

**Eric Fryson**

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**From:** Dana Rudolf [drudolf@sflaw.com]  
**Sent:** Tuesday, October 30, 2012 2:18 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Martin Friedman; SAYLER.ERIK@leg.state.fl.us; Martha Barrera; Lisa Bennett  
**Subject:** Docket No. 110200-WU; Application for increase in water rates in Franklin County by Water Management Services, Inc.

**Attachments:** Motion to Dismiss OPC Protest FINAL.pdf

- a) Martin S. Friedman, Esquire  
Sundstrom, Friedman & Fumero, LLP  
766 North Sun Drive, Suite 4030  
Lake Mary, FL 32746  
(407) 830-6331  
[mfriedman@sflaw.com](mailto:mfriedman@sflaw.com)
- b) Docket No. 110200-WU  
Application for increase in water rates in Franklin County by Water Management Services, Inc.
- c) Water Management Services, Inc.
- d) 16 pages
- e) Motion to Dismiss Office of Public Counsel's Petition Protesting Portions of Proposed Agency Action

DOCUMENT NUMBER DATE

07359 OCT 30 2012

FPSC-COMMISSION CLERK

10/30/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in  
Water Rates in Franklin County by  
Water Management Services, Inc.

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Docket No. 110200-WU

**WATER MANAGEMENT SERVICES INC.'S MOTION TO DISMISS OFFICE OF  
PUBLIC COUNSEL'S PETITION PROTESTING PORTIONS OF  
PROPOSED AGENCY ACTION**

WATER MANAGEMENT SERVICES, INC. ("WMSI"), by and through its undersigned attorneys, files this Motion to Dismiss the Petition Protesting Portions of Proposed Agency Action filed by Office of Public Counsel ("OPC") and in support thereof states:

1. On September 12, 2012, OPC filed a protest of Florida Public Service Commission ("PSC") Order No. PSC-12-0435-PAA-WU on behalf of "the Citizens of the State of Florida." For such citizens to have standing to protest as substantially affected persons, they must be customers of WMSI. Pursuant to Section 350.0611, Florida Statutes, OPC has the duty to provide representation of the people of the state in proceedings before the PSC. Thus, it is clear that OPC in and of itself does not have any standing, but derives its standing from being a representative of the "people of the State." In order for such "people of the State" to have standing to protest the PAA Order in this case, they must be customers of WMSI.

2. WMSI has just learned that OPC filed its protest in this matter on its own and without having any customer client. In fact, OPC's protest is not in the best interest of the customers. Walter Armistead, a prominent member of the island group that has appeared before the PSC in opposition to WMSI's rate cases, asked WMSI when construction of the new ground storage tank was going to commence. When he was told that due to OPC's Protest, commencement of

construction would have to await the resolution of that protest, Mr. Armistead contacted OPC and was told no customers had asked OPC to protest the PAA Order and that OPC had done so "on its own."

3. It was surprising that customers would protest the PAA Order, as prior to OPC's protest, WMSI met with members of the civic association which was the driving force behind the opposition to WMSI's rate case. That civic association is interested in acquiring WMSI's water system and had requested that WMSI sign a letter of intent and agree to work with the civic association in providing financial information. At that time, the representatives of the civic association assured WMSI that they would not protest and the civic association and WMSI are currently working together in a cooperative effort for them to purchase the water system. The result of this protest by OPC will drive up the cost of the water system even if the PAA Order is confirmed. The rate case expense will have to be rolled into the purchase price because WMSI would not be able to recover the rate case expense unless it owns the water system for another four years. Mason Bean, the President of the St. George Island Civic Club, recently confirmed to the President of WMSI that the Civic Club is not and was not involved in OPC's protest. Mr. Bean also stated that he did not know of anyone on the island that was part of the protest.

