

090170-WU

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COMMISSION  
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To: **Public Service Commission**  
Reference: **Docket NO. 090170-WU**  
Lee County by Mobile Manor Water **ORDER NO. PSC-09-0790-PAA-WU**

Issued: November 30, 2009; received by mail from PSC by Bensons Inc.

From: **Residents** of Mobile Manor Subdivision (address included on signed petition)

**Mobile Manor Inc.** 150 Lantern Lane, North Fort Myers FL, 33917

**Benson's Inc.** Associa Member Company, 12650 Whitehall Drive, Fort Myers FL, 33907

Date: December 17, 2009

**Subject: Petition to appeal and request for an evidentiary proceeding. Dispute recent published ruling on commission approved utility rates.**

As residents of Mobile Manor, a 55 plus community, we are **very** concerned that the commission's recent decision (BFC of \$7.26, Gallonage charge 6.53) is **not sufficient enough for the water company to operate.**

Based on your decision, the approved rates have put the **community at risk** and the water company will be abandoned with the residents having to bare an unnecessarily **large tax burden** and **connection fee** to convert to another provider. Your special report (blue handout) at the resident meeting indicated that rates recommended by your staff was more in line (BFC of 12.22, Gallonage charge 6.24) with our current expense structure. **We** find it hard to believe that a few people speaking with no knowledge of our current operational requirements swayed your opinion to the point that we are still facing **bankruptcy**. Those people did **not speak on our behalf** and the meeting dates **didn't** allow us a voice.

As you are aware, we (**Mobile Manor Inc.**) have been **loaning** the water company money in **hopes** that your audit would allow the water company to recover rates that **should have been applied** for over the last 14 years. Based on actual 2009 expense and **projected 2010 budget, using your final decision rates**, the company will again experience a loss of revenue and will have to file for abandonment.

**The final decision from the PSC has also put Mobile Manor Inc., our subdivision, at Risk.** The increase in Management fees that MMI must absorb to perform water company business, loss of revenue from the commercial lease and nonpayment of the loan of \$20,000.00 will adversely affect the community.

The expense requirements for 2009 and 2010 were **not considered** in your review. We have several additional expenses that were not part of the 2008 financial review and require Benson's Inc. to handle as part of their workload. Your final decision using your approved rates will force the board into making a decision to abandon the company due to a lack of funds to operate the utility. **Your numbers do not allow the utility to pay the bills and certainly don't allow a fair rate of return.**

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FPSC-COMMISSION CLERK

The following items are in dispute

c. **Chemicals (618)**-Dispute the amount you reduced the chemical expense to due to water loss. Water loss has nothing to do with the fact that we still must perform two water tests five days a week for chlorine levels. **Allow actual expense of \$32.00**

f. **Contractual Services-Professional (631)**-Dispute income tax annual expense for 2008. We have provided (attachment C) actual bill for taxes. You did not include **all** taxes and fees paid in 2008 from our accountant, Van Davis. **Allow actual expense of \$1,325.00**

h. **Contractual Services-other (636)**-Dispute the amount Associa Benson's management is allowed to charge the utility for work provided.

You indicated that the bulk of Associa Benson's obligations relate to implementing decisions and policies established by the Board of Directors of Mobile Manor, Inc. Nothing could be further from the truth. We are bound by very strict rules and Bensons is providing those services. WE ARE NOT CREATING NEW PROCEDURES; WE ARE TRYING TO RUN THE COMPANY TO YOUR REQUIRED STANDARDS NOT OURS.

