service representatives, billing problems, and

difficulties in reaching a Company representative in an emergency situation. (TR 638) Despite the Company being under a Monitoring Plan during the historic test year, the customer complaints did not decrease significantly in 2010, only 19% when compared to the previous year. (TR 638)

During the Service Hearings held in August, September and October 2011, the customers were still complaining about the poor quality of plant maintenance, water quality, and customer service. Citizens' witness Dismukes testified that she reviewed both the complaints from the 2010 customer meetings and the 2011 Service Hearings, and determined that the complaints were of a similar nature. (TR 1257) Witness Poucher also reviewed the Service Hearing testimony and PSC complaints. (TR 724, 1425) He stated that AUF complaints were 44% of the total water and wastewater complaints received by the PSC in 2010. (TR 911-912)

The customers testified under oath that they have been unable to drink the water, cook with the water and bathe with the water in some cases. Customers also testified under oath that they had made great sacrifices to conserve water including not bathing every day; not participating in activities that would require them to bathe; bathing or flushing toilets with spouses; not flushing the toilet every time they used the bathroom; saving water from the shower to flush the toilet; and not letting family members visit because they could not afford for them to bathe and use the water they would need while visiting. Customers also testified about the water heaters, appliances and faucets they frequently had to replace because of poor water quality.

One customer testified that he had experience drilling wells and when they drilled wells with the amount of sediment found in AUF's water, they were required to drill deeper to avoid such unsatisfactory water quality. (TR. Gainesville Service Hearing page 157.)

The poor water quality of AUF's water has had a huge impact on the customers, small business owners and the communities they serve. The poor water quality coupled with the high rates has resulted in numerous customers who rented their homes moving out of the area. A number of customers who own their homes testified that they could not afford the water but were unable to sell their homes because potential buyers did not want to buy homes in an area where the water was supplied by Aqua. In addition, there was testimony about a customer who was unable to pay her water bills and finally had her home demolished. (TR page 133)

### Billing Issues

The AG adopts the statement of the OPC on billing but would add that the unreasonably high bills have greatly impacted customers. Many customers serviced by AUF are struggling to make ends meet in these difficult economic circumstances and getting bills for hundreds or thousands of dollars makes it impossible for these customers to pay their bills. Although AUF offers payment plans, having to pay the plans additional charges in addition to their high bills is more than many customers can bear. The customers also testified about being told that once they were on a payment plan, their water would be cut off if they were “a penny short or a day late” with the payment.

The AG would also note that customers have gone to extremes to get a timely and accurate bill, including repeatedly calling and holding for extended periods of time.

#### Customer Service Quality

The AG adopts the statement of the OPC on customer service and would add that a number of customers complained about customer service. Despite the fact that AUF witnesses indicated that they had listened to some of the customer calls, they conceded that they do not use third-party verifiers. It is the Attorney General’s position that the use of an independent verifier would assist AUF by identifying areas of concern and improve customer service resulting in decreased costs and happier customers who feel their complaints are taken seriously.

#### Water Quality and DEP

The AG adopts the statement of the OPC on Water Quality and DEP and would add that water safety should be of great concern to this Commission. The DEP witnesses identified on-going concerns about water safety and the perception of many customers is that the water is not safe to drink. We would urge this Commission to take steps to monitor the safety of AUF water and take whatever steps may be necessary to ensure that customers can feel safe to drink the water and use it for cooking and bathing.

#### Conclusion

The customers deserve clean and safe water and confidence that the water they pay for meets those requirements. At these time, AUF water does not satisfy those requirements and this Commission should take steps to ensure that AUF water is improved to satisfy these concerns.

**Issue 2:** What, if any, additional actions should be taken by the Commission based on AUF's quality of service?

**AG:** \*The AG adopts the position of OPC.

### **RATE BASE**

**Issue 3:**

What is the appropriate amount of pro forma plant, and related depreciation and property taxes, for the following specific protested pro forma plant projects; Breeze Hill Wastewater I&I Project, Lake Josephine and Sebring Lakes AdEdge Water Treatment Project; Leisure Lakes AdEdge Water Treatment Project; Peace River Water Treatment Project; Tomoka Twin Rivers Water Treatment Plant Tank Lining Project; Sunny Hills Water System Water Tank Replacement Project?