4. As has been expected from the outset, this is nothing but a witch hunt by OPC against WMSI and Mr. Brown personally, as is clear from OPC's primary issue being Account 123, and its allegation that Mr. Brown has taken ratepayer funds. This is further evidenced by the fact that an OPC attorney has made repeated contacts with Fidelity Bank, from whom WMSI was applying for a loan, in an effort to sabotage the loan. Initially, Fidelity was positive about WMSI's loan prospects and had agreed to wait until the Commission established final rates before taking action

on the loan request. However, when OPC learned the identity of the Fidelity loan officer through their involvement in this proceeding, an OPC attorney started feeding that loan officer negative information about WMSI and Gene Brown. Among other things, the OPC attorney told the Fidelity loan officer, Tom Hurdman, that: (a) WMSI did not have sufficient cash flow to make its debt service payments; and (b) WMSI was "not making the required payments" on its loan from DEP. See Exhibit "A" attached. After Tom Hurdman left Fidelity Bank and WMSI's loan application was turned over to Joe Arie, a Fidelity loan officer in Orlando, the same OPC attorney called Mr. Arie and provided him with additional negative information about WMSI and Gene Brown. Among other things, the OPC attorney told the new Fidelity loan officer in an email with attachments that: (a) WMSI was not using the funds authorized for debt payments to actually make those debt payments; (b) that WMSI was in default on its loan from DEP; and (c) that DEP would not subordinate its loan to a USDA guaranteed loan from Fidelity Bank. See exhibit "B" attached. When the Fidelity loan officer, Joe Arie, failed to respond to the attached email from the OPC attorney, the attorney called him again. At that time, Mr. Arie told the OPC attorney that he could not discuss WMSI's application because that would involve confidential financial information between the bank and its customer. During that conversation, the OPC attorney made additional statements about WMSI and Gene Brown that were "not positive" according to the loan officer. The attorney then called Joe Arie's boss at Fidelity Bank in Atlanta. Shortly after that call, Joe Arie called Gene Brown, President of WMSI, and told him: "Your loan deal is dead. Erik Sayler just called my boss in Atlanta." This was the first conversation between Gene Brown and Joe Arie since an earlier one-hour very positive conversation in which there was general agreement to wait until after the PAA Order to proceed with the loan application review. The

actions of OPC in contacting WMSI's proposed lender is certain unprofessional and contrary to the legislative purpose in creating OPC, and is probably legally actionable. The denial of the loan to WMSI was even though Fidelity Bank had previously advised WMSI that it was awaiting the issuance of the PAA Order before making a decision. Only one logical conclusion can be drawn from Fidelity Bank not awaiting the issuance of the PAA Order: OPC's negative information killed WMSI's chances of obtaining a loan from Fidelity Bank. So while OPC is asserting Mr. Brown's mismanagement of WMSI, it is at the same time seeking to fulfill its prophecy by contacting prospective lenders and trying to kill its financing of the project approved in the PAA Order and not protested. This is directly adverse to the interests of WMSI's customers who need this project to be assured continued water service and fire flow.

5. OPC and its attorneys have used the confidential financial and banking information to thwart WMSI's financing efforts and WMSI is understandably concerned that OPC and its attorney will attempt to undermine its existing banking relationships. In email correspondence to customers during the pendency of the PAA case, OPC's attorney continually told customers that Mr. Brown had taken money belonging to ratepayers. OPC's attorney danced around accusing Mr. Brown of criminal activity but did make reference in email correspondence to possible criminal violations, including potential bank fraud. Such rabble-rousing comments are not only untruthful and inappropriate for OPC to raise, but damaging to WMSI's business and Mr. Brown's personal reputation with existing and prospective lenders and vendors. Once OPC's protest is resolved, there is a small 18-month window for WMSI to obtain financing and complete the improvements. WMSI is concerned that if not ordered by the Commission not to do so, OPC and its attorney will continue their insidious efforts to damage WMSI's opportunities to obtain

that critical financing.

6. If, at the time of filing its protest, OPC was representing customers at their request, it should be made to disclose such person(s) so that it can be determined that they are substantially interested persons entitled to demand a formal administrative hearing. In absence of such persons, OPC has no standing to protest the PAA Order, and its Protest must be dismissed.

WHEREFORE, WATER MANAGEMENT SERVICES, INC., requests this Commission issue an order dismissing OPC's Protest, and directing OPC not to have any contact with WMSI's prospective lenders.

