

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

DOCKET NO. 080562-WU

11 SEP 26 PM 4: 35

DATED: SEPTEMBER 26, 2011

COMMISSION  
CLERK

STAFF'S SPECIFIC OBJECTIONS TO EAST MARION SANITARY SYSTEMS, INC.'S

REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF

Pursuant to the Order Establishing Procedure as Revised, and the Rules of Civil Procedure, Commission staff objects to East Marion Sanitary Systems, Inc.'s discovery propounded on staff as follows:

1. Please provide all documentation from the staff and any other party that may be in the FPSC records that went into producing the original "Meter Tariff."

Staff objects to Request 1 as being untimely served. On Saturday, September 17, 2011, East Marion Sanitary Systems, Inc. served the Public Service Commission Staff (Staff or Commission staff) with a Request for Production of Documents. Service was made by facsimile to the undersigned's office and by overnight mail. The Third Order Revising Order Establishing Procedure sets the Discovery Deadline as September 19, 2011.<sup>1</sup> The Discovery Deadline is set as the date by which discovery must be completed. The Order Establishing Procedure requires discovery to be responded to within 20 days of the date of service. Therefore, if staff were to respond to the discovery requests, its responses would be due October 7, 2011, which is more than three weeks past the discover deadline set in the Order Establishing Procedure, and less than one week prior to the hearing set for October 13, 2011. Therefore, East Marion's discovery request is untimely.

Staff objects to Request 1 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The scope of this proceeding is limited to whether certain customers are entitled to have an irrigation meter installed at the prior tariff rate of \$70. The only testimony filed in the docket relates to whether these customers requested the irrigation meter prior to April 7, 2009. Moreover, the original Meter Tariff was approved by the Commission in 1987 upon application by the utility.<sup>2</sup>

<sup>1</sup> Order No. PSC-11-0280-PCO-WU

<sup>2</sup> Order No.18545, issued December 14, 1987, in Docket Nos. 870388-SU and 870389-WU.

DOCUMENT NUMBER - DATE

06948 SEP 26 =

FPSC-COMMISSION CLERK

STAFF'S SPECIFIC OBJECTIONS TO EAST MARION SANITARY SYSTEMS, INC.'S  
REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF  
DOCKET NO. 080562-WU  
PAGE 2

Staff believes this document request is initiated by East Marion to support its proposed issue 10. East Marion's Proposed Issue 10 states "Should the Commission order the FPSC staff to help the Utility initiate and achieve the appropriate proceedings so that the Utility may pay it's just expenses and set up a reserve and maintenance fund to pay for repairs and required maintenance and needed upgrades." There is no testimony in the record to support this newly formed issue. This issue is inappropriate for the proceeding scheduled for October 13, 2011.

2. Provide copies of any drawings, engineering reports and financial data, calculation, and records that went into producing the original and the 2002 water "Tap-in Fee" for this Utility.

The request is untimely filed. See staff's objection to #1 above.

Staff objects to Request 2 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The proceeding is limited to whether or not certain customers should be permitted to have irrigation meters installed at the prior tariffed rate of \$70. Moreover, the documents requested are documents submitted by the Utility to the Commission in its initial rates and charges proceeding in 1987 and in a Staff Assisted Rate Case in 2002.

3. Provide any documentation that you have to show that "Meter Installation" Tariff is the same as an "Irrigation Meter" Tariff.

The request is untimely filed. See staff's objection to #1 above.

Staff objects to Request #3 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Distinctions between the Meter Installation Tariffs and Irrigation Meter Tariffs are irrelevant to the Utilities obligation under Section 367.111, Florida Statutes and Rule 25-30.310, Florida Administrative Code to provide service to its customers at the rates and charges authorized in its tariff.<sup>3</sup>

4. Provide any and all case number(s) and copies of rulings where the commission has made a determination that a "Meter Installation Tariff" was or was not the same as a "Irrigation Meter Tariff."

The request is untimely filed. See staff's objection to #1 above.

---

<sup>3</sup> Section 367.081, F.S.

STAFF'S SPECIFIC OBJECTIONS TO EAST MARION SANITARY SYSTEMS, INC.'S  
REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF  
DOCKET NO. 080562-WU  
PAGE 3

Staff objects to Request #4 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Distinctions between the Meter Installation Tariff and Irrigation Meters Tariff are irrelevant to the Utilities obligation under Section 367.111, F.S. and Rule 25-30.310, F.A.C. to provide service to its customers at the rates and charges authorized in its tariff.<sup>4</sup>

Furthermore, staff objects to the request for the following reasons: 1) the request is either asking for hearing preparation materials without laying the proper groundwork for said request, or 2) the request is asking for technical and legal staff to do East Marion's research for East Marion.

5. Provide any and all documents or records of any Court of appeals determinations, ruling or settlements on the issue of Meter Installation Tariff versus Irrigation Meter Tariff.

The request is untimely filed. See staff's objection to #1 above.

Staff objects to Request #5 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Distinctions between the Meter Installation and Irrigation Meters are irrelevant to the Utilities obligation under Section 367.111, F.S. and Rule 25-30.310, F.A.C. to provide service to its customers at the rates and charges authorized in its tariff.<sup>5</sup>

Furthermore, staff objects to the request for the following reasons: 1) the request is either asking for hearing preparation materials without laying the proper groundwork for said request, or 2) the request is asking for technical and legal staff to do East Marion's research for East Marion.