Please take the time to review **Attachment (A)** that covers all the jobs currently being performed by Bensons that has nothing to do with the Board of Directors. Apparently you **did not look into the detail** of the work provided by Bensons based on your comment "**and reviewing the contractual duties of Associa Benson's Inc.**". The majority of the residents were not able to attend the meeting and it appears you just took the word of a few residents that have **no knowledge** of the **current** operation. Your decisions should have been based on actual findings during the audit not hear say. We know of no one from your office that actually went to Benson's to make a decision on actual work performed. **WHY?**

You have only authorized Benson's management \$6,761.00 a year. (\$564.00 a month or \$18.50 a day) to provide all the services listed in **Attachment A**. This is **not** realistic based on the work performed. In addition, **you** have layered in several "**IT IS FURTHER ORDERED**" requirements that will cost them additional time and money to comply with your request. Requirements listed in **Attachment B**.

There is virtually no overlap of work between the office clerical and Benson's management to operate the utility to state required programs. We feel that the 2008 charges of **70% for the water company are fair** based on actual workload and the state and federal government agency requirements.

We realize that we are a small utility but would like to remind you that we are still bound by all the same requirements of the big companies. I doubt that any one of them could run a public utility on \$17,135.00 a year. This number is **not** realistic and barely exceeds minimum wage guidelines for a non skilled employee.

i. **Rents (640)** **Dispute 30% of rents shall be disallowed.** We feel that the disallowed percent should be 10% based on actual usage by MMI. **Rent Expense should be reduced by \$960.00 (\$9600.00 x .10), for a rent expense of \$8640.00.** The water company conducts business five days a week 52 weeks out of the

year. Mobile Manor Inc. conducts business far less than the 30 percent you have chosen to use. Basically the majority of all MMI business, as it relates to the office (not the clubhouse as you indicated) is performed during a 4-5 month period. Roughly 80% of all residents paying maintenance pay for the entire year in January (eliminating monthly collections). There are limited payments received by the office the remainder of the year. As you indicate in your audit 79% of the residents go north for the summer which includes the board of directors.

**The board does not conduct business 7 months out of the year using the office.** The majority of all the work performed in the office revolves around the water company.

### Summary

**We are requesting that you increase the Base Facility rate to take into consideration the actual expenses we have. Based on your final decision of November 30<sup>th</sup>, 2009 we are faced with the following facts.**

We will **not** have funds to fix the excessive water loss problem

We will **not** have funds to purchase new meters and valves (to maintain meter change out program)

We will **not** have the funds to cover the now required increase in plumber expense

We will **not** have the funds to purchase supplies needed to maintain service.

We will **not** have the funds to maintain officer and board of directors insurance

We will **not** have the funds to convert the Utility's books and records to conform to NARUC USOA

We will **not** have a fair rate of return for our investment

We will **have to abandon the utility** due to a lack of funds to operate the water company

**It seems counterproductive to spend \$4,722.00 for the cost study, only to get a ruling that forces the utility into bankruptcy.**

### Statement of Relief sought by the petitioners

At the December 3, 2009 association meeting, the membership was so concerned with the outcome of your audit they voted **unanimously** to increase the Base Facility Charge (Meter) to \$5.00 above the \$7.23. **Based on that vote and the signatures included we are requesting the following.**

**Chemicals (618)-Allow full amount of \$32.00**

**Contractual Services-Professional (631)-Allow all fees charged by accountant for taxes and RAF report preparation expense for 2008 of \$1,325.00**



**Contractual Services-other (636)** Associa Benson's contractual agreement should be honored as approved by the board of directors **allowing 70%** of (\$22,536.00) or \$15,775.20 be paid to Associa Benson's for services provided. Mobile Manor Inc. pays 30% or \$6,760.80

**Rents (640)**-The disallowed percent should be **10% based** on actual usage by MMI. **Rent Expense should be reduced by \$960.00 (\$9600.00 x .10), for a rent expense of \$8640.00.**

**Follow your original Staff Recommended Rates** indicated in Special Report dated September, 2009 and your preliminary audit dated September 09, 2009.

We **now** realize that the utility has missed the opportunity to receive an index increase over the last 14 years and apparently never sought direction from the PSC in the form of an audit or help. After checking with twenty four (24) other communities in the Southwest Resident Owned Community Inc. in the area, we have found the Base Facility Charge to be \$10.00-\$12.00 on average.