Respectfully submitted on this 30<sup>th</sup> day of  
October, 2012, by:

SUNDSTROM, FRIEDMAN & FUMERO, LLP  
766 North Sun Drive, Suite 4030  
Lake Mary, FL 32746  
PHONE: (407)830-6331  
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[mriedman@sflaw.com](mailto:mriedman@sflaw.com)



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MARTIN S. FRIEDMAN  
For the Firm

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 110200-WU**

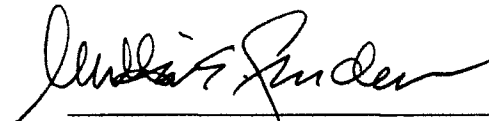
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U.S. Mail and E-mail to the following parties this 30<sup>th</sup> day of October, 2012:

Erik Sayler, Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400

Martha Barrera, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Lisa Bennett, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850



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MARTIN S. FRIEDMAN  
For the Firm

Also, where would I find a letter or statement from the USDA did not fund the USDA B&I loan program for 2012 and that lenders are not currently taking applications for USDA guaranteed loans? A Google search did not turn anything up.

Best regards  
Erik

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**From:** Thomas Hurdman [<mailto:THurdman@celticbank.com>]  
**Sent:** Friday, July 13, 2012 7:14 AM  
**To:** Saylor, Erik  
**Subject:** RE: Fidelity Bank Loan Application & B&I Overview - Follow up notes

Erick,

Happy to help and happy to review. I am heading to Tampa today to do a site visit and won't be able to get to it this weekend, but will turn it around for you.

Thomas F. Hurdman  
Vice President  
Business Development  
Celtic Bank  
3571 Valverde Circle  
Jacksonville, FL 32224  
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[thurdman@celticbank.com](mailto:thurdman@celticbank.com)  
[www.celticbank.com](http://www.celticbank.com)

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**From:** Saylor, Erik [<mailto:SAYLER.ERIK@leg.state.fl.us>]  
**Sent:** Thursday, July 12, 2012 6:28 PM  
**To:** Thomas Hurdman  
**Subject:** RE: Fidelity Bank Loan Application & B&I Overview - Follow up notes

Hi Tom,

Thanks for taking time to discuss with me the banking application process and your interaction with Water Management Services, Inc. (WMSI) regarding their inquiry about USDA B&I loan through Fidelity Bank. I've typed up the notes from our conversation to be sure I understand the process and what we discussed. I've organized my notes by topics we discussed. Would you be able to review my notes for accuracy? Please feel free to edit or clarify. If I've misstated something, please let me know especially as it relates to your opinion of WMSI's loan request. I also added a few questions as it relates to the 1% processing fee and 30 day process.

Your help with this is very important to the Customers of WMSI. Thank you.

Best Regards,  
Erik

**Erik L. Saylor**  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
850-487-8240  
850-487-6419 Fax

Exhibit "A"



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## **Notes from Conversation regarding USDA B&I loan program and interaction with WMSI regarding its loan inquiry**

### **USDA Business and Industry (B&I) Loans**

These USDA loans are used for B&I mainly in rural areas. The USDA B&I program was not funded in 2012, and all previously authorized funds in 2011 were returned to Washington DC. Even if a local bank approves as USDA B&I loan, that decision is made in DC. Currently there is about a 16 month backlog in the USDA approving these loans, and currently over \$400 million in outstanding requests. You recalled emailing the owner of WMSI in late 2011 or early 2012 and advising him of the lack of funding for USDA loans; but you do not have access to your old Fidelity Bank email account.

Because of the backlog and lack of funding, local banks (such as Fidelity and Celtic and others) have stopped taking new USDA B&I loan applications. Applications in the pipeline are not being funded and are being "scored" or ranked for possible future approval.

The state director for USDA loan is Joe Miller. Darren Davis with Fidelity Bank in Atlanta.

### **USDA B&I Loan qualification**

To qualify for a USDA B&I loan, the borrower must meet certain USDA criteria. There is a B&I tool that the USDA uses, that depends on the most recent US Census. In your preliminary discussions with WMSI, you determined they were eligible for a USDA loan. This is indicated on your checklist dated May 6, 2011, which you sent to the utility along with a Fidelity Bank USDA Loan application.

### **Fidelity Bank USDA Loan application process**

WMSI was referred to you as a possible USDA loan applicant, and you discussed some of the requirements to qualify for the USDA loan as well as the loan application process. You sent the owner of WMSI the loan application along with an application checklist. That application checklist is very comprehensive. The last time you had contact with the owner about the application was on or about May 6, 2011, when you noted on the application checklist that WMSI was eligible for a USDA loan.