**AG:** The AG adopts the position of the OPC.

**Issue 4:**

What are the appropriate used and useful percentages or the associated composite used and useful percentages for the following specific protested water treatment and related facilities of Arredondo Estates, Arredondo Farms Breeze Hill, Carlton Village, East Lake Harris/Friendly Center, Fern Terrace, Hobby Hills, Interlachen/Park Manor, Lake Josephine/Sebring Lakes, Picciola Island, Rosalie Oaks, Silver Lake Estates/Western Shores, Tomoka View, Twin Rivers, Venetian Village, Welaka, and Zephyr Shores?

**AG:** The AG adopts the position of the OPC.

**Issue 5:**

What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested water distribution systems of Arredondo Estates, Arredondo Farms, Beecher's Point, Breeze Hill, Fairways, Gibsonia Estates, Interlachen/Park Manor, Kingswood, Oakwood, Orange Hill/Sugar Creek, Palm Port, Palms Mobile Home Park, Peace River, Piney Woods, Ravenswood, River Grove, Rosalie Oaks, Silver Lake Estates/Western Shores, Silver Lake Oaks, Skycrest, Stone Mountain, Sunny Hills, The Woods, Twin Rivers, Venetian Village, Village Water, Welaka, and Wootens?

**AG:** The AG adopts the position of the OPC.

**Issue 6:**

What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested wastewater treatment and related facilities of Arredondo Farms, Breeze Hill, Fairways, Florida Central Commerce Park, Holiday Haven, Jungle Den, Kings Cove, Leisure Lakes, Morningview, Palm Port, Peace River, Rosalie Oaks, Silver Lake Oaks, South Seas, Summit Chase, Sunny Hills, The Woods, Valencia Terrace, Venetian Village, and Village Water?

**AG: The AG adopts the position of the OPC.**

**Issue 7:** What are the appropriate used and useful percentages and the associated composite used and useful percentages for the following specific protested wastewater collection systems of Beecher's Point, Breeze Hill, Fairways, Holiday Haven, Jungle Den, Peace River, Rosalie Oaks, Silver Lake Oaks, Sunny Hills, The Woods, and Village Water?

**AG: The AG adopts the position of the OPC.**

**Issue 8.** Should any adjustment be made to deferred Rate Case expense? (Fallout Issue)

**AG: The AG adopts the position of the OPC.**

**Issue 9:**

What is the appropriate Working Capital allowance? (Fallout Issue)

**AG: The AG adopts the position of the OPC.**

**Issue 10:**

What is the appropriate rate base for the April 30, 2010, test year? (Fallout Issue)

**AG: The AG adopts the position of the OPC.**

**COST OF CAPITAL**

**Issue 11:**

What is the appropriate amount of accumulated deferred taxes to include in the capital structure? (Fallout Issue)

**AG: \* The AG adopts the position of the OPC.**

**Issue 12:**

What is the appropriate Commission-approved leverage formula to use in the case?

**AG: No position.**



**Issue 13:**

What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure? (Fallout Issue)

**AG:** No position.

**NET OPERATING INCOME**

**Issue 14:** What are the appropriate billing determinants for the test year?

**AG:** The AG adopts the position of the OPC.

**Issue 15:**

What is the appropriate amount of test year revenues? (Fallout Issue)

**AG:** The AG adopts the position of the OPC.

**Issue 16:**

Should adjustments be made to the allocation methodology used to allocate costs and charges to AUF by Aqua America, Inc. and its affiliates?

**AG:** The AG adopts the position of the OPC.

**Issue 17:**

Should any adjustments be made to affiliate revenues, costs and charges allocated to AUF's systems?

**AG:** The AG adopts the position of the OPC.

**Issue 18:**

What is the appropriate amount of Corporate Information Technology ("IT") charges allocated to AUF by its parent, Aqua America, Inc.?

**AG:** The AG adopts the position of the OPC.

**Issue 19:**

Should any adjustments be made to Incentive Compensation?