**As residents of the community and water customers we should not have to bear the burden of the past park manager and board of directors mistakes.** With the community in such a financial crisis it is far easier to handle an increase in the meter rate than a tax burden and hook up fee for a new provider.

**Allow (we want) the Base Facility rate of \$12.22 and gallonage rate of \$6.24 to be implemented.**

Thank You

Residents Mobile Manor subdivision  
Mobile Manor Inc.  
Signed petition signatures attached (8 pages)



## Attachment A.....Services provided by Associa Bensons

- Monthly input of 313 water company customers water usage and billing information.
  - Maintain all address and mailing information
  - Prepare and furnish board with monthly financial reports (60-80 pages of information monthly)
  - Make all bank deposits and maintain records
  - Receive all invoices and cut checks from this office.
  - Supply monthly to board treasurer bank statements for her to audit for accuracy.
  - Sit in on annual audit of water company records by (4) customers and board treasurer. Findings our submitted to board and presented to residents at Association meeting.
  - Responsible for attending and taking minutes of MMWC board meeting. Copies provided to board and filed in office for customer review.
  - Attend monthly association meeting (which includes water company business) and prepare minutes to furnish board and community for review. Reports are available in MMWCI. Office
  - Maintain all records and back up financials information since being hired.
  - Prepare Annual budget recommendation for board approval
  - Compile and submit annual rate index increases for PSC approval (first one filed in 15 years by us)
  - Prepared and requested with board approval request for interim rate increase
  - Prepared and requested staff assisted audit
  - Provided 6100 copies to PSC audit department from our office (not mobile manor office) to comply to request for documentation.
  - Handle customer complaints and inquirers 365 days out of the year
  - Provide phone service 24/7
  - Our maintenance department is on call 24/7
  - Hurricane and emergency procedures for water company (New DEP and DOH program for boil notice procedures in case of emergency)
  - Attend all water related business classes held by LCHD, EPA, DEP and DOH and communicate this information to the board.
  - Complete and compile the information for mailing to all 313 residents the annual Customer Confidence report listing all information pertaining to testing we provide in addition to copper and lead testing and EPA quarterly testing.
  - Work with STS Environmental Services for quarterly testing of water per EPA requirements.
  - Prepare Annual RAF report information to submit to PSC
  - Follow up on all Tax related issues and compile information for account to complete annual tax filing
  - Receive all water line break notices from customers
  - Respond to location on water breaks and prepare and hand out boil notice.
  - Follow up on testing results from LCHD after water line break and return to MM to pass out recission letters.
  - Negotiate annually for the best rates for worker compensation, officer and directors insurance
  - Provide assistance to board on commercial lease agreement
  - Park Manager or Benson's maintenance staff contacts license plumber on water line breaks
  - Negotiate annually with plumbing contractor for cheapest rates.
  - Meter Change out program
-

**Attachment B- addition expense for Benson that has not been factored into the audit.**

**Based on the foregoing, it is**

ORDERED by the Florida Public Service Commission that Mobile Manor Water Company, Inc.'s application for a staff-assisted rate case is hereby approved as set forth in the body of this Order.

It is further ORDERED that each of the findings made in the body of this Order are hereby approved in every respect.

It is further ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference.

It is further ORDERED that Mobile Manor Water Company, Inc. shall file revised tariff sheets and the proposed customer notices to reflect the approved rates. **Benson**

It is further ORDERED that the approved rates shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers. **Benson**

It is further ORDERED that the Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. **Benson**

It is further ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The tariff sheets shall be approved upon our staffs verification that the tariffs are consistent with this Order and that the customer notices are adequate. **Benson**

It is further ORDERED that the Utility shall refund 17.40 percent of water revenues collected under interim rates. **Benson**

It is further ORDERED that the refund shall be made with interest in accordance with Rule 25 30.360(4), F.A.C. The Utility shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. **Benson**

It is further ORDERED that the Utility shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

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It is further ORDERED that to allow this Commission to monitor the effects from changes in revenue to the water system, monthly reports shall be prepared detailing the number of bills rendered, the consumption billed and revenues billed. In addition, the reports shall be prepared by customer class and meter size. **Benson**

It is further ORDERED that these reports shall be filed with the Commission, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect.