To process the application, you also stated that Fidelity requires a one percent (1%) application fee from the borrower submitted with the application. This 1% application fee is to "weed out" non-serious loan applicants. That fee is placed into an escrow account. This fee is required upfront with the application. With the application fee, the application is deemed not filed.

What happens if the borrower does not submit the 1% fee? Will Fidelity start processing the application without the 1% fee? Does Fidelity ever waive that fee? Does the application need to be completed before the 1% fee is paid?

When an application is received, then under banking regulations, you have 30 days to respond in writing to the borrower, either to start processing the application or decline to process the loan further. Does the 30 days start even if the borrower doesn't submit the fee? What happens if no application fee is submitted with the application? Is the loan automatically declined?

### **WMSI Fidelity Bank Loan Application submitted to the Public Service Commission**

According to your recollection, WMSI did not submit an application for a USDA loan while you worked for Fidelity Bank. You left Fidelity Bank in March 2012 for your current employer.

I sent you a copy of what WMSI stated was its loan application with Fidelity Bank, dated May 25, 2012. You reviewed what WMSI called its Fidelity Loan application and said that it was not a loan application and also that it was not complete. To be complete, the owner would need to submit all the information requested in the application and on the application checklist and fee. A bank would want not only the business tax returns but the personal tax returns of the owner.

Since WMSI is seeking a \$6.6 million loan, WMSI would have had to submit a binder check of some sort with its application in the amount of \$66,000 or 1% of the loan to Fidelity Bank.

In your opinion, what WMSI submitted to the Public Service Commission as an application for a loan with Fidelity Bank is not an application? Or is it an incomplete application that Fidelity would not process until 1) the 1% fee is paid and 2) all the information on the checklist is provided?

#### **Opinion of WMSI's loan request**

I shared some information with you about what I stated was WMSI's current financial condition. You have not verified the accuracy of that information. You based your opinion solely on my representation.

I have told you that historical rates do not provide enough cash flow to make current debt service payments. I told you that WMSI had not made a loan payment on its \$4.8 million DEP loan since May 2009; that each time a payment was due, WMSI requested deferral of that loan payment; WMSI was not in default on its DEP loan, but not making the required payments either. If you learned that information from a prospective borrower, you would tell them that you would not be able to help them secure a loan from your bank. Based on that payment history information alone, you stated that Fidelity Bank (when you worked for them) or Celtic Bank or any other bank would not make a loan to WMSI.

Further, I told you that WMSI is not currently in default on its DEP loan, and just renegotiated its \$2.7 million loan with another bank. Based on this information, if you learned that information from a prospective borrower, you would tell them that you would not be able to help them secure a loan from your bank.

It is my understanding that based on the information provided to you by me, which I have gathered from the publicly available documents in WMSI's application for a rate increase, including information about WMSI's past payment history with other lenders, it would be safe to say it is very unlikely that WMSI could secure a \$6.6 million loan from a bank.

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**From:** Thomas Hurdman [<mailto:THurdman@celticbank.com>]  
**Sent:** Thursday, July 12, 2012 2:13 PM  
**To:** Saylor, Erik  
**Subject:** RE: Fidelity Bank Loan Application & B&I Overview

Thomas F. Hurdman  
Vice President  
Business Development  
Celtic Bank  
3571 Valverde Circle  
Jacksonville, FL 32224  
Office: (904) 821-7158  
Fax: (904) 821-7975

**Sayler, Erik**

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**From:** Sayler, Erik  
**Sent:** Thursday, July 12, 2012 11:05 AM  
**To:** 'joseph.arie@lionbank.com'  
**Subject:** Verification of details regarding WMSI's pending USDA loan application  
**Attachments:** 04560-12[1].pdf; 02612-12[1].pdf; 03362-12[1] - excerpt.pdf; 04333-12[1].pdf

Hi Joe,

As discussed on the phone, Water Management Services Inc (WMSI) has a pending request for a rate increase before the Public Service Commission (PSC). WMSI has stated publically in correspondence with PSC staff that it has applied for a USDA guaranteed loan from Fidelity Bank. The Office of Public Counsel (OPC) represents the customers and is seeking verification of those statements about the pending USDA loan.

I know you stated you were not personally familiar with this pending USDA loan application from WMSI with Fidelity Bank. To become familiar with the statements made by WMSI about the loan application, I have attached several documents which are mostly correspondence between the PSC staff and WMSI. By the way, the pdf file names correspond to WMSI's document filing numbers used by the PSC Clerk's office. Also, here is a link to the public docket file for WMSI's request for a rate increase (<http://www.psc.state.fl.us/dockets/cms/docketFilings3.aspx?docket=110200>) where I found the documents which are attached to this email.