6. Provide copies of any Florida Administrative Code or any Florida Statute that allows the FPSC staff to make a determination that a Meter Installation Tariff is the same as an Irrigation Meter Installation Tariff.

The request is untimely filed. See staff's objection to #1 above.

Staff objects to Request #6 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Distinctions between the Meter Installation tariff and Irrigation Meters tariff are irrelevant to the Utilities

---

<sup>4</sup> Section 367.081, F.S.

<sup>5</sup> Id.

STAFF'S SPECIFIC OBJECTIONS TO EAST MARION SANITARY SYSTEMS, INC.'S  
REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF  
DOCKET NO. 080562-WU  
PAGE 4

obligation under Section 367.111, F.S. and Rule 25-30.310, F.A.C. to provide service to its customers at the rates and charges authorized in its tariff.<sup>6</sup>

Moreover, the protest is of a Commission Order not a staff decision. Therefore the request for legal research supporting staff's authority to make a determination is not relevant.

Furthermore, staff objects to the request for the following reasons: 1) the request is either asking for hearing preparation materials without laying the proper groundwork for said request, or 2) the request is asking for technical and legal staff to do East Marion's research for East Marion.

7. Provide any copy of a letter, fax, or email that the FPSC received from Terry Will regarding his request for an irrigation meter that was sent to the Utility.

The request is untimely filed. See staff's objection to #1 above. However, without waiving its objections, Staff will provide these specific requested documents.

8. Provide a transcript of all calls, copies of letters, faxes or emails, received by the FPSC from any East Marion's customer regarding irrigation meter installations or requests thereof.

The request is untimely filed. See staff's objection to #1 above. Moreover, the Rules do not require the Commission to make a transcript of telephone calls. However, without waiving its objections, staff will provide copies of any of these specific items requested, in the form the Commission retains that information.

9. Provide copies of any estimates, reports, and tariffs for Irrigation meter installations since 2000, that the FPSC staff has dealt with and or approved.

The request is untimely filed. See staff's objection to #1 above.

Staff objects to Request #9 as seeking information that is not relevant to the subject matter of the pending action. The request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The irrigation meter installation estimates, reports, and or tariffs of other utilities since 2000 is not relevant to this proceeding which is limited to whether or not certain customers should be permitted to have irrigation meters installed at the prior tariffed rate of \$70. Whether another utility charges a different irrigation rate is not relevant.

---

<sup>6</sup> Section 367.081, F.S.

The protest is of a Commission Order not a staff decision. Therefore the request for research supporting staff's authority to make a determination is not relevant.

Furthermore, staff objects to the request for the following reasons: 1) the request is either asking for hearing preparation materials without laying the proper groundwork for said request, or 2) the request is asking for technical and legal staff to do East Marion's research for East Marion.

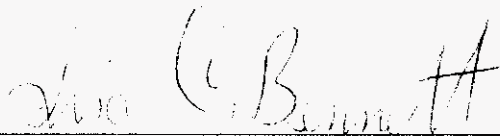
10. Provide a copy of any relevant rule, Florida Administrative Code, FPSC ruling or drawing that determines where a Utility's equipment ends and a customer starts as it pertains to water meter installations.

The request is untimely filed. See staff's objection to #1 above.

Furthermore, staff objects to the request for the following reasons: 1) the request is either asking for hearing preparation materials without laying the proper groundwork for said request, or 2) the request is asking for technical and legal staff to do East Marion's research for East Marion.

Without waiving its objections above, and without stating that this information is a complete response to the request for production, Commission staff refers East Marion to Chapter 25-30, F.A.C. and specifically to Rules 25-30.210-25-30.260, F.A.C. and any and all Commission Orders referencing those rules.

RESPECTFULLY SUBMITTED, this 26th day of September, 2011:



---

LISA C. BENNETT  
Senior Attorney, Office of the General Counsel  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
(850) 413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

DOCKET NO. 080562-WU

DATED: SEPTEMBER 26, 2011

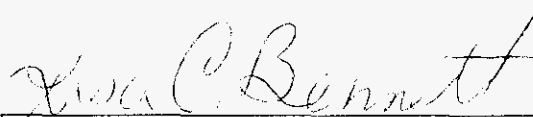
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of STAFF'S SPECIFIC OBJECTIONS TO EAST MARION SANITARY SYSTEMS, INC.'S REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF has been served on East Marion Sanitary Systems, Inc. by facsimile and by U.S. mail and copies have been furnished to the following by U. S. mail, this 26th day of September, 2011:

Steven C. Reilly, Office of Public Counsel  
c/o The Florida Legislature  
on behalf of Intervenors Terry Will, Joseph Singel,  
Kevin Politte, Earl Turner, Dennis Smith, David  
and Carol Greco, Millicent Mallon  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

Mike Smallridge Utility Consultant  
Mike Smallridge  
1645 W. Main Street  
Inverness, FL 34450  
(by email and U.S. Mail)

Herbert Hein  
East Marion Sanitary Systems, Inc.  
G-4225 Miller Road, #190  
Flint, MI 48507-1227  
(by facsimile and U.S. Mail)



---

LISA C. BENNETT  
Senior Attorney, Office of the General Counsel  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
(850) 413-6199