**Benson** To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility shall file a revised monthly report for that month within 30 days of any revision.

It is further ORDERED that the rates shall be reduced at the end of the four-year rate case expense amortization period as set forth in the body of this Order and Schedule No.4.

It is further ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S.



It is further ORDERED that the Utility shall file revised tariff sheets and a proposed customer notice (Benson) setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in rates due to the amortized rate case expense.

It is further ORDERED that the Utility shall file revised tariff sheets which are consistent with our decision above concerning customer deposits. Benson

It is further ORDERED that our staff may administratively approve the revised tariff sheets upon verification that the tariffs are consistent with our decision.

It is further ORDERED that if revised tariff sheets are filed and approved, the customer deposit shall become effective for connections made on or after the stamped approval date of the revised tariff sheets.

It is further ORDERED that after a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the Utility shall refund (Benson) the customer's deposit pursuant to Rule 25-30.311(5), F.A.C.

It is further ORDERED that the Utility shall pay interest (Benson) on customer deposits pursuant to Rule 25 30.311(4), F.A.C.

It is further ORDERED that pursuant to Section 367.0814(7), F.S., the rates approved herein shall be approved for the Utility on a temporary basis, subject to the refund provisions set forth in the body of this Order, in the event of a protest filed by a party other than the Utility.

It is further ORDERED that after the increased rates are in effect on a temporary basis, pursuant to Rule 25-30.360(6), F.A.C., Mobile Manor Water Company, Inc. shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. (Benson) The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund.

It is further ORDERED that prior to implementation of any temporary rates, Mobile Manor Water Company, Inc. shall provide the proposed customer notices and appropriate security for the potential refund. Security shall be in the form of a bond or letter of credit in the amount of \$1,819. Alternatively, the Utility may establish an escrow agreement with an independent financial institution. (Benson)

It is further ORDERED that irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase shall be maintained by the Utility. (Benson) If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

It is further ORDERED that Mobile Manor Water Company, Inc. shall maintain its books and records in conformance with the 1996 NARUC USOA and submit a statement from its accountant by March 31, 2010, along with its 2009 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order. (Benson)



It is further ORDERED that, except for the granting of temporary rates, subject to refund, in the event of a protest, reducing rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the NARUC USOA which are final agency action, the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. (Benson)

It is further ORDERED that this docket shall remain open until a Consummating Order or other final order has been issued, our staff has approved the revised tariff sheets and customer notices, the Utility has sent the notices to its customers, our staff has received proof that the customers have received notice, and the Utility has provided our staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. (Benson)

It is further ORDERED that once our staff has verified all of the above actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 30th day of November, 2009.

ANN COLE  
Commission Clerk  
(SEAL)

RRJ

ATTACHMENT

C

VAN D. DAVIS, P.A.

Certified Public Accountant

13730 Cypress Terrace Circle, #402  
Fort Myers, FL 33907  
(239) 278-5209

Mobile Manor Water Company, Inc.  
Fee Statement  
April 02, 2008

PAID

Preparation of 2007 U.S. Small Business Corporation Return of Income, Form 1120.	\$ 375
Preparation of 2008 Lee County Tangible Tax Return.	75
Preparation of 2007 FL Corporate Income Tax Return, F-1120.	150
Analysis of 2007 transactions to include the preparation of the Adjusting Journal Entries.	150
Professional services rendered in relation to the preparation of the 2007 Annual Report for a Class C Water Utility.	575
Total Fees Due	\$ 1,325