List of attached documents for review:

- 02612-12 – Letter from Commission Staff requesting information about the USDA loan
- 03362-12 (excerpt) – Letter from WMSI to Staff in response. This is an excerpt because the filing is 158 pages long but is available here <http://www.psc.state.fl.us/library/FILINGS/12/03362-12/03362-12.pdf>
- 04333-12 – Letter from OPC to Commission Staff with additional questions about the utility's long-term debt situation and other concerns
- 04560-12 – Letter from WMSI to Staff supplementing its earlier statements.

Would you or the lending officer handling this application be able to verify WMSI's responses contained in document numbers 03362-12 (excerpt) and 04560-12? If you have any questions, please let me know. Your assistance in verifying these details about WMSI's pending USDA loan is greatly appreciated. Thank you.

Sincerely,

Erik

**Erik L. Sayler**  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
850-487-8240  
850-487-6419 Fax

Exhibit "B"

MIKE  
HARIDOPoulos  
President of the  
Senate



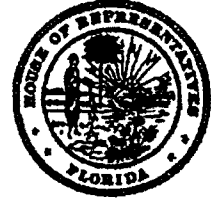
J.R. Kelly  
Public Counsel

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DEAN CANNON  
Speaker of the  
House of Representatives



Denise N. Vandiver, C.P.A.  
Legislative Analyst  
[vandiver.denise@leg.state.fl.us](mailto:vandiver.denise@leg.state.fl.us)

June 29, 2012

Ann Cole, Director  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: Docket No. 110200-WU; Application for increase in water rates in Franklin County by Water Management Services, Inc.

Dear Ms. Cole:

Attached is an additional list of issues that the Office of Public Counsel has prepared to identify concerns we have with the information filed by Water Management Services, Inc. to support its requested rate increase. We are submitting this letter in an effort to highlight our concerns and allow the staff and utility sufficient time to review our concerns and perhaps address them prior to the filing of staff's recommendation. If you should have any questions, please feel free to call or e-mail me.

Respectfully submitted,

*/s/ Denise N. Vandiver*  
Denise N. Vandiver  
Legislative Analyst

c: Division of Economic Regulation (Maurey,  
Fletcher)  
Office of the General Counsel (Barrera, Jaeger)

Sundstrom, Friedman & Fumero, LLP  
Mr. Martin Friedman

Water Management Services, Inc.  
Mr. Gene D. Brown

Office of Public Counsel (Saylor)

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

OPC Issues and Concerns  
Water Management Services, Inc.  
Docket No. 110200-WU

Utility Long Term Debt

1. It appears that the utility is not making its debt service payments even though the utility's authorized rates include the funds to do so. For the following reasons, OPC is concerned with why those funds were not used to service the utility's debt and would ask the Commission to take action and perhaps require an accounting for those funds.
  - a. According to the Department of Environmental Protection (DEP) State Revolving Fund (SRF) Repayment Schedule Report, Water Management Services, Inc. (WMSI) made its last \$162,012.03 SRF payment on June 22, 2009. See Attached SRF Repayment Schedule Report. OPC notes that WMSI has amended its DEP SRF loan approximately five times since 2001. Notwithstanding those multiple loan amendments, WMSI missed its most recent SRF payment that was due on May 15, 2012. By letter dated June 16, 2012, the DEP notified WMSI it was in default and that enforcement action would be delayed until after the conclusion of the utility's pending rate case. See Attached DEP Letter to WMSI dated June 16, 2012. OPC would like to know whether the DEP SRF loan balance has increased as a result of WMSI being in default. According to the MFRs filed in this rate case, the current balance of the DEP SRF loan is approximately \$4.8 million, the bulk of WMSI's long-term debt. WMSI also owes another \$2.7 million (balance outstanding) to Centennial Bank. OPC is unaware of the repayment status of WMSI's outstanding balance with Centennial Bank.
  - b. OPC notes that the Commission first approved the utility's request for a rate increase related to the cost of a new water supply main for which WMSI ultimately secured the DEP SRF loan by Order No. PSC-00-2227-PAA-WU. Subsequent Commission orders that allowed WMSI to increase rates also were related to the water supply main. See Order Nos. PSC-03-1005-PAA-WU, PSC-04-0791-AS-WU, PSC-05-1156-PAA-WU, and PSC-06-0092-AS-WU. The bulk of the rate increases authorized by the Commission from 2000 to 2006 were designed to enable the utility to collect increased rates to make payments on the DEP SRF loan for the new water supply main. Even though WMSI was collecting funds in rates to service the DEP loan, its last loan payment was made on June 22, 2009, and WMSI is currently in default. Because WMSI's approved rates included both interest and depreciation in order to provide funds for debt service costs to the utility, this presents the question of what has happened to those funds that the Commission specifically authorized for the new water main from late 2000 to January 2011?
  - c. OPC notes that, according to Commission practice, the Commission establishes or builds into customer rates funds to provide for debt service costs based on an amount of debt not to exceed the utility's rate base, even if the amount of outstanding debt obligations owed by a utility exceeds rate base. For example, if a utility's rate base was \$2 million, but it owed \$4 million in outstanding debt, the Commission would authorize in rates debt service up to \$2 million but not the full \$4 million. To authorize \$4 million as the example goes could incentivize a utility to imprudently incur debt far in excess of the value of plant in rate base, thus requiring the customers to pay for managerial imprudence.