**AG:** The AG adopts the position of the OPC.

**Issue 20:**

Should any adjustments be made to Salaries and Wages - Employees expense?

**AG:** The AG adopts the position of the OPC.

**Issue 21:**

Should any adjustments be made to Bad Debt expense?

**AG:** The AG adopts the position of the OPC.

**Issue 22:**

What is the appropriate amount of rate case expense?

**AG:** The AG adopts the position of the OPC

**Issue 23:** What is the test year pre-repression water and wastewater operating income or loss before any revenue increase? (Fallout Issue)

**AG:** The AG adopts the position of the OPC.

**Issue 24:**

Are the total operating expenses prudently incurred such that the resulting rates are affordable within the meaning and intent of fair, just, and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes? [AUF does not agree that this is an appropriate issue]

**AG: DELETED**

**REVENUE REQUIREMENT**

**Issue 25:**

What is the appropriate pre-repression revenue requirement for the April 30, 2010, test year? (Fallout Issue)

**AG:** The AG adopts the position of the OPC.

**RATES AND CHARGES**

**Issue 26:** What are the appropriate rate cap thresholds to be used to cap residential customer bills for the water and wastewater systems?

**AG: DELETED**

**Issue 27:**

What are the appropriate rate structures for the Utility's water and wastewater systems? (Fallout Issue)

**AG:** No position

**Issue 28:**

What is the appropriate level of rate consolidation for the water systems in this case? (Fallout Issue)

**AG:** No position

**Issue 29:**

What is the appropriate level of rate consolidation for the wastewater systems in this case? (Fallout Issue)

**AG:** No position

**Issue 30:**

What are the appropriate resulting repression adjustments for this Utility? (Fallout Issue)

**AG:** No position

**Issue 31:**

What are the appropriate monthly rates for the water and wastewater systems for the Utility? (Fallout Issue)

**AG:** No position

**Issue 31A** Are the resulting rates affordable within the meaning of fair, just and reasonable pursuant to Sections 367.081 and 367.121, Florida Statutes?"

**AG:** No. The AG adopts the position of the OPC and would add that many customers testified that they cannot afford this rate increase. This differs from the AUF comments that no one likes a rate increase. It is not an issue of "like" but one of necessity. These customers need water to live and many cannot afford the cost after making extreme sacrifices to reduce their water use. This rate increase comes less than a year after the effective date of the last unprecedented increase granted AUF. In these difficult economic circumstances, this kind of rate increase cannot be borne by the customers.

**OTHER ISSUES**

**Issue 32:**

What are the appropriate allowance for funds prudently invested charges for the Utility's Breeze Hill wastewater treatment plant? (Fallout Issue)

**AG:** No position

**Issue 33:**

What are the appropriate customer deposits for the Utility? (Fallout Issue)

**AG:** No position

**Issue 34:**

What is the appropriate four-year rate case expense reduction for Docket No. 080121-WS? (Fallout Issue)

**AG:** The appropriate four-year rate case expense reduction for Docket No. 080121-WS should be as ordered in PSC-09-0385-FOF-WS.\*

**Issue 35:** In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any? (Fallout Issue)

**AG:** No position

**Issue 36:** In determining whether any portion of the implemented PAA rates should be refunded, how should the refund be calculated, and what is the amount of the refund, if any? (Fallout Issue)

**AG:** No position

**Issue 37:**

What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense for the instant case as required by Section 367.0816, F.S.? (Fallout Issue)

**AG:** The AG adopts the position of the OPC.

**Issue 38:**

In accordance with Order No. PSC-10-0707-FOF-WS, what is the amount and who would have to pay the regulatory asset (or deferred interim revenues), if it is ultimately determined by the Commission that the Utility was entitled to those revenues when it first applied for interim rates?

**AG:** No position

**Issue 39:**

Should this docket be closed?

**AG:** The AG adopts the position of the OPC.

Dated this 30th day of December, 2011.

Respectfully submitted,

/s/ Cecilia Bradley

Cecilia Bradley

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**CERTIFICATE OF SERVICE**

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

30th day of December, 2011 to:

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