( Fees are due upon completion of work. )



























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**FedEx** US Airbill  
Express

FedEx  
Tracking  
Number

8690 7549 1822

RECIPIENT: PEEL HERE

**1 From** *This portion can be removed for Recipient's records.*

Date 12/11/07 FedEx Tracking Number 869075491822

Sender's Name \_\_\_\_\_ Phone 239 277-0718

Company BENSON'S INC

Address 12650 W. TEHALL DR

City FORT MYERS State FL ZIP 33907-3619

**2 Your Internal Billing Reference**

**3 To**

Recipient's Name \_\_\_\_\_ Phone \_\_\_\_\_

Company OFFICE OF COMMISSION CLERK

Recipient's Address \_\_\_\_\_  
We cannot deliver to P.O. boxes or P.O. ZIP codes.

Address 2540 SHUMARD OAK BLVD

City TALLAHASSEE State FL ZIP 32399-0850



8690 7549 1822

fedex.com 1800.GoFedEx 1800.463.3339

Form ID No. **0215** Recipient's Copy

**4a Express Package Service** Packages up to 150 lbs.

- FedEx Priority Overnight**  
Next business morning \*\* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
  - FedEx Standard Overnight**  
Next business afternoon \* Saturday Delivery NOT available.
  - FedEx First Overnight**  
Earliest next business morning delivery to select locations. \* Saturday Delivery NOT available.
  - FedEx 2Day**  
Second business day \*\* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
  - FedEx Express Saver**  
Third business day \* Saturday Delivery NOT available.
- \* To most locations. FedEx Envelope rate not available. Minimum charge: One-pound rate.

**4b Express Freight Service** Packages over 150 lbs.

- FedEx 1Day Freight\***  
Next business day \*\* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
  - FedEx 2Day Freight**  
Second business day \*\* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
  - FedEx 3Day Freight**  
Third business day \*\* Saturday Delivery NOT available.
- \* Call for Confirmation. \*\* To most locations.

**5 Packaging**

- Envelope\***
  - FedEx Pak\***  
Includes FedEx Small Pak, FedEx Large Pak, and FedEx Sundry Pak.
  - FedEx Box**
  - FedEx Tube**
  - Other**
- \* Declared value limit \$500.

**6 Special Handling** Includes FedEx address in Section 3

- SATURDAY Delivery**  
Not available for FedEx Standard Overnight, FedEx First Overnight, FedEx Express Saver, or FedEx 3Day Freight.
- HOLD Weekday at FedEx Location**  
Not available for FedEx First Overnight.
- HOLD Saturday at FedEx Location**  
Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

- Does this shipment contain dangerous goods?**  
One box must be checked.
- No**
  - Yes**  
As per attached Shipper's Declaration.
  - Yes**  
Shipper's Declaration not required.
  - Dry Ice**  
Dry Ice 9, UN 1845 \_\_\_\_\_ kg
  - Cargo Aircraft Only**
- Dangerous goods (including dry ice) cannot be shipped in FedEx packaging.

**7 Payment Bill to:**

- Sender** Acct. No. in Section 3 will be billed.
  - Recipient**
  - Third Party**
  - Credit Card**
  - Cash/Check**
- Enter FedEx Acct. No. or Credit Card No. below. Obtain Recp. Acct. No.

Total Packages \_\_\_\_\_ Total Weight \_\_\_\_\_

Our liability is limited to \$100 unless you declare a higher value. See the current FedEx Service Guide for details.

Credit Card Auth. \_\_\_\_\_

**8 Residential Delivery Signature Options** If you require a signature, check Direct or Indirect

- No Signature Required**  
Package may be left without obtaining a signature for delivery.
- Direct Signature**  
Someone at recipient's address may sign for delivery. Fee applies.
- Indirect Signature**  
If someone is available at recipient's address, someone at a neighboring address may sign for delivery. Fee applies.

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