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OPC Issues and Concerns  
Water Management Services, Inc.  
Docket No. 110200-WU

- d. OPC notes that the Commission followed this practice when it established rates in the utility's last rate case. See Order No. PSC-11-0010-SC-WU. In the last rate case, rate base was established as \$3,735,659. Id. at 69. Unadjusted long-term debt was established as \$7,753,153, but debt reconciled to rate base was \$3,635,160. That amount plus \$100,499 in customer deposits equaled \$3,735,659 or rate base. Id. at 71. Thus, the rates established in the utility's last rate case included both interest and depreciation in order to provide funds for debt service costs. Rates were designed to service outstanding debt in the amount not to exceed rate base, meaning that shareholders are responsible for the remaining debt service obligation.
- e. OPC agrees with the Commission practice not to subsidize imprudent management decisions as it relates to incurring excessive debt. OPC believes that it was a utility management decision to incur the excessive debt, not the customers' decision.
- f. OPC notes that the utility's current rate base of approximately \$3.7 million is less than the outstanding balance of the \$4.8 million DEP SRF loan. Based on Commission practice of authorizing debt service in an amount equal to rate base, OPC is concerned that WMSI, even if authorized a rate increase, may not be able to make its debt service payment to DEP on its \$4.8 million loan, let alone any debt service payments to Centennial Bank on its additional \$2.7 million debt.
- g. When the Commission establishes rates in the pending rate case, because of the utility's record of non-payment, the Commission should consider requiring debt service payments to be escrowed, along with the other items identified in OPC's previous letter to the Commission, so that the utility's creditors would be paid at least the portion of customer rates designed to cover debt service. Because of management decisions to incur debt in excess of rate base, the remainder of the debt service should be borne solely by the shareholders and not the customers.
- h. Further, OPC requests that the Commission determine what happened to the funds previously authorized in rates to make debt service payments that apparently have not been made. This information along with the cash flow audit that the Commission directed its staff to perform in Order No. 11-0010-SC-WU and that its audit staff completed on July 29, 2011, and updated on March 12, 2012, is highly pertinent. Because of the continued failure of WMSI to make its debt service payments, OPC would like the Commission to consider ordering the utility to provide an accounting to the Commission for the funds authorized in rates for these debt service payments that were apparently not made.

Potential Sale

- 2. OPC is also aware that the City of Carrabelle has a pending application with the DEP for a SRF loan up to \$15 million with which to potentially purchase WMSI. This potential sale of the utility is not relevant to this rate case unless the sale closes prior to the Commission's final order in this rate case, and if that occurs, all interim rates must be refunded to the customers with interest.

OPC Issues and Concerns  
Water Management Services, Inc.  
Docket No. 110200-WU

Staff's Motion to Compel

3. Based upon the foregoing, OPC shares Commission staff's concern about whether WMSI is and can remain a going concern. Inasmuch as compelling WMSI to respond to Commission Staff's outstanding discovery request will lead to information pertinent to the rate case, OPC supports Staff's motion to compel.<sup>1</sup> OPC agrees with Staff that the utility must answer Staff's questions and provide the financial documentation that will establish whether WMSI has been prudently managed over the years, or whether prior management practices have potentially harmed the operation of the utility.

Utility compliance with Order No. 11-0010-SC-WU

4. Pursuant to the stipulation approved by Order No. 11-0010-SC-WU, issued January 3, 2011, the utility shall provide proof of Commission ordered adjustments within 90 days of the final order issued in that rate case and the adjustments made for all the applicable NARUC USOA primary accounts. Id. 5. On June 27, 2012, the utility submitted the adjustments for the applicable NARUC USOA primary accounts pursuant to Order No. 11-0010-SC-WU. Notwithstanding the utility's appeal of that order, the utility should have timely made those Commission ordered adjustments especially since the majority of those adjustments were not the subject of the utility's underlying appeal. OPC is concerned with the obvious tardiness of the utility's compliance with this Commission order. Thus OPC would request that the Commission inquire whether it was willful noncompliance or something else, and determine whether this noncompliance would subject the utility to a notice to show cause.

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<sup>1</sup> Although OPC disagrees with some of Staff's assumptions made in its motion to compel, this letter is not the proper forum in which to discuss those assumptions.



## Florida Department of Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

June 15, 2012

Mr. Gene Brown  
President  
Water Management Services, Inc.  
250 John Knox Road 4  
Tallahassee, Florida 32303

Re: DW190101 - Water Management Services, Inc  
Supply, Transmission & Treatment

Dear Mr. Brown:

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This is in response to your recent request to issue additional debt, and restructure your existing State Revolving Fund Loan. We understand the need for the additional work you have proposed to be funded by a \$6.2 million loan with Fidelity Bank and guaranteed by USDA. However, we are unable to subordinate our loan to Fidelity Bank at this time. The Department will reassess its position once a decision by the Public Service Commission (PSC) is made regarding the rate case.

Regarding the May 15<sup>th</sup> payment that was due, we cannot capitalize your payment at this time. Your loan is hereby determined to be in default in accordance with Rule 62-552.430. The Department will delay enforcement of its agreement until a ruling is made by the PSC on your current case. A revised payment schedule will be considered if the rate increase is approved.

Sincerely,

Robert E. Holmden, P.E., Chief  
Bureau of Water Facilities Funding

RH/ak



SRF - State Revolving Fund

Report: Repayments Schedule Report - Sponsor: Water Management Services, Inc - Funding # 190101

#	Line	Pay Date	Type	Agreement Amt	Bond Int.	Fidy Id	Report Date	Interest	GAA Interest	Service Fee	SP Int.
1	11/15/2003	Sponsor	209,894.00	N	C904109	11/17/2003	76,228.22			171,232.34	1,812.53
2	05/15/2004	Sponsor	208,894.00	N	C904376	05/19/2004	85,475.04			0.00	0.00
3	11/15/2004	Sponsor	208,894.00	N	C904633	12/01/2004	89,867.75			0.00	0.00
4	05/15/2005	Sponsor	208,894.00	N	C904898	05/18/2005	88,177.87			0.00	0.00
5	11/15/2005	Sponsor	208,894.00	N	C905192	11/28/2005	86,375.46			0.00	0.00
6	05/15/2006	Sponsor	208,894.00	N	C905475	04/23/2006	84,566.90			0.00	0.00
7	11/15/2006	Sponsor	208,894.00	N	C905878	11/17/2006	82,690.99			0.00	0.00
8	05/15/2007	Sponsor	208,894.00	N	C906312	05/17/2007	80,807.34			0.00	0.00
9	11/15/2007	Sponsor	208,894.00	N	C906323	11/19/2007	78,893.51			0.00	0.00
10	05/15/2008	Sponsor	208,894.00	N	C906814	06/14/2008	76,951.09			0.00	0.00
11	11/15/2008	Sponsor	208,894.00	N	C907284	11/14/2008	74,985.84			0.00	0.00
12	05/15/2009	Sponsor	208,894.00	N	C90812A	06/22/2009	72,984.78	0.00		0.00	0.00
13	05/15/2012	Sponsor	162,012.00	N			76,432.76	0.00		0.00	0.00
14	11/15/2012	Sponsor	162,012.00	N			75,146.30	0.00		0.00	0.00
15	05/15/2013	Sponsor	162,012.00	N			73,847.76	0.00		0.00	0.00
16	11/15/2013	Sponsor	162,012.00	N			72,529.68	0.00		0.00	0.00
17	05/15/2014	Sponsor	162,012.00	N			71,191.98	0.00		0.00	0.00
18	11/15/2014	Sponsor	162,012.00	N			69,834.22	0.00		0.00	0.00
19	05/15/2015	Sponsor	162,012.00	N			68,456.17	0.00		0.00	0.00
20	11/15/2015	Sponsor	162,012.00	N			67,057.52	0.00		0.00	0.00
21	05/15/2016	Sponsor	162,012.00	N			65,637.94	0.00		0.00	0.00
22	11/15/2016	Sponsor	162,012.00	N			64,197.14	0.00		0.00	0.00
23	05/15/2017	Sponsor	162,012.00	N			62,734.79	0.00		0.00	0.00
24	11/15/2017	Sponsor	162,012.00	N			61,250.88	0.00		0.00	0.00
25	05/15/2018	Sponsor	162,012.00	N			59,744.14	0.00		0.00	0.00
26	11/15/2018	Sponsor	162,012.00	N			58,215.18	0.00		0.00	0.00
27	05/15/2019	Sponsor	162,012.00	N			56,663.77	0.00		0.00	0.00
28	11/15/2019	Sponsor	162,012.00	N			55,088.33	0.00		0.00	0.00
29	05/15/2020	Sponsor	162,012.00	N			53,489.25	0.00		0.00	0.00
30	11/15/2020	Sponsor	162,012.00	N			51,867.25	0.00		0.00	0.00
31	05/15/2021	Sponsor	162,012.00	N			50,220.60	0.00		0.00	0.00
32	11/15/2021	Sponsor	162,012.00	N			48,559.09	0.00		0.00	0.00
33	05/15/2022	Sponsor	162,012.00	N			46,882.70	0.00		0.00	0.00
34	11/15/2022	Sponsor	162,012.00	N			45,190.93	0.00		0.00	0.00
35	05/15/2023	Sponsor	162,012.00	N			43,483.41	0.00		0.00	0.00
36	11/15/2023	Sponsor	162,012.00	N			41,760.78	0.00		0.00	0.00
37	05/15/2024	Sponsor	162,012.00	N			40,026.55	0.00		0.00	0.00
38	11/15/2024	Sponsor	162,012.00	N			38,282.45	0.00		0.00	0.00
39	05/15/2025	Sponsor	162,012.00	N			36,528.00	0.00		0.00	0.00
40	11/15/2025	Sponsor	162,012.00	N			34,765.82	0.00		0.00	0.00
41	05/15/2026	Sponsor	162,012.00	N			32,995.49	0.00		0.00	0.00
42	11/15/2026	Sponsor	162,012.00	N			31,216.58	0.00		0.00	0.00
43	05/15/2027	Sponsor	162,012.00	N			29,428.66	0.00		0.00	0.00
44	11/15/2027	Sponsor	162,012.00	N			27,631.32	0.00		0.00	0.00
45	05/15/2028	Sponsor	162,012.00	N			25,824.10	0.00		0.00	0.00
46	11/15/2028	Sponsor	162,012.00	N			24,007.56	0.00		0.00	0.00
47	05/15/2029	Sponsor	162,012.00	N			22,181.22	0.00		0.00	0.00
48	11/15/2029	Sponsor	162,012.00	N			20,345.22	0.00		0.00	0.00
49	05/15/2030	Sponsor	162,012.00	N			18,500.66	0.00		0.00	0.00
50	11/15/2030	Sponsor	162,012.00	N			16,647.39	0.00		0.00	0.00
51	05/15/2031	Sponsor	162,012.00	N			14,785.94	0.00		0.00	0.00
52	11/15/2031	Sponsor	162,012.00	N			12,915.83	0.00		0.00	0.00
53	05/15/2032	Sponsor	162,012.00	N			11,037.61	0.00		0.00	0.00
54	11/15/2032	Sponsor	162,012.00	N			9,151.98	0.00		0.00	0.00
55	05/15/2033	Sponsor	162,012.00	N			7,259.61	0.00		0.00	0.00
56	11/15/2033	Sponsor	162,012.00	N			5,360.90	0.00		0.00	0.00